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500 SOUTH SECOND STREET
SPRINGFIELD

October 16, 1973

File No. S-634

COURTS:
Execution

Honorable Jack Hoogasian
State's Attorney
County of Lake
County Building
Waukegan, Illinois 60085

Dear Mr. Hoogasian:

I have your recent letter wherein you state:

"Your opinion is requested in respect to the topic of lawyers from one county coming into a sister county within the State of Illinois and filing with the Sheriff an execution for service within the sister county. Chapter 77, Section 4 entitled, 'Execution' reads as follows:

'The person in whose favor any judgment, as aforesaid, may be obtained, may have execution thereon in the usual form, directed to the proper officer of any county, in this state, against the lands and tenements, goods and chattels of the person against whom the same is obtained,

or against his body, when the same is authorized by law. Upon the filing in the office of the clerk of any court in any county in this state of a transcript of a judgment rendered in any other county of this state, execution may issue thereon in said county, in like manner as in the county where originally obtained.'

"The verb 'may' in the first sentence seems to give the judgment-creditor discretion as to whether he may proceed by directing the proper officer of a sister county against the lands and tenements, goods and chattels of judgment-debtors. But, the second sentence stated that a filing of the transcript of judgment must be had with the clerk of the sister county prior to execution being had.

"Therefore, your opinion is sought as to whether a judgment-creditor outside of Lake County coming into this county must file a transcript of judgment before the proper officer of the county can execute lands and tenements, goods and chattels of a judgment-creditor or may the Sheriff as a proper officer execute the writ without the filing of a transcript in the local court of the sister county.

"Your opinion in this matter would be appreciated."

You have asked for an interpretation of Section 4 of "An Act in regard to judgments and decrees, and the manner of enforcing them by execution, * * * * " (Ill. Rev. Stat. 1971, ch. 77, par.4) which states as follows:

"The person in whose favor any judgment, as aforesaid, may be obtained, may have execution thereon in the usual form, directed to the proper officer of any county, in this state, against the lands and tenements, goods and chattels of the person against whom the same is obtained, or against his body, when the same is authorized by law. Upon the filing in the office of the clerk of any court in any county in this state of a transcript of a judgment rendered in any other county of this state, execution may issue thereon in said county, in like manner as in the county where originally obtained."

Specifically, you have asked whether a judgment-creditor outside of Lake County coming into Lake County must file a transcript of judgment before the proper officer of the county can execute the lands, tenements, goods and chattels of a judgment-debtor or may the sheriff as a proper officer execute the writ without the filing of a transcript in a local court of your county.

The cardinal rule in the construction of Illinois statutes is that a statute must be construed so as to ascertain and give effect to the intention of the General Assembly as expressed in the statute. (Lincoln National Life Insurance Co. v. McCarthy, 10 Ill. 2d 489.) A court must find the intention of the General Assembly in the words used in a statute. (New National Coal Co. v. Industrial Commission, 373 Ill. 468.) A statute should be so read and construed, if possible, that

no word, clause, or sentence is rendered superfluous or meaningless. (Peacock v. Judges Retirement System of Illinois, 10 Ill. 2d 498; Stiska v. City of Chicago, 405 Ill. 374.) It should be observed that the first sentence of Section 4 states that the person in whose favor any judgment, as aforesaid, may be obtained, may have execution directed to the proper officer of any county, in this state. The legislature deliberately used the word any, in my opinion, so that the proper officer of any county in Illinois could be directed to execute the writ even though the judgment was not obtained in that county. The filing of a transcript of judgment is not required. The writ is issued out of the court where the judgment was obtained. (People v. Wallace, 332 Ill. 427 at page 432.) The second sentence of Section 4 provides for an alternative method of having a writ of execution issued and executed. In this second method a transcript of a judgment rendered in one county may be filed in the office of the circuit clerk in another county and a writ can be issued and executed in the county where the transcript of judgment is filed. Interesting discussions consistent

Honorable Jack Hoogasian - 5

with the above appear in 54 Illinois Bar Journal 580 at page 599 and 45 Chicago Bar Record, 165 at page 172.

In conclusion, I am of the opinion that the sheriff of Lake County, as a proper officer, may execute a writ of execution which was issued out of another county without the filing of a transcript of judgment in the office of a clerk of a court in Lake County.

Very truly yours,

A T T O R N E Y G E N E R A L