

Explanatory Comment

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I. Introduction

The Supreme Court of Pennsylvania promulgated Rules 3025 through 3049 in 1964 to provide the procedure in proceedings "to revive and continue the lien of a judgment". The note to Rule 3025 advised the bench and bar: "For the substantive law governing the revival of judgment against defendants and terre tenants see the Judgment Lien Law of 1947, 12 P.S. 877 et seq."

The Judgment Lien Law was repealed by the Judiciary Act Repealer Act (JARA) in 1978 but no successor provisions were enacted as part of the Judicial Code or otherwise. A consequence of the repeal was that the 1947 Act disappeared from Purdon's Pennsylvania Statutes along with the rest of Title 12 relating to Judicial Procedures and Remedies. Unless the superseded volumes of former Title 12 were retained, the Judgment Lien Law became unavailable to the legal community. Yet, as no general rules had been promulgated to date to replace the repealed Act, the Judgment Lien Law continued as part of the common law of the Commonwealth under the fail-safe provision of JARA, 42 P.S. § 20003(b).

The amendments to the rules of civil procedure promulgated in 2003 fill the void. The General Assembly in Section 1722(b)(1) of the Judicial Code, 42 Pa.C.S. § 1722(b)(1), authorized the governing authority to prescribe and modify general rules governing:

(1) The effect of judgments and other orders of, and the right to and effect of attachments and other process issuing out of, a tribunal, and the manner of the enforcement of any thereof, including the time during which and the property with respect to which they shall be a lien, the relative priority of liens and other claims, stays of execution which may or shall be granted, satisfaction of judgments and dissolution of attachments, and all other matters relating to judgments and other orders and attachments and other process which have been regulated heretofore by statute.

The amendments do not effect a radical change in the law of judgment liens and revival of judgment liens. Rather, their purpose is to make the law accessible to the bench and bar, to integrate the substantive and procedural law of judgment liens and revival, and to state the law in clear terms.

II. Terminology

The rules use the terms “plaintiff” and “defendant”. In the context of a judgment, the plaintiff is the judgment creditor or the party in whose favor the judgment is entered and the defendant is the judgment debtor or the party against whom the judgment is entered. It may be that a judgment has been entered in favor of the defendant on a counterclaim in which case the defendant will be the “plaintiff” under these rules and the plaintiff will be the “defendant.” A note has been added to Rule 3026 to this effect.

Prior statutes referred to the "indexing" of verdicts and judgments and the rules of civil procedure promulgated when those statutes were in effect used that term. The present law, Section 4303 of the Judicial Code, refers to a judgment or order being a lien "when it is entered of record". Consistent with the Judicial Code, the amended rules use the terms "entry", "enter" and "entered" as may be appropriate.

III. Judgments

A new chapter of four rules has been added which encompasses the entry of judgment in the judgment index and the effect of a judgment as a lien upon real property. The four rules are Rule 3020 (Definition), Rule 3021 (Verdict. Order. Judgment. Entry in Judgment Index), Rule 3022 (Verdict or Order. Lien. Duration) and Rule 3023 (Judgment. Lien. Duration).

**Rule 3020. Definition
and
Rule 3101. Definitions. Garnishee**

Rule 3101(a) governing the enforcement of money judgments defines the term "judgment." The definition has been amended by deleting the phrase "or a public authority." This phrase became unnecessary in light of a recent amendment to Definition Rule 76 defining the term "political subdivision" to include "a municipal or other local authority". The definition of "judgment" in Rule 3101(a) uses the term "political subdivision" and provides as follows:

"judgment" means a judgment, order, or decree requiring the payment of money entered in any court which is subject to these rules, including a final or interlocutory order for payment of costs, except a judgment against the Commonwealth or a political subdivision;

New Rule 3020 defines the term "judgment" using identical language and applies to the rules of the new chapter, Rule 3020 et seq.

Notes to both Rule 3020 and 3101(a) cross-refer to the definition of "political subdivision" found in Rule 76.

Rule 3021 Verdict. Judgment. Entry in Judgment Index

Section 2737 of the Judicial Code provides that the “office of the prothonotary shall have the power and duty to ... (3) Enter all civil judgments, including judgments by confession.” Section 4303(a) of the Judicial Code provides that any judgment or order for the payment of money shall be a lien upon real property when it is "entered of record" in the office of the clerk of the court of common pleas of the county where the real property is situated.

