

SUMMARY

Key Words: enforcement proceedings, bailiff, enforcement documents

Subject matter: Actual problems of enforcement proceedings

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The relevance of the research topic. The relevance of the research topic is determined by the theoretical and practical significance of issues related to the development of enforcement proceedings in the Russian Federation. Enforcement proceedings are a dynamically developing area of Russian law, which has recently become increasingly important.

Currently, Russia is in the process of establishing enforcement proceedings as an independent stage of legal protection. This process is accompanied by a constant reform of its organization. The formation of effective legal mechanisms for the enforcement of judicial decisions and other law enforcement acts is an independent direction of the reform of the federal executive authorities. One of the main goals of such a reform is to increase the degree of protection of the rights, freedoms and legitimate interests of citizens, organizations and public legal entities. This is due to the fact that the effective functioning of both the judicial system itself and non-judicial law enforcement bodies directly depends on the proper execution of the acts adopted by them.

At the same time, at present, the system of enforcement of court decisions and other law enforcement acts is characterized by extremely low efficiency.

The right to judicial protection guaranteed by Article 46 of the Constitution of the Russian Federation can be implemented in its final form only if a citizen or an organization that applied to a competent authority for the protection of their violated or disputed right actually received the award granted to them by a jurisdictional body.

Nevertheless, the legislation regulating the activities of bailiffs and enforcement proceedings needs to be further developed and supplemented, linked to other federal laws in order to improve the legal status of bailiffs and the conditions for their exercise of their functions, develop specialization, search for better forms and methods of managing the Federal Bailiff Service, interact with state authorities, and form the professional core of the bailiff service.

The purpose of the work: on the basis of a comprehensive analysis of normative and literary sources, to identify and study the legal relations related to enforcement proceedings, as well as the procedure for exercising powers in the field of enforcement proceedings.

Objective:

- to consider the genesis of the formation of the bailiff service;
- to investigate the legislation regulating the activities of bailiffs;
- determine the participants in the enforcement proceedings;
- describe the procedure for initiating enforcement proceedings;
- investigate enforcement measures;
- identify the procedure for deferral, installment and postponement of executive actions;
- determine the responsibility in the enforcement proceedings;
- make suggestions for improving the legislation.

Theoretical and practical significance of the study. The theoretical and practical significance of the research results is determined, first of all, by the systematic approach to the analysis of the legal regulation of enforcement proceedings of law, which allows us to talk about the possibility of harmonizing modern legislation and solving on this basis a number of problematic issues in the field of regulating the enforcement of court decisions.

The results of the study can be used in the study of civil procedure and enforcement proceedings. they are also aimed at improving the legislation.

The results of the study. The sources of enforcement proceedings should be understood as normative legal acts containing legal norms regulating the conditions and procedure for the

enforcement of judicial acts of courts of general jurisdiction and arbitration courts, as well as acts of other bodies that, in the exercise of their powers established by law, have the right to impose on citizens, organizations or budgets of all levels the obligations to transfer to other citizens, organizations or to the appropriate budgets of funds and other property, or to perform certain actions in their favor or to refrain from performing these actions.

Various types and measures of liability in enforcement proceedings allow us to conclude that enforcement proceedings have a sufficiently developed system of legal liability, which encourages the subjects (and not only) of enforcement proceedings to properly perform the duties assigned to them by law.

Among the shortcomings of the Federal Law "On Enforcement Proceedings", it should be noted that there is no differentiation in the regulation of institutions for foreclosing on the property of legal entities and individuals.

The Law on Enforcement Proceedings does not have an independent and full-fledged regulatory regulation of the procedure for foreclosing on the property of a debtor-an individual. When implementing this procedure, it is necessary to apply the norms of the Federal Law "On Enforcement Proceedings" in a complex, as well as to be guided by a number of other regulatory acts.

The requirements contained in the enforcement document may not be related to the foreclosure of the debtor's funds or property, but are aimed at obliging the debtor to commit or refrain from committing certain actions. In such cases, we are talking about non-property requirements. The main distinguishing feature of this group of enforcement proceedings is that if, when executing enforcement documents of a property nature, the main purpose of the bailiff is to find the debtor's property and foreclose on it, then when executing non-property claims, we are talking about the need for the debtor to perform certain actions or the need to refrain from performing certain actions. In this case, the bailiff must, as a general rule, ensure the execution of the enforcement document by the debtor himself.

Recommendations:

1. In order to protect the rights and legally protected interests of the parties to enforcement proceedings, other persons related to the execution of a jurisdictional act, as well as state or public interests, enforcement may be carried out only in the forms specified by law.

2. The Law on Enforcement Proceedings does not contain an independent and full-fledged regulatory regulation of the procedure for foreclosing on the property of a debtor-an individual. When implementing this procedure, it is necessary to apply the norms of the Federal Law "On Enforcement Proceedings" in a complex, as well as to be guided by a number of other regulatory acts.

3. The requirements contained in the enforcement document may not be related to the foreclosure of the debtor's funds or property, but are aimed at obliging the debtor to perform or refrain from performing certain actions. In such cases, we are talking about non-property requirements. The main distinguishing feature of this group of enforcement proceedings is that if, when executing enforcement documents of a property nature, the main purpose of the bailiff is to find the debtor's property and foreclose on it, then when executing non-property claims, we are talking about the need for the debtor to perform certain actions or the need to refrain from performing certain actions. In this case, the bailiff must, as a general rule, ensure the execution of the enforcement document by the debtor himself.

4. It is necessary to take a broader approach to the issue of incentives in enforcement proceedings, establishing certain incentive norms in relation to other subjects (bailiff; persons participating in enforcement proceedings; persons assisting in enforcement) or circumstances in the framework of enforcement proceedings.

5. We also propose to supplement part 1 of Article 446 of the Civil Code of the Russian Federation with criteria for determining luxury goods, which will make the work of bailiffs more effective in implementing the norms of this article. And also clarify the evaluation categories that create legal uncertainty.

6. Grant the bailiff the right to obtain a writ of execution for the purpose of foreclosing on the debtor's right to claim against a third party.

7. We propose to add to Article 38 of the Federal Law "On Enforcement Proceedings" paragraph 2.1 "The bailiff is obliged to postpone enforcement actions and the application of enforcement measures for a period not exceeding 10 days, upon a written application of the recoverer and the debtor about the intention to conclude a settlement agreement, a reconciliation agreement".