

上海金融法院

申请执行须知

一、申请执行的条件

(一) 申请执行的法律文书已经生效且该文书确定的履行义务所附的条件已经成就或者所附的期限已经届满；

注：可以作为执行依据的生效法律文书为：

1. 发生法律效力的民事、行政判决、裁定、调解书、民事制裁决定、支付令，以及刑事附带民事判决、裁定、调解书的涉财产部分内容；

2. 依法应由人民法院执行的行政处罚决定、行政处理决定；

3. 我国仲裁机构作出的仲裁裁决和调解书、人民法院依据《中华人民共和国民事诉讼法》有关规定作出的财产保全和证据保全裁定；

4. 公证机关依法赋予强制执行效力的债权文书；

5. 经人民法院裁定承认其效力的外国法院作出的判决书、裁定书，以及外国仲裁机构作出的仲裁裁决书；

6. 法律规定由人民法院执行的其他法律文书。

上述法律文书须具有给付内容或实施某种行为内容，且执行标的和被执行人明确。

(二) 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；

(三) 申请执行的法律文书权利义务主体明确；

(四) 申请执行的法律文书具有给付内容或实施某种行为内容，且内容具体、明确；

(五) 生效法律文书确定的义务未履行或者未全部履行；

(六) 属于受申请执行的人民法院管辖。

二、申请执行的期限

申请执行人申请执行立案须在法定期限内提出申请。申请执

行的期间为二年，起算日期从法律文书规定履行期限的最后一日开始计算；法律文书规定分期履行，从最后一期履行期限届满之日起计算；法律文书未规定履行期限，从法律文书生效之日起计算。

三、执行立案管辖

执行申请应向有管辖权的人民法院提出。关于执行案件管辖主要有以下规定：

1.申请执行人民法院发生法律效力裁判文书，由作出一审裁判的人民法院管辖。

2.申请执行经人民法院裁定承认效力的外国法院判决、裁定书，以及外国仲裁机构作出的仲裁裁决书，由作出承认裁定的人民法院管辖。

3.仲裁机构作出的国内仲裁裁决，由被执行人住所地或被执行的财产所在地中级人民法院执行。公证机关依法赋予强制执行效力的公证债权文书，由被执行人住所地或被执行的财产所在地人民法院执行，其级别管辖的规定参照各地人民法院受理诉讼案件的级别管辖的规定确定。

4.在国内仲裁过程中对财产保全（或证据保全）的申请，经仲裁机构提交人民法院的，由被申请人住所地或被申请保全的财产（或证据）所在地的基层人民法院裁定并执行。

5.在涉外仲裁过程中对财产保全（或证据保全）的申请，经仲裁机构提交人民法院的，由被申请人住所地或被申请保全的财产（或证据）所在地的中级人民法院裁定并执行。

四、申请执行需要提交的文件

1.申请执行书。申请执行书中应当写明双方当事人的基本情况、申请执行的理由、事项、执行标的、送达地址、联系方式，以及申请执行人所了解的被执行人的财产状况。如书写申请执行书确有困难的，可以口头提出申请。对口头申请应当制作笔录，

由申请执行人签字或盖章。

外国当事人申请执行的，应当提交中文申请执行书。当事人所在国与我国缔结或共同参加的司法协助条约有特别规定的，按照条约规定办理。

2.作为执行根据的生效法律文书。

3.申请人及被申请人的身份证明。公民个人申请的，应当出示身份证等身份证明文件；法人或其他组织申请的，应当提交营业执照复印件、法定代表人或主要负责人的身份证明、法定代表人或主要负责人身份证等身份证明文件。

4.如果代为申请执行还应提交授权委托书（委托代理的，应当向人民法院提交委托人签字或盖章的授权委托书，写明委托事项和代理人的权限。委托代理人代为放弃、变更民事权利，或代为进行执行和解，或代为收取执行款项的，应当有委托人的特别授权）。

外国人、无国籍人、外国法人委托诉讼代理人的，应当根据《中华人民共和国民事诉讼法》的规定办理委托手续。

5.如作为权利人的继承人或者权利承受人申请执行的，还应当提交继承或者承受权利的证明文书。

6.其他应当提交的文件或证件。

五、申请人特别提示

在人民法院执行过程中，作为申请人的您应该积极主动地配合人民法院，按人民法院的要求及时提供被执行人的财产状况、财产线索、被执行人履行债务的能力及被执行人的下落等情况，以利于执行。否则，可能承担执行不能的风险。

申请执行人了解到被执行人的财产线索，但自行查明被执行人的财产状况确有困难的，有权请求人民法院调查。但申请执行人应当提出书面申请，并说明理由。

Notice on Application for Enforcement

I. Conditions for Enforcement Application

1. The legal document serving as the basis for enforcement must be legally effective, and any conditions attached to the obligations under the document must be fulfilled or the performance period must have expired.