These sections of the Judicial Code give scant direction to the prothonotary with respect to the judgment index when contrasted with prior repealed statutes such as the Act of 1827, 16 P.S. § 9871. The new rule provides the necessary direction by setting forth, first, the duty of the prothonotary to enter verdicts, orders and judgments in the judgment index and, second, the content of the entry in the index.

Rule 3022. Verdict or Order. Entry. Lien

New Rule 3022 is derived from the repealed Act of March 23, 1877, P.L. 34, § 1, 12 P.S. § 861. The statute provided in part that “the verdict shall be a lien upon the real estate situate within the proper county of the party or parties against whom said verdict shall be rendered....” In its formulation of the nature of the lien, the rule states:

(a) A verdict or order for a specific sum of money when entered in the judgment index shall be a lien on real property located within the county, title to which at the time of entry is recorded in the name of the person against whom the verdict or order was rendered. ...

This rule changes the prior law with respect to the inception of the lien. Under the repealed Act of 1877 and current Section 8141(3) of the Judicial Code, the creation of the lien and its priority dated from the rendition of the verdict or order. Under New Rule 3022(a), a verdict or order for a specific sum of money creates a lien “when entered in the judgment index”. This new rule is consistent with Rule 1307 which provides that an award

in compulsory arbitration for the payment of money creates a lien “when entered in the judgment index” and also with Rule 3023 which similarly provides that a judgment shall create a lien “when entered in the judgment index”. However, Rule 3022(a) is inconsistent with Section 8141(3) of the Judicial Code and subdivision (b)(3) of the rule suspends Section 8141(3) only to the extent of this inconsistency with the new rule.

Rule 3021(a) minimizes the opportunity of a judgment debtor to avoid the lien of a verdict or order by providing that the prothonotary shall “immediately” enter a verdict or order for the payment of money in the judgment index. A party aggrieved by the transfer of property to avoid the lien may pursue remedies provided by the law governing fraudulent transfers of property.

The language used in Rule 3022(a) is the basic formulation used to describe the lien in each rule prescribing a lien. Rules 1307, 3023, 3027 and 3104 all contain in almost identical form the following italicized language: *“a lien on real property located within the county, title to which at the time of entry is recorded in the name of the person against whom the verdict or order was entered”*.

Subdivision (a) also provides a five-year limit upon the life of the lien. The lien terminates earlier if, prior to the expiration of the five-year period, the verdict or order is reduced to judgment or the court awards a new trial or enters a judgment notwithstanding the verdict.

The rule refers to an “order” as well as a “verdict”. The term “order” is broadly defined by the Section 102 of the Judicial Code to include a “judgment, decision, decree, sentence and adjudication.” However, a judgment is specifically governed by Rule 3023.

Rule 3023. Judgment. Lien

New Rule 3023 sets forth the lien of a judgment and its duration and replaces two prior statutes, Section 2 of the Judgment Lien Law of 1947, 12 P.S. § 878, and Section 2 of the Act of 1877, 12 P.S. § 862. Subdivision (a) states the general rule using the basic language of Rule 3022 governing the lien of a verdict and order but appropriately particularized to a judgment:

(a) Except as provided by subdivision (b), a judgment when entered in the judgment index shall create a lien on real property located in the county, title to which at the time of entry is recorded in the name of the person against whom the judgment is entered.

Subdivision (b) states the rule governing the lien of two particular judgments: a judgment entered upon a verdict or order and a judgment entered upon an award in compulsory arbitration. The subdivision begins with entry in the judgment index and then provides for the effect of the entry of the judgment as continuing or creating a lien on real property:

(b) A judgment upon a verdict, an order or an award in compulsory arbitration, when entered in the judgment index, shall

(1) continue the lien upon real property located in the county which is subject to the lien of the verdict, order or award upon which the judgment is entered, and

NOTE:...

(2) create a lien upon all other real property located within the county, title to which at the time of entry in the judgment index is recorded in the name of the person against whom the judgment is entered.

The continuing of a lien under subdivision (b)(1) parallels the concept of new Rule 3027(b)(1) by which the lien of a writ of revival or agreement to revive when entered in the judgment index shall "continue the lien upon all real property located in the county which is subject to the lien of the judgment which is sought to be revived". Since the rule continues the lien of the verdict, the date of the commencement of the lien is determined by reference to Rule 3022, discussed above, which provides that a verdict or order for a specific sum of money shall be a lien when entered in the judgment index. Similarly, the date of commencement of the lien of an award in compulsory arbitration is determined by referring to Rule 1307(b), discussed below. A note to subdivision (b)(1) sets forth the cross-references.

