

TITLE 7: CIVIL PROCEDURE
DIVISION 4: JUDGMENTS; ENFORCEMENT OF JUDGMENTS

§ 4204. Levying Execution.

The Director of Public Safety, police officer or other person duly authorized receiving a writ of execution issued by any court, shall levy or cause the Director of Public Safety, or police officer to levy execution as follows:

(a) Demand of Payment; Seizure of Property. He or she shall demand of the person against whom the execution is issued, if the person may be found on the island where the levy is being attempted, that the person pay the execution or exhibit sufficient property subject to execution. If the person has property of a kind exempt from execution but to an amount exceeding the exemption, the person may select the portion of this property provided by law which he or she desires to retain under the exemption, providing the selection is made known promptly to the person making the levy. Otherwise, the person making the levy may make the selection. If the person against whom the execution is issued does not pay the execution in full, including interest and costs and expenses thereof, the person making the levy shall take into his or her possession property of the person against whom the execution is issued, not exempt from execution, sufficient in his or her opinion to cover the amount of the execution. First, any property under attachment in the action in which the execution was issued may be taken; next, property, if any, indicated by the person against whom the execution was issued. The property may be removed to a safe place, or a caretaker placed in charge of it. A list of the property levied upon shall be made by the person making the levy.

(b) Notice of Sale. The person making the levy shall, after levy, give public notice of the sale at least seven days in advance of the time and place of sale, by notifying the clerk of the court, by posting a written notice of the sale in a conspicuous place at or near the local government office on the island on which the sale is to be held, and by notifying the person against whom the execution is issued, if he or she can be found, or notifying any agent who had custody of the property levied upon at the time of levy.

(c) Sale: Procedure; Disposition of Proceeds. The person making the levy on the day and at the place set for the sale, unless payment has been made of the amount of the judgment and interest and the costs and expenses in connection with the levy, shall sell the property levied upon at public auction to the highest bidder. That person shall deduct from the proceeds of the sale sufficient money for the full payment of his or her fees and expenses, and shall then pay the person in whose favor the execution was issued, or his counsel, any balance that remains up to the amount due on the execution. If there are any proceeds of the sale left after the deduction and payment directed above, the remaining proceeds shall be paid over to the person against whom the execution was issued. The person making the levy shall then return the writ to the court with a report of his or her doings thereon, showing the amounts collected and paid out thereon.

(d) Postponement of Sale. Whenever a request in writing signed by the debtor and creditor for a postponement of the sale to an agreed date and hour is given to the person conducting the sale under execution, that person shall thereupon by public declaration postpone the sale to the day and hour so fixed in the request and at the place originally fixed by the person for the sale. In the case of post-

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ponements, notice of each must be given by public declaration by the person conducting the sale at the time and place last appointed for the sale. No other notice of postponed sale need be given.

(e) Completion of Sale by Person Other Than One Making Levy. If the Director of Public Safety, police officer or other person duly authorized starts to levy execution and for any reason is prevented from or fails to complete the matter, any other person duly authorized may complete the levy, sale, and payment of proceeds as provided in this section.

Source: 8 TTC § 54.

Commission Comment: With respect to the references to the “Director of [the Department of] Public Safety,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.