

EFFECTIVE DATE

Chapter effective Sept. 1, 1960, see section 11 of Pub. L. 86-682.

§ 2711. Application for warrant

A United States attorney or assistant United States attorney or a person authorized by the Attorney General—

(1) upon his own affidavit or that of another credible person, stating the existence of either of the grounds of attachments enumerated in section 2710 of this title and

(2) upon production of legal evidence of the debt

may apply for a warrant of attachment to a judge, or, in his absence, to the clerk of any court of the United States having original jurisdiction of the cause of action.

(Added Pub. L. 86-682, §9, Sept. 2, 1960, 74 Stat. 707.)

CODIFICATION

Section was derived from R.S. §925, which was originally classified to section 738 of former Title 28. Following the general revision and enactment of Title 28 by act June 25, 1948, R.S. §925 was reclassified to section 838 of Title 39. R.S. §925 was repealed by section 12(c) of Pub. L. 86-682 (section 1 of which revised and enacted Title 39), and reenacted by section 9 thereof as section 2711 of this title.

§ 2712. Issue of warrant

Upon an order of a judge of a court, or, in his absence and upon the clerk's own initiative, the clerk shall issue a warrant for the attachment of the property belonging to the person specified in the affidavit. The marshal shall execute the warrant forthwith and take the property attached, if personal, in his custody, subject to the interlocutory or final orders of the court.

(Added Pub. L. 86-682, §9, Sept. 2, 1960, 74 Stat. 707.)

CODIFICATION

Section was derived from R.S. §926, which was originally classified to section 739 of former Title 28. Following the general revision and enactment of Title 28 by act June 25, 1948, R.S. §926 was reclassified to section 839 of Title 39. R.S. §926 was repealed by section 12(c) of Pub. L. 86-682 (section 1 of which revised and enacted Title 39), and reenacted by section 9 thereof as section 2712 of this title.

§ 2713. Trial of ownership of property

Not later than twenty days before the return day of a warrant issued under section 2712 of this title, the party whose property is attached, on notice to the United States Attorney, may file a plea in abatement, denying the allegations of the affidavit, or denying ownership in the defendant of the property attached. The court, upon application of either party, shall order a trial by jury of the issues. Where the parties, by consent, waive a trial by jury, the court shall decide the issues. A party claiming ownership of the property attached and seeking its return is limited to the remedy afforded by this section, but his right to an action of trespass, or other action for damages, is not impaired.

(Added Pub. L. 86-682, §9, Sept. 2, 1960, 74 Stat. 707.)

CODIFICATION

Section was derived from R.S. §927, which was originally classified to section 740 of former Title 28. Following the general revision and enactment of Title 28 by act June 25, 1948, R.S. §927 was reclassified to section 840 of Title 39. R.S. §927 was repealed by section 12(c) of Pub. L. 86-682 (section 1 of which revised and enacted Title 39), and reenacted by section 9 thereof as section 2713 of this title.

§ 2714. Investment of proceeds of attached property

When the property attached is sold on an interlocutory order or is producing revenue, the money arising from the sale or revenue shall be invested, under the order of the court, in securities of the United States. The accretions therefrom are subject to the order of the court.

(Added Pub. L. 86-682, §9, Sept. 2, 1960, 74 Stat. 707.)

CODIFICATION

Section was derived from R.S. §928, which was originally classified to section 741 of former Title 28. Following the general revision and enactment of Title 28 by act June 25, 1948, R.S. §928 was reclassified to section 841 of Title 39. R.S. §928 was repealed by section 12(c) of Pub. L. 86-682 (section 1 of which revised and enacted Title 39), and reenacted by section 9 thereof as section 2714 of this title.

§ 2715. Publication

The marshal shall cause publication of an executed warrant of attachment—

(1) for two months in case of an absconding debtor, and

(2) for four months in case of a nonresident debtor

in a newspaper published in the district where the property is situated pursuant to the details of the order under which the warrant is issued.

(Added Pub. L. 86-682, §9, Sept. 2, 1960, 74 Stat. 707.)

CODIFICATION

Section was derived from R.S. §929, which was originally classified to section 742 of former Title 28. Following the general revision and enactment of Title 28 by act June 25, 1948, R.S. §929 was reclassified to section 842 of Title 39. R.S. §929 was repealed by Pub. L. 86-682, §12(c), Sept. 2, 1960, 74 Stat. 708, (section 1 of which revised and enacted Title 39), and reenacted by section 9 thereof as section 2715 of this title.

§ 2716. Personal notice

After the first publication of the notice of attachment, a person indebted to, or having possession of property of a defendant and having knowledge of the notice, shall answer for the amount of his debt or the value of the property. Any disposal or attempted disposal of the property, to the injury of the United States, is unlawful. When the person indebted to, or having possession of the property of a defendant, is known to the United States attorney or marshal, the officer shall cause a personal notice of the attachment to be served upon him, but the lack of the notice does not invalidate the attachment.

(Added Pub. L. 86-682, §9, Sept. 2, 1960, 74 Stat. 707.)