The creating of a lien under subdivision (b)(2) parallels the concept of new Rule 3027(b)(2) by which the lien of a writ of revival or agreement to revive when entered in the judgment index shall "create a lien upon all other real property located in the county, title to which at the time of entry in the judgment index is recorded in the name of the defendant". Subdivision (b)(2) pertains to after-acquired property and generally follows the statute.

Subdivision (c) provides for a five-year duration of the lien and applies to the liens of all judgments under the rule. The life of the lien is unchanged from prior practice.

Other Rules Affecting Liens

Several additional rules of civil procedure govern liens on real property and are affected by the proposed amendments.

**Rule 1307. Award. Docketing. Notice. Lien. Judgment.
Molding the Award**

Rule 1307 is a rule governing compulsory arbitration which formerly provided in subdivision (b) that the “award when entered in the judgment index shall be a lien upon the party’s real estate, which shall continue during the pendency of an appeal or until extinguished according to law.” The language has been revised to conform to that of other rules of civil procedure imposing a lien on real property:

(b) The award for the payment of money when entered in the judgment index shall create a lien on real property located within the county, title to which is recorded in the name of the person against whom the award was entered. The lien shall continue during the pendency of an appeal or until extinguished according to law.

**Rule 3027. Writ of Revival. Entry. Lien
and
Rule 3031.1. Judgment of Revival. Lien**

Rule 3027 governing the entry and lien of a writ of revival was amended in 1994 to incorporate the substance of Section 4 of the Judgment Lien Law, 12 P.S. § 880. The present amendment to that rule and new Rule 3031.1 governing the entry and lien of a judgment of revival are described below under the comment discussing the revisions to the rules governing revival of judgment.

Rule 3104. Writ of Execution. Entry. Lien

The amendment to Rule 3104(a) incorporates without substantial change Section 7 of the Judgment Lien Law, 12 P.S. § 883, relating to the property subject to execution, the lien of execution and the duration of the lien. The rule is discussed at the end of the comment in connection with the rules governing the enforcement of judgments for the payment of money.

IV. Revival of Judgment Liens

The rules governing "revival of judgments" are revised generally to be gender neutral and to delete obsolete references. In addition, the phrase "revival of judgments" is revised to read "revival of judgment lien".

The source of the revision providing for "revival of judgment lien" is the concurring opinion by Mr. Justice Zappala in *Shearer v. Naftzinger*, 747 A.2d 859, 861 (Pa. 2000), which described the effect of a judgment and the necessity for revival of a judgment lien:

... A money judgment acts as a lien against real property, but only for five years. The lien must be continued (or revived) to maintain (or obtain a new) place of priority. However, properly speaking, *it is the lien that is revived, not the judgment*. There is no outer time limit to executing against real property to satisfy a judgment, but the proceeds of such a sale must be distributed according to the priority of liens. ...

Rule 3025. Commencement of Proceedings. Venue

In addition to providing for the venue and commencement of a proceeding to revive, Rule 3025 states the scope of the chapter. Prior to the present amendments, the scope of the chapter was described as a "proceeding to revive and continue the lien of a judgment".

This language is revised as follows: "A proceeding to revive which continues or creates the lien of a judgment".

The words "which continues or creates the lien of a judgment" reveal the nature of the proceeding. The proceeding to revive will, first, continue the lien as to real property which is subject to an existing lien and, second, create a lien with respect to property which is not subject to an existing lien because either the lien has been lost or the lien had not attached to the property (after-acquired property). The concept is similar to that of Rule 3023(b) governing the lien of a judgment entered upon a verdict or order which provides that the judgment when entered in the judgment index shall "continue" the lien

of the verdict or order as to property subject to the lien and "create" a lien as to all other property recorded in the name of the person against whom the judgment is entered.

(1) Continuing a lien

A proceeding to revive "continues ... the lien of a judgment". The continuing of a lien presupposes an existing lien. Rule 3023 governing the lien of a judgment provides that the "lien shall continue for five years from the date the judgment was entered in the judgment index unless the judgment is sooner discharged or the lien is sooner revived." If a proceeding to revive a judgment lien is commenced within the five-year period prescribed by Rule 3023, there exists a lien to be continued. This is the import of Rule 3027(b)(1) which provides that a writ of revival or an agreement to revive when entered in the judgment index shall "continue the lien upon real property located in the county which is subject to the lien of the judgment which is sought to be revived".

