

申请执行指南

Guidance notes on application for execution

为方便人民群众申请执行，帮助当事人避免常见的执行风险，保护申请执行人和被执行人的合法权益，根据相关法律和司法解释的规定，现将常见的执行风险提示如下：

In order to facilitate the people's application for execution, help the parties avoid common execution risks, and protect the legitimate rights and interests of the applicant and the person subject to execution, according to the relevant laws and judicial interpretation, the common execution risks are as follows:

一、申请执行条件

Conditions of application for execution

1. 申请执行的法律文书已经生效；

The legal document applying for enforcement has come into force;

2. 申请执行人是生效法律文书确定的权利人或其权利继承人；

The applicant for execution is the right holder or the success or of the right determined by the effective legal document;

3. 申请人在法定期限内提出申请；

The applicant shall submit an application within the statutory time limit;

4. 申请执行的文书有给付内容，且执行标的和被执行人明确；

The legal document applying for execution has the content of payment, and the subject matter of execution and the person subject to execution are clear;

5. 义务人在生效法律文书确定的期限内未履行义务；

The obligor fails to perform its obligations within the time limit specified in the effective legal document;

6. 属于有管辖权的法院管辖。

It is under the jurisdiction of a court with jurisdiction.

二、执行依据

Basis for implementation

可以申请人民法院执行的法律文书，范围包括：

Legal documents that can be applied to the people's court for enforcement include:

1. 人民法院民事判决、裁定、调解书；

Civil judgments, rulings and mediation statements of the people's court;

2. 人民法院行政判决、裁定、调解书；

Administrative judgments, rulings and mediation letters of the people's court;

3. 发生法律效力的实现担保物权裁定、确认调解协议裁定、支付令；

The realization of security real rights ruling, confirmation of mediation agreement ruling and payment order with legal effect;

4. 法律规定由人民法院执行的仲裁裁决、公证债权文书；

Arbitral awards and notarized creditor's rights documents stipulated by law shall be enforced by the people's court;

5. 法律规定由人民法院执行的行政处罚决定、行政处理决定；

Decisions on administrative punishment and administrative treatment stipulated by law shall be enforced by the people's court;

6. 法律规定由人民法院执行的其它法律文书。

Other legal documents prescribed by law to be enforced by the people's court.

三、申请执行期间

Application for execution period

申请执行的期间为二年。申请执行时效的中止、中断，适用法律有关诉讼时效中止、中断的规定。前述申请执行期间，从法律文书规定履行期间的最后一日起计算；法律文书规定分期履行的，从规定的每次履行期间的最后一日起计算；法律文书未规定履行期间的，从法律文书生效之日起计算。

超过两年向人民法院申请强制执行的，人民法院不予受理。

The period of application for execution is two years. To apply for the suspension or interruption of the statute of limitations, the provisions of the law on the suspension or

interruption of the statute of limitations shall apply. The execution period of the foregoing application shall be calculated from the last day of the performance period stipulated in the legal document; if the legal document stipulates the performance in installments, it shall be calculated from the last day of each specified performance period; if the legal document does not stipulate the performance period, it shall be calculated from the effective date of the legal document.

If an application to the people's court for compulsory execution for more than two years, the people's court shall not accept it.

四、申请执行的管辖法院

The competent court applying for enforcement

1. 发生法律效力民事判决、裁定，由第一审人民法院或者与第一审人民法院同级的被执行的财产所在地人民法院执行；

A legally effective civil judgment or ruling shall be executed by the People's Court of first instance or by the People's Court of the place where the property being executed at the same level as the People's Court of first instance is located;

2. 发生法律效力的实现担保物权裁定、确认调解协议裁定、支付令，由作出裁定、支付令的人民法院或者与其同级的被执行财产所在地的人民法院执行；

The legally effective ruling on the realization of security real rights, the confirmation of the mediation agreement and the payment order shall be executed by the people's court that made the ruling or payment order or the people's court of the place where the executed property at the same level is located;

3. 当事人对仲裁机构作出的仲裁裁决或者仲裁调解书申请执行的，由被执行人住所地或者被执行的财产所在地的中级人民法院管辖；

Where a party applies for enforcement of an arbitration award or arbitration mediation made by an arbitration institution, it shall be under the jurisdiction of the intermediate people's court of the place where the person subjected to execution has his domicile or the place where the property to be executed is located;

4. 当事人拒绝履行行政判决、裁定、调解书的，行政机关或者第三人可以向第一审人民法院申请强制执行，或者由行政机关依法强制执行；

If a party refuses to perform an administrative judgment, ruling or mediation, the administrative organ or a third party may apply to the people's court of first instance for compulsory execution, or the administrative organ may enforce it according to law;

5. 法律规定由人民法院执行的其他法律文书，依照相关法律规定由有管辖权的人民法院管辖。

Other legal documents prescribed by law to be executed by the people's court shall be under the jurisdiction of the people's court with jurisdiction in accordance with relevant laws and regulations.

