

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

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BILL #: CS/HB 265 TITLE: Postjudgment Execution Proceedings Relating to Terrorism SPONSOR(S): Porras	COMPANION BILL: CS/SB 1430 (Collins) LINKED BILLS: None RELATED BILLS: None
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FINAL HOUSE FLOOR ACTION: 115 Y's 0 N's **GOVERNOR'S ACTION:** Pending

SUMMARY

Effect of the Bill:

CS/HB 265 clarifies current law relating to the ability of a victim of international terrorism to collect on a judgment from a terrorist party or an agency or instrumentality thereof. The bill authorizes creditor process issued under ch. 56 (final process) or ch. 77 (garnishment) to be served upon any person or entity over whom the court has jurisdiction and clarifies that a Florida court enforcing a terrorism victim's anti-terrorism judgment may garnish intangible assets wherever they are located, without territorial limitation. Further, the bill specifies that such "intangible assets" include bank accounts, financial assets, or other intangible property. Under the bill, certain intangible assets may be reached by a creditor by legal process upon a securities intermediary with whom the debtor's account is maintained. The bill also provides a mechanism for reaching a debtor's intangible assets when a United States entity has blocked a transaction by the debtor.

The provisions of the bill apply to any postjudgment execution proceeding served, or filed before, on, or after the effective date of the bill. The bill will be effective upon becoming law.

Fiscal or Economic Impact:

The bill may have a significant positive economic impact on private citizens seeking to obtain judgments against an international terrorist party or affiliate thereof.

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ANALYSIS

EFFECT OF THE BILL:

CS/HB 265 passed as [CS/SB 1430](#). (Please note that bill section parentheticals do not contain hyperlinks to bill sections for Senate bills.)

CS/HB 265 amends [s. 772.13, F.S.](#), relating to [civil remedies for terrorism](#) to create a pathway by which a victim of terrorism can [collect on a judgment](#) ordered in his or her favor by a court from a terrorist party or associate of a terrorist party. The bill makes it easier for a victim to collect on a judgment in a postjudgment execution proceeding entered against a terrorist party under Florida law as well as [18 U.S.C. s. 2333](#) or a substantially similar federal law. Further, the bill permits enforcement in any postjudgment execution proceedings against any agency or instrumentality of the terrorist party not named in the judgment pursuant to section 201(a) of the Terrorism Risk Insurance Act.¹ (Section 1).

Once a judgment is entered against a terrorist party, the ability to collect on a judgment is complicated by the nature of the international transactions and the [complex processes](#) such criminal organizations use to hide, launder, and [transfer](#) assets. The bill reconciles a disparity between precedent² established in *APR Energy, LLC. v.*

¹ [28 U.S.C. s. 1610](#).

² In *APR Energy, LLC. v. Pakistan Power Res., LLC.*, 653 F. Supp. 2d 1227 (M.D. Fla. Feb. 20, 2009), the court classified a bank account as a tangible asset, thus requiring the court to have personal jurisdiction over the garnishee as well as jurisdiction over the property to be garnished-the actual bank account. In *Skulas v. Loiselle*, No. 09-60096-CIV, 2010 WL 1790439 (S.D. Fla.

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Pakistan Power Res., LLC.,³ the Florida garnishment statutes, and the holding in [Stansell v. Revolutionary Armed Forces of Colombia \(FARC\)](#),⁴ to clarify that a court does not need to have [in rem jurisdiction](#) over the actual bank account being sought for the satisfaction of a judgment. The bill provides that [creditor process](#) issued under [ch. 56](#) (final process) or [ch. 77](#) (garnishment) may be served upon any person or entity over whom the court has personal jurisdiction. (Section 1).

Under the bill, [writs of garnishment](#) issued under [s. 77.01, F.S.](#), and proceedings supplementary under [s. 56.29, F.S.](#), apply to intangible assets wherever they are located, including bank accounts, financial assets, or other intangible property. As such, a Florida court enforcing a terrorism victim's anti-terrorism judgment can garnish intangible assets wherever they are located, so long as the garnishee is subject to personal jurisdiction in the state of Florida. Further, the situs of any intangible assets held or maintained by or in the possession, custody, or control of a person or entity so served shall be deemed to be in Florida for the purposes of a final process or garnishment proceeding. Under the bill, service of a writ or notice to appear provides the court with in rem jurisdiction over any intangible assets regardless of the physical location, if any, of the assets. (Section 1).