(2) Creating a lien

A proceeding to revive also "creates the lien of a judgment." The creation of a lien presupposes that there is no existing lien. There may be no existing lien on real property because either the lien has been lost or because the lien did not attach.

If a proceeding to revive a judgment is not brought within the five-year period after entry of the judgment in the judgment index as required by Rule 3023, the lien is lost as to property which had been subject to it and there exists no lien to continue. However, the proceeding will create a new lien on property as to which a lien has been lost. This is the import of Rule 3027(b)(2) which provides that a writ of revival or an agreement to revive when entered in the judgment index shall

(2) create a lien upon all other real property located in the county, title to which at the time of entry in the judgment index is recorded in the name of the defendant,...

Rule 3023(a) provides in part that "a judgment when entered in the judgment index shall create a lien on real property located in the county, title to which at the time of entry is recorded in the name of the person against whom the judgment is entered." Thus, property which is acquired by the defendant after entry of the judgment in the judgment index is not subject to the lien of the judgment. In this case also, the proceeding to revive the judgment will create a lien as provided by Rule 3027(b)(2).

Rule 3027(b)(3) applies to property recorded in the name of a terre-tenant. It makes clear that the only property subject to the lien of a writ of revival or an agreement to revive is property which at the time of the entry of the writ or agreement in the judgment index had been subject to the lien of the judgment but the lien had lapsed. The lien does not attach to any other property of the terre-tenant. This provision is reinforced by Rule 3031.1(b) which provides that a judgment of revival is not a personal judgment against the terre-tenant.

Though a proceeding to revive a judgment may be commenced after the expiration of the five-year period, the importance of commencing a proceeding within the five-year period to continue a lien cannot be ignored. If a lien is lost, its priority is lost and the new lien will date from the entry of the writ of revival or agreement to revive in the judgment index. As stated by former Chief Justice Zappala in *Shearer v. Naftzinger*, 747 A.2d at 861, "The lien must be continued (or revived) to maintain (or obtain a new) place of priority."

Rule 3025 with its "definition" of a proceeding to revive encapsulates the law and procedure of the chapter. Rules 3027 and 3031.1 provide the substantive effect of the writ

of revival and judgment of revival while the remaining rules of the chapter provide the procedure to effectuate the substantive law.

Rule 3025.1. Consolidation of Judgments

Subdivision (a) of this new rule governing consolidation of judgments provides for consolidation by writ of revival and is derived from the Judgment Lien Law of 1947, 12 P.S. § 875. Subdivision (b) adds the option of consolidating judgments by agreement.

There needs to be a trail leading to and from the consolidated judgment. Subdivisions (c) and (d) provide for cross-references to enable the searcher to trace the history of both the individual judgments and the consolidated judgment.

A note advises that consolidation does not affect the priority of the lien of each judgment consolidated.

Rule 3026. Parties. Generally

There is no change in substance to Rule 3026. The title is revised by adding the word “Generally” in light of new Rules 3026.1 through 3026.3 which govern specific parties, i.e., joint defendants and terre-tenants.

The two subdivisions which comprise Rule 3026 are revised to be parallel in style. A note is added to subdivision (a) describing the use in the rules of the words “plaintiff” and “defendant” to mean judgment creditor and judgment debtor, respectively. The note to subdivision (b) is made current by deleting obsolete material and adding cross-references to the new rules governing terre-tenants.

Rule 3026.1. Parties. Joint Defendants

New Rule 3026.1 relating to joint defendants incorporates the substance of Section 3(b) of the Judgment Lien Law, 12 P. S. § 879(b).

**Rule 3026.2. Parties. Terre-Tenants
and**

Rule 3026.3. Revival of Lien of Judgment as to Property of Terre-Tenant

New Rule 3026.2 provides a definition of the term “terre-tenant.” Subdivision (a) is derived from *Eberhart's Appeal*, 39 Pa. 509, 512 (1861): “A terre-tenant is one in whom the title to the encumbered estate has vested.”

Subdivisions (b) and (c) of Rule 3026.2 limiting the term “terre-tenant” incorporate a corresponding provision of the Judgment Lien Law, 12 P.S. § 879(d).

A portion of Section 3 of the 1947 Act, 12 P.S. § 879(a), set forth the manner of revival against the property of a terre-tenant. New Rule 3026.3 incorporates the substance of that provision, dividing it into two subdivisions and a note.

