**南京海事法院诉讼指南（执行篇）**

**一、执行案件申请须符合哪些要求？**

（一）申请执行的条件

1.法律文书已经生效；

2.申请执行人是生效法律文书确定的权利人或其继承人、权利承受人；

3.申请执行人在法定期限内提出申请；

4.申请执行的法律文书权利义务主体明确、给付内容明确；

5.义务人在生效法律文书确定的期限内未履行义务；

6.属于受申请执行的法院管辖。

（二）申请执行应提交的材料

1.申请执行表

在申请执行表上写明被执行人信息,申请执行内容应逐项填写, 分期履行的，只能申请已到期部分。

2.执行依据

法律文书应提供原件(本院出具的法律文书可提供复印件)。

3.申请人主体资格材料

申请人是自然人的,提交身份证明复印件;申请人是法人或者非法人组织的,提交营业执照或者组织机构代码证复印件、法定代表人或者主要负责人身份证明书。

4.授权委托书

代理人是律师的,提交授权委托书、律师证复印件及律所公函;

代理人是公司员工的,提交员工身份证复印件,授权委托书及劳动合同复印件并由公司盖章。

5.法律文书送达地址确认书

6.拍卖机构选择方法告知书

7.提供被执行人财产状况表

8.法院所需要的其他材料

**二、执行异议案件立案该如何申请？**

（一）执行异议案件的适用范围

1、当事人、利害关系人认为执行过程中的执行查控、执行处分、强制措施、执行结案方式等执行行为侵害其合法权益而提出的异议。

2、当事人、利害关系人认为保全裁定、先予执行裁定执行过程中的查封、扣押、冻结、划拨等行为侵犯其合法权益而提出的异议。

3、案外人基于实体权利对被保全财产或者执行案件的执行标的提出排除执行的异议。

4、被执行人对据以执行的生效仲裁裁决、赋予强制执行效力的公证债权文书提出的不予执行申请。

5、被执行人提出的执行管辖权异议。

6、申请执行人或者其继承人、权利承受人提出的变更、追加申请执行人的申请。

7、申请执行人提出的变更、追加被执行人的申请。

8、被执行人以债权消灭、超过申请执行期间或者其他实体事由提出阻止执行的异议。

9、其他依法可以提出的执行异议。

（二）执行异议申请书应记明的事项

1、异议人的姓名、性别、年龄、民族、住所，法人或非法人组织的名称、住所和法定代表人或主要负责人的姓名、职务。

2、异议相对方的姓名、性别、住所等信息，法人或非法人组织的名称、住所等信息。

3、执行案件案号。

4、异议请求和所根据的事实与理由。

（三）执行异议申请应提交的材料

1、异议人是自然人的，提交身份证明复印件；异议人是法人或者非法人组织的，提交营业执照或者组织机构代码证复印件、法定代表人或者主要负责人身份证明书。

2、委托提出异议申请的，应当提交授权委托书、代理人身份证明等相关材料。

3、执行异议申请书原本和与异议相对方人数相符的副本。

4、相关证据材料。

5、法律文书送达地址和联系方式。

**Application guide for enforcement cases**

**I. What requirements shall be met to apply for enforcement?**

1. Conditions on application for enforcement

(1) The legal document has become effective.

(2) The applicant for enforcement is the obligee or his/her heir or successor to his/her rights determined by the effective legal document.

(3) The applicant for enforcement shall file an application within the statutory time limit.

(4)The subject of the rights and obligations and the content of payment in the legal document applied for enforcement are clear.

(5) The obligor fails to perform his/her obligations within the time limit specified in the effective legal document.

(6) Under the jurisdiction of the court receiving the application for enforcement.

2. Documents to be submitted in the period of application for enforcement

(1) Application form

The information of the person subjected to enforcement shall be indicated on the application form for enforcement, and the contents of the application for enforcement shall be filled in item by item. If it is to be performed in stages, it can only be applied for the part that is due.

(2) [Enforcement basis](http://www.youdao.com/w/enforcement%20basis/#keyfrom=E2Ctranslation)

The original of legal documents should be provided (in the event that the legal document is issued by our court, copies are available).

(3) Documents for the applicant’s subject qualification

If the applicant is a natural person, submit the copy of identification card; if the applicant is a legal person or other organization, submit the copy of business license or organization code certificate and the identity certificate of the legal representative or the person chiefly in charge.

(4) Power of attorney

If the agent ad litem is a lawyer, submit the power of attorney and the letter of law firm; if the agent ad litem is a company employee, submit the copy of the employee’s identification card, power of attorney, the copy of labor contract and the aforesaid documents should be affixed with the company’s stamp.

(5) Confirmation of service address for legal documents

(6) Notification of selection method of an auction institution

(7) A statement of property status of the person subjected to enforcement

(8) Other materials required by the Court.

**Ⅱ. How to apply for filing cases of objection to enforcement?**

1. Application scope of objection to enforcement cases

(1) The objection raised by the litigants or interested persons, who consider the act of enforcement, such as enforcement of investigation and control, enforcement of sanctions, coercive measures, enforcement way of closing a case, etc., has trespassed on their legal rights.

(2) The objection raised by the litigants or interested persons, who consider the act of preservation or advance enforcement orders in the process of execution, such as seizure, detention, freeze, transferring funds, etc., has trespassed on their legal rights.

(3) The objection to exclusion of enforcement raised by the outsiders, which is based on substantive rights and against to preserved property or the object of the enforcement cases.

(4) The non-enforcement application raised by the person subject to enforcement, which is in order to against to the enforcement based on arbitral awards with taken legal effect or notary documents with given enforcement effect.

(5) The enforcement jurisdiction objection raised by the person subject to enforcement.

(6) The application raised by the applicant or his/her successor or right holder, which is in order to change or add applicants.

(7) The application raised by the applicant, which is in order to change or add applicants.

(8) The enforcement objection raised by the person subject to enforcement, because of claim termination, exceeding the statutory application period, or other entity causes.

(9) Other enforcement objections that may be raised according to law.

2. Matters to be noted in the application for objection enforcement

(1) If the objector is a natural person, submit the name, sex, age, nationality and domicile; if the objector is a legal person or other organization, submit the name, domicile and the name and the position of the legal representative or the principal leading person.

(2) If the opposing party is a natural person, submit the name, sex, domicile, etc.; if the opposing party is a legal person or other organization, submit the name, domicile etc.

(3) The enforcement case number.

(4) Facts and causes on which it is based about the application for objection enforcement.

**3. The objector must submit the following materials**

(1) If the objector is a natural person, submit the copy of identification card; if the objector is a legal person or other organization, submit the copy of business license or organization code certificate and the identity certificate of the legal representative or the person chiefly in charge.

(2) When the application for objection is entrusted, the power of attorney, the identity certificate of the agent, etc. shall be submitted.

(3) An original objection application and copies with the same number of the opposing party.

(4) Relevant evidence materials.

(5) The service address for legal documents and the contact information.