Civil Enforcement

Procedure Manual

Updated to October 2025

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General Information

About This Manual

The Civil Enforcement Procedure Manual is intended to act as a reference guide only. It is not intended that this manual replace any legislation or information that may be available. Civil Enforcement Agencies and Civil Enforcement Bailiffs must ensure their manual is updated regularly. Alberta King's Printer will have updates available for purchase each time an update to this manual occurs. To purchase an update package, please contact Alberta King's Printer at kings-printer.alberta.ca.

If you have questions regarding this manual and/or wish to provide feedback on it, please contact:

Sheriff - Civil Enforcement 2nd Floor
108 Street Building
9942 - 108 Street Edmonton, Alberta T5K 2J5

Email: Sheriff-Civil.Enforcement@gov.ab.ca
Web: www.alberta.ca/office-of-sheriff-civil-enforcement.aspx

Phone: (780) 422-2481
FAX: (780) 422-3011

Authority - Civil Enforcement Agency

Section 9 of the Civil Enforcement Act provides the authority for the Sheriff to enter into an agreement with a person under which that person is authorized to operate a Civil Enforcement Agency to perform the following functions:

1. carry out seizures of personal property
2. carry out evictions
3. sell property that has been seized
4. distribute the proceeds of sales to persons who are lawfully entitled to those proceeds
5. carry out any other functions or duties provided for or permitted under the Civil Enforcement Act or any other enactment or an order of the Court.

The functions set out in section 9(1)(a) to (e) of the Civil Enforcement Act may only be performed by an Agency pursuant to an agreement entered into with the Sheriff, unless specifically provided for by other legislation.

1. suspension or cancellation of the agreement or any of the Agency's operations
2. rights and powers of the Sheriff respecting access to and the search of any locations and premises of the Agency and the removal of any property
3. any other matter respecting the authorization to operate the Agency.

Appointment of Civil Enforcement Bailiffs

Civil Enforcement Bailiffs are appointed pursuant to section 10 of the Civil Enforcement Act.

- As per Section 23(2) of the Civil Enforcement Regulation, in order to act in the capacity of a Civil Enforcement Bailiff, the Bailiff must be employed by a Civil Enforcement Agency.

Authority - Civil Enforcement Bailiffs

When carrying out their duties as a civil enforcement bailiff, the bailiff enjoys the protections afforded to peace officers under the Criminal Code (Canada).

Civil Enforcement Bailiffs are not appointed as peace officers under the Peace Officer Act (Alberta) and have no authority to enforce provincial or federal law. Bailiffs are expected to report any suspected illegal activity to the police.

Civil Enforcement Bailiffs are expected at all times to exercise their best professional judgment and discretion when making decision, such as with regard to debtor exemptions. As well, Bailiffs have a duty to disclose all facts in court when required. In accordance with section 19 of the Court of King's Bench Act, bailiffs shall give assistance to and comply with the directions of the court and the judges in the exercise of the Court's discretion.

Bailiffs must refrain from giving any legal advice. To do so may result in a law suit.

Identification

- A Bailiff must always identify themselves when effecting a seizure. As per the Code of Conduct for Civil Enforcement Bailiffs (Schedule 2 of the Civil Enforcement Regulation), the Bailiff must be prepared to show their badge and identification card and other related documents if requested.

Code of Conduct

A Code of Conduct for Civil Enforcement Agencies and Civil Enforcement Bailiffs have been established and regulated to provide guidelines for Civil Enforcement Agencies and Bailiffs. Contravention of these Codes may result in disciplinary action and/or termination of the Agency's agreement or the Bailiff's appointment.

An Agency shall use only Bailiffs who have been appointed by the Sheriff for the purposes of carrying out seizures, removing seized property, carrying out evictions, and enforcing orders of the Court. A Bailiff's authority to perform these functions is found in section 10(1) of the Civil Enforcement Act.