Ultimately, the bill seeks to allow a creditor to reach a terrorist debtor's interest within a financial asset or security entitlement by legal process through the [securities intermediary or financial institution](#) with whom the debtor's account is maintained. If the securities intermediary is a foreign entity, legal process under chapters [56](#) or [77](#) may be served upon the United States securities custodian or intermediary that has reported holding or maintaining the [blocked](#) financial assets or security entitlements to the [Office of Foreign Assets Control](#) of the United States Department of the Treasury. Such financial assets or security entitlements are subject to execution, garnishment, and turnover by the U.S. securities custodian or intermediary. (Section 1).

When an electronic funds transfer ("EFT") is not completed within 5 banking days and is cancelled because a U.S. intermediary financial institution has blocked the transaction in compliance with a United States sanctions program, and a terrorist party or any agency or instrumentality thereof was either the [originator](#) or the [intended beneficiary](#), the blocked funds are deemed owned by the terrorist party or its agency or instrumentality and, thus, are subject to execution and garnishment. (Section 1).

The bill seeks to allow a specific group of people who have been awarded a judgment through the court system for [torts](#) committed by a terrorist party to collect the judgment owed to them, even if the funds are blocked or otherwise "untouchable" due to a financial institution's compliance with federal sanctions on such organizations or individuals. As such, [plaintiffs like those in the Stansell v. Lopez Bello case](#) would potentially be able to collect on the judgment owed to them by the Revolutionary Armed Forces of Colombia ("FARC") through the [federal Anti-Terrorism Act](#). The bill, though narrowly tailored, would not only benefit or apply to those plaintiffs in the *Stansell* case; but would potentially open up a pathway for other Floridians who have received judgments in their favor against a terrorist party or certain foreign nations to collect the funds owed to them. (Section 1).

The provisions of the bill apply to any postjudgment execution proceeding, including creditor process under chapters [56](#) or [77](#), served, pending, or filed before, on, or after July 1, 2025. (Section 1).

Subject to the Governor's veto powers, the bill will be effective upon becoming law and applies to any postjudgment execution proceeding served or filed before, on, or after such date. (Section [2](#)).

FISCAL OR ECONOMIC IMPACT:

April 9, 2010), the court adopted the reasoning from *APR Energy* and held that Florida's garnishment statutes ([s. 77.01, F.S.](#), et seq.) did not have extraterritorial effect and the court lacked in rem jurisdiction over the account.

³ *Id.*

⁴ *Stansell v. Revolutionary Armed Forces of Colombia (FARC)*, 149 F. Supp. 3d 1337, 1341 (M.D. Fla. 2015)(providing that nothing in the language or structure of the Florida garnishment statutes demonstrates that they were intended to apply to bank accounts located outside of the state of Florida).

PRIVATE SECTOR:

The bill may have a significant positive fiscal impact on the ability of those private citizens who have been awarded judgments against an international terrorist party or affiliate to collect on such judgments. These victims have faced significant hurdles in attempting to collect on the judgments awarded to them based on the complex nature of foreign financial transaction by criminal actors.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Procedural Obstacles Related to Recovering Assets from a Criminal Organization](#)

Generally, complex criminal organizations and terrorist parties are savvy as it relates to moving assets and money internationally. Because of this, they often use various foreign banks in their stream of transactions to create an impenetrable financial web of which U.S. control and interference is especially difficult. Terrorists and money launderers often open securities accounts with foreign banks to purchase large sums of stocks and bonds issued in the U.S., then use foreign intermediaries in the chain of custody within a U.S. bank. Then, such parties attempt to hide behind the protections offered by the Uniform Commercial Code (“UCC”), which generally require a victim to serve creditor process against the foreign bank where the account was actually opened, rather than the U.S. intermediary that blocks the securities in the U.S. However, such foreign banks intentionally have no U.S. branches and lack any type of presence in the U.S., making it difficult or impossible to serve them and litigate the issue.

