

§ 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.)

Editorial Notes

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 R.S. §926 was repealed by section 12(c) of Pub.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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86-682, 74 Stat. 708.

§ 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.)

Editorial Notes

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 R.S. §927 was repealed by section 12(c) of Pub.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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86-682, 74 Stat. 708.

§ 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86-682, 74 Stat. 708.

§ 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86-682, 74 Stat. 708.

§ 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.)

Editorial Notes

CODIFICATION

Section was derived from R.S. §930, which was originally classified to section 743 of former Title 28. Following the general revision and enactment of Title 28 by act June 25, 1948, R.S. §930 was reclassified to section 843 of Title 39. R.S. §930 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 2716 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86-682, 74 Stat. 708.

§ 2717. Discharge

The court, or a judge thereof, upon—

(1) application of the party when property has been attached and

(2) execution to the United States of a penal bond, approved by a judge, in double the value of the property attached and conditioned upon the return of the property or the payment of any judgment rendered by the court

may discharge the warrant of attachment as to the property of the applicant.

(Added Pub. L. 86-682, § 9, Sept. 2, 1960, 74 Stat. 708.)

Editorial Notes

CODIFICATION

Section was derived from R.S. §931, which was originally classified to section 744 of former Title 28. Following the general revision and enactment of Title 28 by act June 25, 1948, R.S. §931 was reclassified to section 844 of Title 39. R.S. §931 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 2717 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86-682, 74 Stat. 708.

§ 2718. Interest on balances due department

In suits for balances due the Post Office Department may recover interest at the rate of 6 per centum per year from the time of default.

(Added Pub. L. 86-682, § 9, Sept. 2, 1960, 74 Stat. 708.)

Editorial Notes

CODIFICATION

Section was derived from R.S. §964, which was originally classified to section 788 of former Title 28. Following the general revision and enactment of Title 28 by act June 25, 1948, R.S. §964 was reclassified to section 846 of Title 39. R.S. §964 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 2718 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

References to Post Office Department, Postal Service, Postal Field Service, Field Postal Service, or Departmental Service or Departmental Headquarters of Post Office Department to be considered references to United States Postal Service pursuant to Pub. L. 91-375, §6(o), Aug. 12, 1970, 84 Stat. 783, set out as a Cross References note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE

Section effective Sept. 1, 1960, see section 11 of Pub. L. 86-682, 74 Stat. 708.

[CHAPTER 175—REPEALED]

[§§ 2901 to 2906. Repealed. Pub. L. 106-310, div. B, title XXXIV, § 3405(c)(1), Oct. 17, 2000, 114 Stat. 1221]

Section 2901, added Pub. L. 89-793, title I, §101, Nov. 8, 1966, 80 Stat. 1438; amended Pub. L. 91-513, title III, §1102(l), Oct. 27, 1970, 84 Stat. 1293; Pub. L. 92-420, §2, Sept. 16, 1972, 86 Stat. 677; Pub. L. 98-473, title II, §228(c), Oct. 12, 1984, 98 Stat. 2030, defined terms used in chapter.

Section 2902, added Pub. L. 89-793, title I, §101, Nov. 8, 1966, 80 Stat. 1439, related to discretionary authority of court, examination, report, and determination by court, and termination of civil commitment.

Section 2903, added Pub. L. 89-793, title I, §101, Nov. 8, 1966, 80 Stat. 1440, related to authority and responsibilities of the Surgeon General, institutional custody, aftercare, maximum period of civil commitment, and credit toward sentence.

Section 2904, added Pub. L. 89-793, title I, §101, Nov. 8, 1966, 80 Stat. 1441, related to civil commitment not a conviction and use of test results.

Section 2905, added Pub. L. 89-793, title I, §101, Nov. 8, 1966, 80 Stat. 1441, related to delegation of functions by Surgeon General and use of Federal, State, and private facilities.

Section 2906, added Pub. L. 89-793, title I, §101, Nov. 8, 1966, 80 Stat. 1441, related to absence of offer by the court to a defendant of an election under section 2902(a) or any determination as to civil commitment not being reviewable on appeal or otherwise.

CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

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¹ Editorially supplied.

² So in original. Does not conform to subchapter heading.