Provision of Services

Pursuant to section 12(c) of the Civil Enforcement Act and subject to the regulations, the Agency may require reasonable security or indemnification and payment or satisfactory arrangements for payment of fees and expenses before carrying out a duty or function as instructed in writing.

- Bailiffs may carry on business and provide services which are somewhat related to civil enforcement bailiff functions, but do not require a civil enforcement bailiff. Bailiffs cannot engage in activities assigned to civil enforcement agencies without having obtained the necessary authority to operate a civil enforcement agency.

- Civil Enforcement Agencies must not accept instructions from a bailiff or a bailiff's company on behalf of a creditor and Bailiffs must not give instructions in their individual capacity or through their own company, to an Agency on behalf of a creditor (client). Agencies cannot direct invoicing to the Bailiff or the Bailiff's company.

- Bailiffs are permitted to own and/or operate a tow truck, providing that they do not operate the tow truck while carrying out their duties as a bailiff.

- Subject to the provisions of the Legal Profession Act, Bailiffs are permitted to provide Paralegal Services to landlords or creditors, such as completing forms or filing documents in legal matters. However, if a bailiff acts as an agent for a landlord or creditor in hearing the dispute, they may not, in their capacity as a bailiff, enforce the order or judgment that results from the hearing. This includes enforcement of Orders for Possession (evictions) or seizures.

Costs

Bailiffs must take care to avoid unnecessary costs. If there is reason to believe that excessive costs will be incurred, consult the instructing party before proceeding.

Execution of Bailiff Duties

The Civil Enforcement Bailiff's conduct should be above reproach. The Bailiff must discharge his duties impartially, with integrity, and showing no favouritism. The Criminal Code of Canada provides for protection as follows:

Offences Relating to Public or Peace Officer

129. Every one who

(a) resists or wilfully obstructs a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer,

(b) omits, without reasonable excuse, to assist a public officer or peace officer in the execution of his duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so, or

(c) resists or wilfully obstructs any person in the lawful execution of a process against lands or goods or in making a lawful distress or seizure,

is guilty of

(d) an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(e) an offence punishable on summary conviction.

The Criminal Code also provides for prosecution if duties are not discharged properly.

Misconduct of Officers Executing Process

128. Every peace officer or coroner who, being entrusted with the execution of a process, wilfully

(a) misconducts himself in the execution of the process, or

(b) makes a false return to the process,

is guilty of an indictable offence and is liable to imprisonment for a term not exceeding two years.

Threats of Violence

- If a Bailiff comes in contact with a debtor who threatens violence, he should assess the situation; do not force matters. Withdraw quietly and report the facts fully to the Civil Enforcement Agency and/or the police.

- The role of the police is to preserve the peace. A civil enforcement bailiff and/or agency should only contact the police in the following circumstances:

    1. Bailiff has reasonable grounds for believing that a breach of the peace will incur while the bailiff is carrying out their duties
    2. Court Order requiring the police to assist
    3. Physically removing tenants from a premises after the locks have been changed/order for possession has been enforced

- Police assistance should only be used to ensure that he civil enforcement bailiff is allowed to carry out their function and duties in a peaceful manner without interference or threat of physical confrontation from the debtor or other persons on site. It is not the role of police to speak to the debtor or another person on behalf of the bailiff. Use of the police to provide a forceful presence is inappropriate.

Communication

Your daily responsibilities will include the use of a variety of communication skills, for example:

Verbal Communication - You will be expected to deal effectively with many individuals and companies, from a wide range of educational and ethnic backgrounds. Your listening skills, speaking ability, level of language, negotiation skills and telephone technique will be tested daily.

Non-Verbal Communication - An awareness of non-verbal signals (body language) is a valuable tool in the assessment of situations and diffusing potential hostilities. Awareness of the signals you are giving by your non- verbal actions is extremely important.

Be aware of cultural differences. For example, if you are dealing frequently with a specific ethnic group, an awareness of that group's culture would be an asset.

