

DRUG DEALER LIABILITY ACT (EXCERPT)

Act 27 of 1994

691.1611 Writ of attachment; affidavit; hearing; eligibility to exempt property; judgment not subject to discharge under bankruptcy law; use of seized asset to satisfy judgment.

Sec. 11. (1) After commencing an action under this act and subject to subsection (4), a plaintiff may seek a writ of attachment by filing an ex parte motion supported by an affidavit setting forth specific facts showing all of the following:

(a) A description of the injury claimed and a statement that the affiant in good faith believes that the defendant is liable to the plaintiff in a stated amount.

(b) The defendant is subject to the judicial jurisdiction of the state.

(c) After diligent effort, the plaintiff cannot serve the defendant with process.

(2) If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

(3) Unless precluded by the state or federal constitutions, a person against whom a judgment has been rendered under this act is not eligible to exempt any property, of whatever kind, from process to levy or process to execute on the judgment. Unless the jury, or the court if there is no jury, specifically finds otherwise, the actions for which a person is found liable under this act are willful and malicious, and the judgment is not subject to discharge under federal bankruptcy law as provided in 11 U.S.C. 523.

(4) An asset shall not be used to satisfy a judgment under this act if that asset is named in or has been seized for a forfeiture action by a state or federal agency before a plaintiff commences an action under this act, unless the asset is released after the forfeiture action or is released by the agency that seized the asset.

History: 1994, Act 27, Eff. Apr. 1, 1994.