The process becomes even more complicated when the originator and/or the beneficiary are blocked parties on the Office of Foreign Assets Control (“OFAC”) Sanctions list (also referred to as the “SDN List”)⁵. It is common for a terrorist party to use multiple intermediary banks and subsequently argue that, under the UCC, a wire transfer that is blocked “midstream” by a U.S. bank is only owned by the entity immediately upstream, thus placing huge sums of midstream wire transfers frozen out of a victim’s reach.

For example, narcotics Kingpin and U.S. fugitive Samark Lopez Bello opened an account at a Swiss bank. The Swiss bank had no U.S. branches or U.S. employees. Lopez Bello used that account to acquire a nine-figure portfolio of stocks and bonds issued in the United States. When victims attempted to collect the judgment via a turnover motion against Citibank, Lopez Bello argued that Citibank was not the proper garnishee under U.C.C. s. 8-112, which provides that “the interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor’s securities account is maintained.”⁶

[Electronic Funds Transfer Process – Overview](#)

An electronic funds transfer (“EFT”) is a transaction by which funds move from one institution to another or from one account to another at the direction of an institution’s customer.⁷ The transaction is done through the transmission of electronic instruction messages that cause the institutions to make the required bookkeeping entries and make the funds available for transfer.⁸ The funds transfer process generally consists of a series of electronic messages sent between financial institutions directing each to make the debit and credit accounting entries necessary to complete the transaction.⁹

[Chapter 670, F.S.](#), of the Uniform Commercial Code (“UCC”) applies to funds transfers. “Funds transfers” refers to the series of transactions, beginning with an originator’s payment order, that is made for the purpose of making

⁵ The Specifically Designated Nationals and Blocked Persons List (“SDN List”) is a sanctions list administered by OFAC. See OFAC, *Sanctions List*, <https://sanctionssearch.ofac.treas.gov/> (last visited March 6, 2025).

⁶ *Stansell v. Revolutionary Armed Forces of Colombia (FARC)*, No. 19-cv-20896, 2020 WL 4692748 (S.D. Fla. 2020).

⁷ U.S. Dep’t. of the Treasury: Financial Crimes Enforcement Network (“FinCen”), *Appendix D – Fundamentals of the Funds Transfer Process*, https://www.fincen.gov/sites/default/files/shared/Appendix_D.pdf (last visited March 5, 2025).

⁸ *Id.* at 1.

⁹ *Id.*

payment to the beneficiary of the order.¹⁰ The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the order.¹¹ A funds transfer is completed by acceptance of the beneficiary's bank of a payment order for the benefit of the beneficiary.¹²

Financial Institutions

A "financial institution" includes any person doing business in one or more of the following capacities:

- Bank (except bank credit card systems);
- Broker or dealer in securities;
- Money services business;
- Telegraph company;
- Casino;
- Card club; or
- A person subject to supervision by any state or federal bank supervisory authority;
- A futures commission merchant;
- An introducing broker in commodities; or
- A mutual fund.¹³

For the purposes of ch. 670, F.S., the terms below have the following definitions:

- "Originator" means the individual or business entity that initiated the funds transfer.¹⁴
- "Originator's Bank" means the receiving bank to which the payment order of the originator is issued if the originator is not a bank, or the originator if the originator is a bank.¹⁵
- "Beneficiary" means the ultimate party to be credited or paid as a result of a funds transfer. ¹⁶
- "Beneficiary's Bank" means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.¹⁷
- "Intermediary Bank" means a receiving bank other than the originator's bank or the beneficiary's bank.
- "Payment Order" means an instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay (or cause another bank to pay) a fixed or determinable amount of money if:
 - The instruction does not state a condition to payment to the beneficiary other than time of payment;
 - The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and
 - The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.¹⁸
- "Receiving Bank" means the bank to which the sender's instruction is addressed.¹⁹
- "Sender" means the person giving the instruction to the receiving bank.²⁰

¹⁰ S. 670.104(1), F.S.

¹¹ *Supra* note 5.

¹² *Id.*

¹³ FinCen, *Financial Institutions Definition*, <https://www.fincen.gov/financial-institution-definition> (last visited March 5, 2025). See also 31 C.F.R. 1010.100(t).

¹⁴ S. 670.104(2), F.S.

¹⁵ S. 670.104(4), F.S.

¹⁶ S. 670.103(1)(a), F.S.