- **Written Communication** - Written reports must be clear and concise and contain all relevant details relating to an action. As they may be used in court, they should be factual without any speculations or opinions. All forms must be completed in their entirety including:

    1. Date of enforcement - including year
    2. Complete address(es) including town/city
    3. List of all documents served/method of service/identifying parties served
    4. Bailiff’s signature/witness signatures must be completed

Professionalism - The image you present to creditors, debtors, and members of the public is critical to your effectiveness and credibility in the execution of your duties. Personal confidence, commitment to your goal, impartiality and calmness can be great assets in completing your duties. The ability to complete tasks within designated timelines is crucial to your success.

Confidentiality - The ability to preserve confidentiality is vital to carrying out bailiff work. Using discretion in gaining and disclosing information are important aspects of the work.

Networking

There is an obligation under the Civil Enforcement Act for the Agency to act in good faith and in a commercially reasonable manner. Due to the complexity of the business, Agencies should ensure they have access to legal advice, accounting expertise and appraisal experts in order to fulfil their legislated obligation and to provide optimum service to clientele. Developing cooperative relationships with contacts is also important to your success. Your ability to give concise, explicit instructions and directions to these resource contacts can ensure that your duties are completed quickly and efficiently. Potential contacts are:

1. Law Enforcement Agencies
2. Towing Companies
3. Moving Companies
4. Heavy Equipment or Specialty Moving Companies
5. Locksmiths
6. Storage Firms
7. Auction/sale Companies
8. Veterinarians
9. Livestock and Brand Inspectors
10. Health Officials, including Occupational Health and Safety Officials
11. Alberta Registry Firms
12. Other Bailiffs/Civil Enforcement Agencies
13. Municipality Offices

Occupational Health and Safety

Agencies and Bailiffs must comply with the Occupational Health and Safety Act. Hazardous materials may be encountered in the conduct of seizures.

Biohazards are biological substances present in, or arising from the work environment. A person may become infected through direct contact with infectious persons, animals, animal or human blood, blood by-products, body fluid secretions and excretions. As a result, all job-related injuries such as scratches, bites, puncture wounds and exposure to a known or suspected source of infected blood, blood products or body fluids must be recorded.

Civil Enforcement Bailiffs could be exposed to these biohazards in various situations. Their ability to recognize these hazards and their judgment in the handling of the situation can be

major safeguards against undue exposure to the risk. This exposure or contact can be prevented with the use of protective equipment such as:

1. gloves
2. coveralls
3. protective eyewear (goggles or face shields)
4. mouthpieces, pocket masks or other ventilation device
5. rubber boots.

When seizing and/or removing any biohazardous materials and wastes, the shipping and transporting must be performed by trained and certified carriers in accordance with the Transportation of Dangerous Goods Control Act.

WHMIS

(Workplace Hazardous Materials Information System)
WHMIS is a nationwide communication system providing information on hazardous materials in the workplace.

You should be aware of hazardous materials such as photocopy toners, ammonia for diazo machines, duplicating fluids, some correction fluids and cleaning agents. Hazardous materials should be identified by any one of the symbols shown on the example that follows.

It is recommended that you become familiar with these symbols and when seizing, removing, disposing or handling these materials in any way, that you follow the warnings and instructions and use protective clothing.

The following agencies may be able to offer assistance and guidance to you:

Poison Centre	**1-800-332-1414**
Dangerous Goods Control	**1-800-272-9600**

WHMIS Symbols

A	COMPRESSED GAS	
B	FLAMMABLE AND COMBUSTIBLE MATERIAL	
C	OXIDIZING MATERIAL	
D	POISONOUS AND INFECTIOUS MATERIAL	
	1. MATERIALS CAUSING IMMEDIATE AND SERIOUS TOXIC EFFECTS	
	2. MATERIALS CAUSING OTHER TOXIC EFFECTS	
	3. BIOHAZARDOUS INFECTIOUS MATERIAL	
E	CORROSIVE MATERIAL	
F	DANGEROUSLY REACTIVE MATERIAL	