五、申请执行应提供的材料

Materials to be provided for application for execution

1. 申请执行书；

Application for execution letter;

2. 生效法律文书及复印件；

Effective legal documents and copies;

3. 申请执行人的身份证明。申请人为公民个人的，应提交居民身份证复印件；申请人为法人或其它组织的，应提供营业执照复印件，法定代表人或主要负责人身份证复印件；

Apply for the identity certificate of the executor. If the applicant is an individual citizen, a copy of the resident identity card shall be submitted; if the applicant is a legal person or other organization, a copy of the business license and a copy of the ID card of the legal representative or the main person in charge shall be provided;

4. 财产线索，包括但不限于银行存款、动产、不动产、有价证券、商业保险等信息；如提供船舶，应将船名、船号、国籍、船籍港、登记机关、船舶类型等概况一并提供；

Property clues, including but not limited to bank deposits, movable property, real estate, negotiable securities, commercial insurance and other information; if the ship is provided, the

ship name, ship number, nationality, ship registration port, registration authority, ship type, etc. shall be provided;

5. 生效法律文书确定的权利人其权利承继人申请执行的,应当提交承受权利的证明文件;

If the right holder determined by the effective legal document and the successor of the right applies for enforcement, the supporting documents of the right shall be submitted;

6. 应尽可能提供被执行人如下信息:

The person subjected to execution shall be provided with the following information as much as possible:

(1) 被执行人为公民个人的,提供其姓名、性别、民族、出生日期、身份证件号码;

If the person subjected to execution is an individual citizen, provide his or her name, gender, nationality, date of birth, and identity card number;

(2) 被执行人为法人或其它组织的,提供其名称、法定代表人或主要负责人姓名及身份证件号码、统一社会信用代码或组织机构代码证;被执行人为个体工商户的,提供其经营者的姓名、性别、民族、出生日期、身份证件号码;

If the person subjected to execution is a legal person or other organization, provide its name, legal representative or main person in charge's name and identity card number, unified social credit code or organization code certificate; if the person subjected to execution is an individual industrial and commercial household, provide the name, gender, ethnicity, date of birth, and identity card number of the operator ;

(3) 送达地址;

Delivery address;

(4) 保全信息;

Preservation of information;

(5) 当事人电话及其它联系方式;

The telephone number of the parties and other contact information;

(6) 其它有助于人民法院执行的信息。

Other information that is conducive to the execution of the people's court.

六、申请执行费用

Application for Execution Expenses

申请执行费不由申请人预交，执行后按下列标准交纳：

The application fee for execution shall not be paid in advance by the applicant, and shall be paid according to the following standards after execution:

(1) 没有执行金额或者价额的，每件交纳50元至500元。

If there is no execution amount or price, 50 yuan to 500 yuan will be paid for each piece.

(2) 执行金额或者价额不超过1万元的，每件交纳50元；超过1万元至50万元的部分，按照1.5%交纳；超过50万元至500万元的部分，按照1%交纳；超过500万元至1000万元的部分，按照0.5%交纳；超过1000万元的部分，按照0.1%交纳。

If the execution amount or price does not exceed 10,000 yuan, 50 yuan shall be paid for each piece; the part exceeding 10,000 yuan to 500,000 yuan shall be paid at 1.5%; the part exceeding 500,000 yuan to 5 million yuan shall be paid at 1%; the part exceeding 5 million yuan to 10 million yuan shall be paid at 0.5%; The part of more than 10 million yuan will be paid at 0.1%.

七、无财产或者无足够财产可供执行

No property or insufficient property for execution

申请执行人在申请执行时，应提供被执行人的准确下落或被执行财产的确切线索；被执行人没有财产或者没有足够财产履行生效法律文书确定义务的，人民法院可能对未履行的部分裁定中止执行，申请执行人的财产权益将可能暂时无法实现或者不能完全实现。

When applying for execution, the applicant shall provide the accurate whereabouts of the person subjected to execution or the exact clues of the executed property; if the person subjected to execution has no property or does not have enough property to perform the obligations determined by the effective legal documents, the people's court may suspend the execution of the part that has not been performed, and the property rights and interests It

cannot be realized or cannot be fully realized.

八、不履行生效法律文书确定义务

Failure to fulfill the obligations determined by the effective legal documents

被执行人不履行裁判文书确定的相应义务，可能要承担支付迟延履行期间的债务利息或迟延履行金，被罚款、拘留等强制措施的风险。

If the person subjected to execution fails to perform the corresponding obligations specified in the judgment document, he may bear the risk of paying interest on the debt during the period of delayed performance or late performance, and being fined, detained and other compulsory measures.

被执行人未按执行通知书指定的期间履行生效法律文书确定的给付义务的，人民法院可以采取限制消费措施，限制其高消费及非生活或者经营必需的有关消费。纳入失信被执行人名单的被执行人，人民法院应当对其采取限制消费措施。

If the person subjected to execution fails to perform the payment obligations determined by the effective legal document within the period specified in the execution notice, the people's court may take measures to restrict consumption, such as high consumption and related consumption that is not necessary for living or business. The people's court shall take measures to restrict consumption of those who are included in the list of persons subjected to execution for breach of trust.

九、拒不执行判决、裁定罪

Crime of Refusing to Execute Judgments or Orders

被执行人、协助执行义务人、担保人等负有执行义务的人对人民法院的判决、裁定有能力执行而拒不执行，情节严重的，应当依照刑法第三百一十三条的规定，以拒不执行判决、裁定罪处罚，判处三年以下有期徒刑、拘役或者罚金。

If the person subjected to execution, the person who assists in execution, the guarantor and other persons who have the obligation to execute have the ability to execute the judgment or order of the people's court and refuse to execute it, if the circumstances are serious, they shall, in accordance with the provisions of Article 313 of the Criminal Law, be punished for the crime of refusing to execute judgments and orders and be sentenced to fixed-term imprisonment of not

more than three years, detention or a fine.

拒不执行判决、裁定的被告人在一审宣告判决前，履行全部或部分执行义务的，可以酌情从宽处罚。

If the defendant who refuses to execute the judgment or ruling performs all or part of his execution obligations before the judgment is pronounced in the first instance, he may be given a lenient punishment at his discretion.

拒不执行支付赡养费、扶养费、抚育费、抚恤金、医疗费用、劳动报酬等判决、裁定的，可以酌情从重处罚。

Those who refuse to implement the judgments and rulings on the payment of alimony, maintenance, childcare, pension, medical expenses, labor remuneration, etc. may be given a heavier punishment as appropriate.