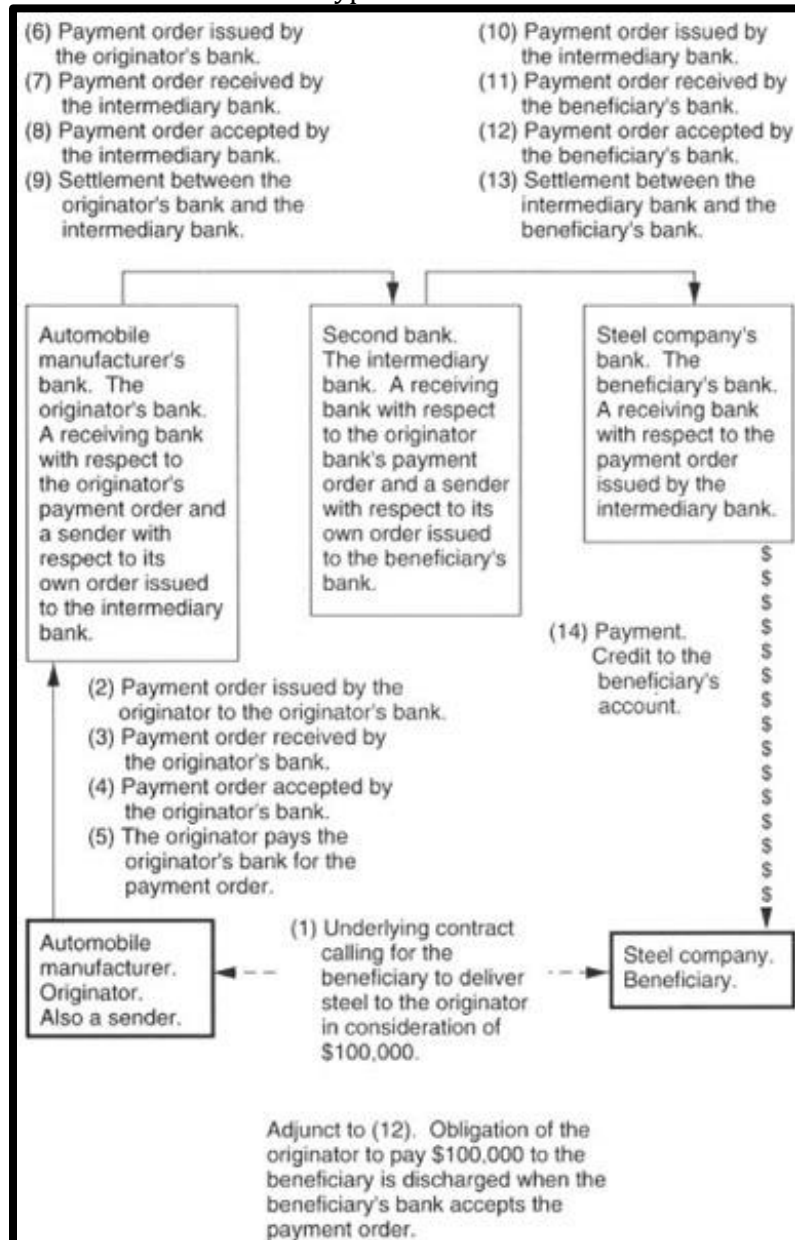
¹⁷ S. 670.103(1)(b), F.S.

¹⁸ S. 670.103(1)(c), F.S.

¹⁹ S. 670.103(1)(d), F.S.

²⁰ S. 670.103(1)(e), F.S.

An Example of a funds transfer is illustrated in the hypothetical transaction below:²¹



In the EFT process, other financial institutions (not the originator or beneficiary institutions) may be required to effect the transaction. The financial industry uses a number of technical terms to describe such other financial institutions including, "intermediary," "instructing," "sender's correspondent," and "receiver's correspondent."²²

Garnishment

Garnishment means a court-ordered process for collecting on a judgment, which takes money directly from a defendant's wages or assets (in this case in the form of bank accounts), or other third party who owes the defendant a debt.²³ A garnishment order instructs a third party who owes money to a defendant, typically the

²¹ Bruce J. Summers, *The Payment System: Design, Management, and Supervision* (Dec. 15, 1994), International Monetary Fund (Dec. 1994), <https://www.elibrary.imf.org/display/book/9781557753861/ch05.xml> (last visited March 6, 2025).