Note: Legally effective documents eligible for enforcement include:

- (1) Civil and administrative judgments, rulings, mediation agreements, civil sanction decisions, payment orders, and property-related portions of criminal-civil judgments, rulings, or mediation agreements;
- (2) Administrative penalty or administrative processing decisions enforceable by the People's Court;
- (3) Arbitral awards and mediation agreements issued by Chinese arbitration institutions, as well as property or evidence preservation rulings made by the People's Court under the Arbitration Law of the People's Republic of China;
- (4) Creditor documents with enforceable effect notarized by a notary office;
- (5) Judgments, rulings issued by foreign court and recognized by the People's Court, and foreign arbitral awards issued by foreign arbitration institutions and recognized by the People's Court;
- (6) Other legal documents enforceable by the People's Court as prescribed by law.

Such documents must specify clear obligations (e.g., payment or specific actions) and identify the enforcement subject and

respondent.

- 2.The applicant must be the rights holder specified in the legally effective document or their successor, transferee;
- 3.The rights and obligations in the document must be clearly defined;
- 4.The document must contain specific and definite enforceable content (e.g., payment or specific actions);
- 5.The obligations under the document remain unfulfilled or partially unfulfilled;
- 6.The application falls under the jurisdiction of the People's Court receiving the application.

II. Time Limit for Enforcement Application

The applicant must file the enforcement application within the statutory period: Two years from the expiration date of the performance period specified in the legal document; for installment obligation, from the expiration date of the final installment; if no performance period is specified, from the date the document becomes legally effective.

III. Jurisdiction for Enforcement Cases

Enforcement applications must be submitted to the competent People's Court under the following rules:

- 1.For judgments or rulings issued by the People's Court: the court that rendered the first-instance judgment;
- 2.For recognized foreign judgments, rulings or arbitral awards: the court that issued the recognition ruling;

3.For domestic arbitral awards: the Intermediate People's Court at the respondent's domicile or location of the property; for notarized creditor documents: the People's Court at the respondent's domicile or location of the property, following jurisdictional rules for litigation cases;

4.For domestic arbitration-related property preservation (or evidence preservation) applications: the Primary People's Court at the respondent's domicile or location of the preserved property or evidence;

5.For foreign-related arbitration property preservation (or evidence preservation) applications: the Intermediate People's Court at the respondent's domicile or location of the preserved property or evidence.

IV. Documents Required for Enforcement Application

1.Enforcement Application which shall include basic details of both parties, grounds of enforcement application, claims, enforcement subject, service addresses, contact information, and property status of the respondent known to the applicant for enforcement. Oral applications are permitted if writing is impractical, but a written record signed by the applicant is required.

Foreign applicants must submit Chinese-language application. If there is a legal assistance treaty mutually concluded or jointly participated in by the country in which the parties are located and China, it shall be handled in accordance with the special provisions of the treaty.

2.Legally effective document of the enforceable document.

3. Identity Proof of applicant and respondent:

- For citizens: ID card or equivalent;
- For legal persons or other organizations: Copy of business license, materials proving the identity of the legal representative or principal and ID proof of the legal representative or principal.

4. If the application for enforcement is made by an agent, a power of attorney shall also be submitted (in the case of a proxy, a power of attorney signed or sealed by the principal shall be submitted to the People's Court, stating the matters to be entrusted and the authority of the agent. Where an agent is entrusted to waive or change civil rights, or to carry out an enforcement settlement, or to collect enforcement money, there shall be a special authorization from the principal).

Foreigners, stateless persons, foreign legal persons must comply with the Civil Procedure Law of the People's Republic of China for agent authorization.

5. If the successor or the transferee of the right applies for enforcement, the document proving the inheritance or rights transfer shall also be submitted.

6. Other required documents as specified by the People's Court.

V. Special Instructions for Applicants

During enforcement proceedings, the applicant must actively cooperate with the People's Court by providing timely information on the respondent's property status, property clues of the respondent, and debt repayment capacity or whereabouts of the respondent. Failure to assist may result in the risk of non-enforcement.

If the applicant has learned about the property clues of the respondent, but indeed has difficulties in ascertaining the respondent's property status independently, the applicant has the right to apply for court investigation. However, the applicant shall submit a written application and state the reasons.