Rule 3027. Writ of Revival. Entry. Lien

Rule 3027 is the heart of the rules governing revival of judgment liens, setting forth the substantive law pertaining both to the writ of revival and, by incorporation by reference in Rule 3031.1, to the judgment of revival.

Subdivision (a) provides for the prothonotary to enter the writ of revival or agreement to revive in the judgment index “against each defendant and terre-tenant named therein.” The provision might be compared to the requirement of new Rule 3021 requiring the prothonotary to enter verdicts, orders and judgments into the judgment index.

Subdivision (b) provides for the effect of the writ or agreement when entered in the judgment index as continuing or creating a lien upon real property. The effect of this subdivision is described under the comment to Rule 3025.

Subdivision (c) providing for the lien to continue for five years has been revised only to accommodate the reference to an agreement to revive and to substitute the word “entered” in place of “indexed”.

Rule 3028. Service of the Writ

The former rule that a “return of no service shall be equivalent to personal service” was derived from at least two repealed statutory sources: Section 6 of the Judgment Lien Law, 12 P.S. § 882, and Section 1 of the Act of 1901, 12 P.S. § 295. Under the former, the prothonotary was authorized to enter judgment of revival upon praecipe following a return of nihil habet. The latter provided that “a return of nihil habet shall be equivalent to personal service, in writs of scire facias to revive judgments entered in personal actions.”

The new rule places a greater emphasis upon serving the writ of revival and provides procedures beyond those normally available for service of original process. Subdivision (a) provides that the writ shall be served by the sheriff by handing a copy as provided by Rule 402 or mailing a copy as provided by Rule 403.

If service cannot be made by handing or mailing a copy, then subdivision (b) provides two alternatives. The first alternative is service pursuant to an order of court under Rule 430(a). The second is service by publication without an order of court but upon filing an affidavit "showing reasonable efforts to make service pursuant to subdivision (a) and the reasons why such service could not be made." In effect, the party seeking to make service by publication under subdivision (b)(2) is making a record by affidavit which will support the right granted by the rule.

Rule 3029. Reissuance and Substitution of Writ

There is no change in practice under the rule as only the note is revised. The note contained an obsolete reference to former Rule 1010 as governing reissuance and substitution of a writ of summons. A reference to the current rule, Rule 401(b), has been substituted.

Rule 3030. Pleadings, Further Proceedings. Continuance of Lien

Again, there is no change in practice under the revised rule. The only revision to the rule is the substitution in subdivision (c) of the new language relating to the “entry” of a judgment in the judgment index in place of the “indexing” of a judgment.

Rule 3031. Judgment upon Default or Admission. Assessment of Damages

The addition of a note is the only change to this rule governing judgment upon default or admission. The note which refers to the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. § 520, replaces Section 5 of the Judgment Lien Law of 1947, 12 P.S. § 881, relating to revival of a lien against a person in the armed forces.

Rule 3031.1. Judgment of Revival. Lien

Rule 3031.1 governs the judgment of revival and its lien. Subdivision (a) of Rule 3031.1 replaces the first sentence of section 3(c) of the Judgment Lien Law of 1947, 12 P.S. § 879(c) and cross-refers to Rule 3027 governing the lien of the writ of revival for the extent and duration of the lien. The comment set forth under Rule 3027 relating to the lien of a writ of revival applies equally to the lien of a judgment of revival under this rule.

Subdivision (b) of the new rule has no statutory antecedent and is a clarification of the extent of the judgment of revival against a terre-tenant.

The second sentence of section 3(c) of the Judgment Lien Law, 12 P.S. § 879(c), relating to extension of the lien was incorporated in 1994 into Rule 3030 as subdivision (c).

Rules 3032, 3033 and 3034. Forms

The revisions to the rules governing forms are directed primarily to matters of style and updating obsolete references. The only revision of substance is the addition to the form of writ of revival of a notice based upon the Notice to Defend prescribed by Rule 1018.1.

Rules 3048, 3049 and 3049.1. Acts of Assembly

Rule 3048 governing Acts of Assembly Not Suspended has been revised to take cognizance of statutes which have been repealed as well as statutes enacted subsequent to the original promulgation of the rule. No change in practice is intended as the result of the revision of this rule.