²² *Supra* note 1 at 56.

²³ Cornell Law School, Legal Information Institute, *Garnishment*, <https://www.law.cornell.edu/wex/garnishment> (last visited March 5, 2025).

defendant's employer or bank, to pay some or all of that money to the plaintiff instead of to the defendant.²⁴ This third party is referred to as a "garnishee."²⁵

In Florida, every person or entity who has been awarded a judgment against another party has a right to a writ of garnishment. That is, the party seeking to collect on a judgment award may collect on that judgment from any debt that may be owed to the person or party the judgment was issued against.²⁶ For example, if plaintiff "A" is awarded a \$1 million judgment against defendant "Z" and defendant "Z" is owed \$5 million from company "C" (a third-party who is not a party to the lawsuit filed by plaintiff "A"), plaintiff "A" has a right to garnish (access and take possession of) the debt owed by company "C" to defendant "Z" to collect on the judgment she is owed if defendant "Z" is unable or unwilling to pay the judgment out of the assets in his own possession.

Civil Tort Action

One of the goals of the civil justice system is to redress tortious conduct, or "torts." A tort is a wrong for which the law provides a remedy. Torts are generally divided into two categories, as follows:

- An intentional tort, examples of which include an assault, battery, or false imprisonment.
- Negligence, which is a tort that is unintentionally committed. To prevail in a negligence lawsuit, the party seeking the remedy, the "plaintiff," must demonstrate that the:
 - Defendant had a legal duty of care requiring the defendant to conform to a certain standard of conduct for the protection of others, including the plaintiff, against unreasonable risks;
 - Defendant breached his or her duty of care by failing to conform to the required standard;
 - Defendant's breach caused the plaintiff to suffer an injury; and
 - Plaintiff suffered actual damage or loss resulting from such injury.²⁷

Jurisdiction in General

"Jurisdiction" refers to the power of a court to hear cases and enter orders.²⁸ It also refers to the territory within which a court may properly exercise its power.²⁹ There are three general types of jurisdiction:

- Personal jurisdiction.
- Subject matter jurisdiction.
- Territorial jurisdiction.

Personal Jurisdiction

Personal jurisdiction refers to the ability of a court to exercise power over a specific person. A Florida court has personal jurisdiction over a person, who personally or through an agent, submits himself or herself to the jurisdiction of the court. This can be done in a number of ways, including:

- Operating, conducting, engaging in, or carrying on a business or business venture in the state or having a physical office in the state.
- Committing a tort within the state.
- Owning, using, possessing, or holding a mortgage or other lien on any real property in the state.
- Contracting to insure a person, property, or risk located within the state at the time of contracting.
- With respect to most family law matters, maintaining a matrimonial domicile in the state at the commencement of an action or, if the defendant resided in the state prior to the commencement of the action, whether cohabitating during that time or not.
- Causing injury to persons or property within the state arising out of an act or omission by the defendant outside of the state, if, at or about the time of the injury, either:

²⁴ *Id.*

²⁵ *Id.*

²⁶ [S. 77.01, F.S.](#)

²⁷ 6 *Florida Practice Series* s. 1.1; see *Barnett v. Dept. of Fin. Serv.*, 303 So. 3d 508 (Fla. 2020).

²⁸ Cornell Law School, Legal Information Institute, *Jurisdiction*, <https://www.law.cornell.edu/wex/jurisdiction> (last visited March 10, 2025).

²⁹ *Id.*

- The defendant was engaged in solicitation or services activities within the state; or
- Products, materials, or things processed, serviced, or manufactured by the defendant anywhere were used or consumed within the state in the ordinary course of commerce, trade, or use.
- Breaching a contract in the state by failing to perform acts required by the contract to be performed in the state.
- With respect to a proceeding for paternity, engaging in the act of sexual intercourse within this state with respect to which a child may have been conceived.
- Entering into a contract that complies with [s. 685.102, F.S.](#)³⁰

Personal jurisdiction is further broken down into three categories: in personam jurisdiction, in rem jurisdiction, and quasi in rem jurisdiction.

In Personam Jurisdiction

In personam means “against the person,” and refers to a court’s power to adjudicate matters directed against a party. A court may exercise in personam jurisdiction over a person who resides in, maintains connections with, or is served notice of legal proceedings in that court’s area of territorial jurisdiction.³¹

[In Rem Jurisdiction](#)

In rem is a Latin term meaning “against a thing,” referring to a court’s power to adjudicate matters directed against property.³² In rem jurisdiction is one of the two forms of personal jurisdiction (the other being personal or “in personam” jurisdiction).³³ A court can exercise in rem jurisdiction over any real or personal property located within its jurisdiction. There are two types of in rem jurisdiction a court may exercise:

- “Pure in rem” refers to actions that are binding against the world, rather than just the parties to the specific action; and
- “Quasi in rem” refers to actions which are only binding against individual parties to the action.³⁴

Subject Matter Jurisdiction

Subject matter jurisdiction refers to a court’s authority over the subject matter of the proceeding. Subject matter jurisdiction is the court’s authority to decide the issue in controversy such as a contracts issue, or a civil rights issue.³⁵ State courts have general jurisdiction, meaning that a state can hear any controversy except for those prohibited by that state’s laws and those subjects specifically allocated to federal courts of exclusive jurisdiction such as admiralty or bankruptcy issues.³⁶

Territorial Jurisdiction

Territorial jurisdiction refers to a court’s power to bind the parties to the action.³⁷ State court territorial jurisdiction is determined by the Due Process Clause of the U.S. Constitution’s [Fourteenth Amendment](#), and federal court territorial jurisdiction is determined by the due process clause of the U.S. Constitution’s [Fifth Amendment](#).

Florida Law

³⁰ S. [48.193\(1\)\(a\), F.S.](#)

³¹ Cornell Law School, Legal Information Institute, *In Personam*, https://www.law.cornell.edu/wex/in_personam (last visited March 10, 2025).

³² Cornell Law School, Legal Information Institute, *In Rem*, https://www.law.cornell.edu/wex/in_rem (last visited March 5, 2025).

³³ *Id.*

³⁴ *Id.*

³⁵ Cornell Law School, Legal Information Institute, *Jurisdiction*, <https://www.law.cornell.edu/wex/jurisdiction> (last visited March 10, 2025).

³⁶ *Id.*

³⁷ *Id.*

[Creditor Process](#)

Creditor process means a levy, attachment, garnishment, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant with respect to an account.³⁸ Put simply, creditor process is a legal action that a creditor (person owed money from another) can take to collect the debt owed.

[Florida Civil Judgment Collections Processes](#)

After a plaintiff prevails in a civil action and obtains a judgment against the defendant, the plaintiff may initiate post-judgment proceedings to obtain the defendant's assets to satisfy the judgment. An "execution" is the lawful seizure of property owned by the judgment debtor to be sold at public auction. The net proceeds of an execution on property are paid to the judgment creditor to be applied against the debt. Execution applies to real property and personal property. Execution and sale are conducted by the sheriff.³⁹ Section [56.19, F.S.](#), specifically provides for recovery of judgments from a third party or its sureties, entities, or associated individuals. As such, once a trial court has found in favor of a party ("judgment creditor"), the judgment creditor must then proceed in an execution proceeding against the third party and his or her sureties to collect the awarded amount or awarded property.

Under [ch. 77, F.S.](#), a "garnishment" is the seizure of monies owed to the judgment debtor, which money is then paid to the judgment creditor to be applied against the debt. Common targets of a garnishment are bank accounts and wages. For actions in garnishment, either party has a right to, and may demand, a jury trial.⁴⁰ Under current law, in a garnishment case against a fugitive or his or her sureties, the fugitive may demand a jury trial.

"Proceedings supplementary" is a collections tool created by [s. 56.29, F.S.](#) When any judgment creditor holds an unsatisfied judgment or judgment lien, the judgment creditor may file a motion asking for proceedings supplementary. In the proceeding, the court may issue a Notice to Appear to the judgment debtor or to any person alleged to be holding property of the judgment debtor, or to any person who may have property that was fraudulently transferred by the judgment debtor to that third party. After a hearing, the court may order the sheriff to execute on property found to be owned by the judgment debtor, or found to have been fraudulently conveyed by the judgment debtor, for sale for the benefit of the judgment creditor.⁴¹