Rule 3049 governing Acts of Assembly Suspended is rescinded as all of the statutes formerly suspended by the rule have been repealed. However, the practice and procedure under certain of these statutes have remained in force as the result of the "fail-safe" provision of Section 3(b) of JARA, 42 Pa.C.S. § 20003(b). New Rule 3049.1 sets forth those repealed statutes, the practice and procedure under which, as the result of the promulgation of these rules, will no longer continue as part of the common law of the Commonwealth.

V. Enforcement of Judgments for the Payment of Money

Rule 3101. Definitions. Garnishee

The amendment to the definition of the word "judgment" in Rule 3101, mentioned previously, deletes the phrase "or public authority." No change in practice is effected by this amendment as the term "political subdivision" used in the definition is defined by Rule 76 to include a municipal or other local authority.

Rule 3101.1. Property Subject to Execution. Execution Within and After Five Years

New Rule 3101.1 replaces two Acts of Assembly relating to the property subject to the execution, the lien of execution and execution after five years.

Subdivision (a) incorporates the substance of Section 7 of the Judgment Lien Law, 12 P.S. § 883 (repealed). Subdivision (a)(1) provides for execution against real property within five years of the entry of the original judgment, judgment of revival or agreement to revive. The execution may issue against real property which is subject to the lien of the judgment or against after-acquired real property (i.e., "real property, title to which at the time of the entry of the writ of execution in the judgment index is recorded in the name of the person against whom the judgment is entered"). The effect of the writ of execution as continuing or creating a lien is governed by Rule 3104(a).

Subdivision (a)(2) is concerned with an execution against real property where five years have elapsed since the entry of the original judgment, the last preceding judgment of revival or the last preceding agreement to revive. In that case, "no execution against real property may issue until a writ of revival shall have issued and been reduced to judgment or an agreement to revive shall have been entered." The execution is issued on the judgment of revival or agreement entered and not on the original judgment.

Subdivision (b) incorporates the Act of 1887, 12 P.S. § 2094 (repealed). This subdivision provides for execution upon personal property “within the time allowed by law.”

It is immaterial whether the judgment is a lien upon real property or whether the lien of the judgment has been revived within five years since the entry of the original judgment or any judgment of revival or agreement to revive. In distinguishing between execution upon real and personal property, Mr. Justice Zappala in *Shearer v. Naftzinger* stated, 747 A.2d at 861 - 862:

... There is no outer time limit to executing against real property to satisfy a judgment, but the proceeds of such a sale must be distributed according to the priority of liens. ...

Different rules apply with respect to personal property. A judgment continues to exist, and can be executed on by having the sheriff sell personal property, whether or not a writ of revival is ever filed. ... Section 5529 simply places an outer limit of 20 years on executing against personal property to satisfy a judgment. ...

The note to the rule cites Section 5529(a) of the Judicial Code, 42 Pa.C.S. § 5529(a), prescribing a twenty-year limitation upon execution against personal property. The note also refers to the *Shearer* case for additional guidance.

Rule 3104. Writ of Execution. Entry. Lien

Rule 3104, also a part of the chapter governing the enforcement of judgments for the payment of money, was previously entitled "Indexing" and provided for the indexing of a writ of execution. The title of the rule has been revised to indicate the subject matter of the rule.

The amendment to Rule 3104(a) is intended to incorporate without substantial change a portion of Section 7 of the Judgment Lien Law, 12 P.S. § 883, relating to the property subject to execution, the lien of execution and the duration of the lien. Subdivision (a)(1) tracks the language of the other rules creating liens and provides for the writ of

execution not only to continue the lien upon property which is already subject to the lien of the judgment but also to create a lien upon property, not subject to the lien of the judgment, which is recorded in the name of the defendant at the time of the entry of the writ in the judgment index.

An additional revision to subdivision (a) is the deletion of the phrase “upon praecipe of the plaintiff.” The writ of execution is issued upon a praecipe prescribed by Rule 3251 which contains a direction to the prothonotary to “enter this writ in the judgment index”. It was not the intention of the rule that the plaintiff be required to file a second praecipe for the prothonotary to enter the writ in the judgment index. The deletion of the phrase quoted above and an addition to the note make this point clear.

Subdivision (b) of the rule governs the delivery of the writ of execution to the sheriff of another county. The last sentence formerly provided that the plaintiff could direct the sheriff to levy or attach under the writ before delivering it to the prothonotary for indexing. This sentence has been deleted. There should be no execution proceedings until the writ of execution is entered of record within the county.

**By the Civil Procedural
Rules Committee**

**R. Stanton Wettick, Jr.
Chair**