While collection actions are primarily focused on assets of the judgment debtor, there may be occasions where property titled or held in the name of another person or entity may be seized in payment of the judgment. This occurs where the judgment debtor has fraudulently transferred the property to a third party in an attempt to thwart collection of the judgment. Florida has adopted the Uniform Fraudulent Transfer Act to address these situations.⁴²

[Civil Cause of Action for Terrorism](#)

Section [775.30, F.S.](#), defines "terrorism" as an activity that:

- Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or
- Involves a violation of [s. 815.06, F.S.](#),⁴³ and is intended to:
 - Intimidate, injure, or coerce a civilian population;
 - Influence the policy of a government by intimidation or coercion; or
 - Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

³⁸ S. [670.502, F.S.](#)

³⁹ The civil execution process is governed by [ch. 56, F.S.](#)

⁴⁰ S. [77.08, F.S.](#)

⁴¹ S. [56.29, F.S.](#)

⁴² [Ch. 726, F.S.](#)

⁴³ S. [815.06, F.S.](#), provides that various computer-related offenses are a felony.

A person who commits the offenses specified in [s. 775.30\(2\), F.S.](#), in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a first-degree felony.⁴⁴ A person who commits a violation of [s. 775.30\(2\), F.S.](#), which results in death or serious bodily injury, commits a life felony.⁴⁵

Section [772.13, F.S.](#), creates a civil remedy for victims of acts of terrorism or facilitating or furthering terrorism. A person who is injured by an act of terrorism, or by an act facilitating or furthering terrorism, has a cause of action for threefold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of \$1,000 and reasonable attorney fees and court costs in the trial and appellate courts. A similar civil cause of action for acts of terrorism is created in federal law at [18 U.S.C. s. 2333](#).

Fugitive Disentitlement Doctrine

Section [896.106, F.S.](#), prohibits a person from using state court resources in furtherance of a claim in any civil forfeiture or third-party proceeding in a related forfeiture action if that person purposely leaves the jurisdiction or otherwise evades the jurisdiction in which a criminal case is pending.⁴⁶ Thus, Florida's fugitive disentitlement section applies the same concept utilized under the federal doctrine to state courts. As such, a Florida court may prohibit a fugitive from seeking to recover in a civil matter while "gaming the system" to evade criminal penalties.

[Stansell v. Lopez Bello](#)

In 2010, [Keith Stansell, Marc Gonsalves, Thomas Howes, and the family of Thomas Janis](#) obtained a \$318 million default judgment against the Revolutionary Armed Forces of Colombia (FARC) under the federal Anti-Terrorism Act after having been taken hostage and tortured by the FARC for 5.5 years.⁴⁷ Since the judgment was obtained in 2010, the prevailing plaintiffs have attempted to satisfy the judgment by seizing assets owned by the FARC and its subsidiaries.

Samark Jose Lopez Bello (Lopez-Bello) is a Venezuelan national and designated narcotics kingpin currently on the Homeland Security's Most Wanted List for sanctions evasion.⁴⁸ According to the victims, Lopez-Bello and his front companies were each ruled to be an agency or instrumentality of the FARC and their assets were ordered to be turned over to the prevailing plaintiffs, but Lopez-Bello's agents and front companies continue to evade being forced to satisfy the judgment by taking advantage of the Florida court system. Lopez-Bello and his attorneys continue to demand jury trials in the post-judgment phase of the proceedings, but then they fail to appear. This has caused over a decade of delay in the victims obtaining money on the judgment they were awarded.

Federal Law

[Federal Anti-Terrorism Act](#)

The Federal Anti-Terrorism Act creates a cause of action for a tort related to terrorism.⁴⁹ Specifically, this federal cause of action allows any United States citizen injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, to sue in United States district court and recover treble damages and the cost of the suit, including attorney fees.

⁴⁴ A first-degree felony is punishable by up to 30 years' imprisonment and a \$10,000 fine.

⁴⁵ A life felony is punishable by up to life imprisonment or a term of years not exceeding life and a \$15,000 fine. Sections [775.082](#) and [775.083, F.S.](#)

⁴⁶ S. [896.106, F.S.](#)

⁴⁷ Thomas Janis was a decorated U.S. Army Delta Force pilot who successfully crash landed the plane the men were in after it had been shot down by the FARC. Upon landing, Mr. Janis was executed planeside.

⁴⁸ U.S. Immigration and Customs Enforcement, <https://www.ice.gov/most-wanted/lopez-bello-samark-jose> (last visited March 5, 2025).

⁴⁹ [18 U.S.C. s. 2333](#).

Under the federal Terrorism Risk Insurance Act (TRIA),⁵⁰ recovery by a U.S. national against a terrorist may include any asset of that terrorist party, including assets of an agency or instrumentality of that party, seized or frozen by the U.S. pursuant to federal law.⁵¹

Federal Fugitive Disentitlement Doctrine

The federal Fugitive Disentitlement Doctrine⁵² permits a court to deny a party's request to use and access the U.S. court system when he or she purposefully evades the jurisdiction to avoid criminal prosecution.⁵³ Essentially, the rationale of the doctrine is that a person who purposely games the U.S. justice system to avoid criminal prosecution should not be rewarded with the benefits that stem from access to the appellate process.⁵⁴ As such, a court may deny appellate review of a matter to a fugitive based on the doctrine.

U.S. Office of Foreign Assets Control ("OFAC") – Department of Treasury

The Office of Foreign Assets Control (OFAC) of the United States Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, and other threats to the national security of the United States.⁵⁵ OFAC administers a number of different sanctions programs. The sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals.⁵⁶

Blocked Assets

"Blocking" refers to freezing assets or other property. OFAC has the authority to block assets or property which immediately imposes an across the board prohibition against transfers or dealings of any kind with regard to the blocked property.⁵⁷ Similarly, OFAC has the authority to block all property and interests in property of certain persons, known as "blocked persons."⁵⁸ In the case of a blocked person, any property and interests in property of a blocked person that are within the U.S. or within the possession and control of a U.S. person must be blocked (frozen)-not seized- and may not be transferred, withdrawn, or otherwise dealt in.⁵⁹ Title to the blocked property remains with the blocked person, but the exercise of powers and privileges normally associated with ownership is prohibited without authorization from OFAC.⁶⁰

Additionally, parties must report blocked property to OFAC within 10 business days from the time the property is blocked.⁶¹ Blocked persons include those individuals who appear on OFAC's List of Specially Designated Nationals and Blocked Persons List ("SDN List").⁶²

⁵⁰ [15 U.S.C. s. 6701](#) note; Pub. L. No. 107-297, 116 Stat. 2322.

⁵¹ See s. 805(b) of the Foreign Narcotics Kingpin Designation Act. [21 U.S.C. 1904\(b\)](#).

⁵² [28 U.S.C. s. 2466](#).

⁵³ Chloe S. Booth, *Doctrine on the Run: The Deepening Circuit Split Concerning Application of the Fugitive Disentitlement Doctrine to Foreign Nationals*, 59 B.C. L. Rev. 1153 (Mar. 2018).

⁵⁴ *Id.* at 1155, (citing to Paige Taylor, *The Good, the Bad, the Ugly: A Survey of Selected Fifth Circuit Immigration Cases*, 41 Tex. Tech. L. Rev. 989, 1005 (2009)).

⁵⁵ U.S. Dep't. of Treasury, *Office of Foreign Assets Control*, <https://ofac.treasury.gov/> (last visited March 5, 2025).

⁵⁶ Office of Foreign Assets Control, *Sanctions Programs and Country Information*, <https://ofac.treasury.gov/sanctions-programs-and-country-information> (last visited March 5, 2025).

⁵⁷ OFAC, *Basic Information on OFAC and Sanctions*, <https://ofac.treasury.gov/faqs/9#:~:text=OFAC%20authorities%20may%20require%20U.S.a%20U.S.%20person%20must%20be> (last visited March 5, 2025).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* The OFAC SDN list can be searched online and is available at <https://sanctionssearch.ofac.treas.gov/> (last visited March 6, 2025).

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2023	SB 1442	Grant	Collins	The bill became law on June 20, 2023.

OTHER RESOURCES:

[FinCen Fundamentals of the Funds Transfer Process](#)

[U.S. Supreme Court, *Stansell, et al v. Samark Jose Lopez Bello, et al.*](#)

[United States Office of Foreign Assets Control](#)

[U.S. Department of the Treasury: Terrorism Risk Insurance Program](#)