Civil Enforcement Agency Administration

Administrative Systems

The Agency must maintain an accurate and complete record, in a form satisfactory to the Sheriff, of the following:

1. instructions received from creditors or other persons
2. steps taken by the Agency to carry out the instructions referred to in clause (a) and the results of taking those steps
3. notices or statements sent or received
4. distributions made under the Act
5. any other matter or item the Sheriff advises

Public Access to Agency files

Pursuant to Section 19(2) of the Civil Enforcement Regulations the public (including other Civil Enforcement Agencies) are permitted access to an Agency's file, except as portions that relate to confidential matters between the Agency and its client. The Agency may charge a fee to inspect the file which must not be higher than which is allowed under the Clerk's Fees in the Alberta Rules of Court (Schedule B point #36).

In addition the Agency may charge for photocopying at a rate which must not be higher than the Clerk's Fees in the Alberta Rules of Court (Schedule B point #37) or the fee amount detailed in the Agencies Schedule of Fees.

Training

The Agency must ensure that its employees are sufficiently trained to carry out the duties required of them in their capacity as Civil Enforcement Agency staff and/or Civil Enforcement Bailiffs.

Civil Enforcement Agency staff and Civil Enforcement Bailiffs may be required to attend ongoing education programs which may be developed from time to time. Agencies may also be required to provide their staff with such training as the Sheriff may deem reasonable and necessary from time to time.

All training undertaken by Civil Enforcement Agencies and Civil Enforcement Bailiffs will be at their own expense.

Standards

The Agency will perform the functions in accordance with the following standards, which standards may, in the sole discretion of the Sheriff, be amended from time to time, and in such event, the Agency will perform the functions in accordance with the standards as amended. Written notice will be given by the Sheriff to the Agency of any changes to these standards. The Agency will:

a. check enforcement documents as to accuracy and to determine omissions upon receipt from the instructing creditor
b. comply with all applicable Sheriff's policy and procedure manuals

c. arrange with only licensed and fully insured towing or moving companies to handle and transport seized assets to a suitable storage location

d. store seized assets and personal property in a secure and safe location where the value of personal property seized will be protected; the Agency will ensure that sufficient insurance coverage is maintained against loss of, and damage to, such stored property

e. utilize only a licenced and bonded locksmith where locksmith services are required

Trust Funds and Accounts

1. Where an agency receives money in respect of civil enforcement proceedings, the agency must within 3 days from the day of receiving that money deposit that money in a trust account maintained in a bank, treasury branch, loan corporation, trust corporation or credit union at an office that is located in Alberta.

2. The Agency will:

   a. disburse monies from settlement or sale as soon as reasonably practical according to:

      i. law and

      ii. priority claims established by law

3. As per Section 18(2) of the Civil Enforcement Regulations, the Agency will only draw money from a trust account for the purpose of:

   a. a distribution made pursuant to the Act

   b. the payment to the agency of fees and disbursements to which the agency is entitled

   c. the correction of an error caused by money being deposited in the trust account by mistake

   d. the return of all or part of a deposit provided by an instructing party

   e. any other payment that is required under law

Complaint Resolution System

1. The Agency will investigate all complaints concerning the Agency, its employees, subcontractors, and agents received from the Sheriff, a creditor, a debtor or any other person, and forward to the Sheriff a copy of all such complaints and response letters

2. The Agency will respond to all complaints within 7 days of receiving written notice of the complaint

3. The Agency will make every reasonable attempt to resolve all complaints to the satisfaction of the complainant within 30 days of receiving verbal or written notice of the complaint. A copy of all correspondence will be forwarded to the Sheriff

4. All responses and follow-up letters regarding written complaints must be in writing

5. The Agency will revise response and follow-up letters to complainants, as may be requested by the Sheriff

6. The Agency will assist the Sheriff, as requested, in the investigation of any complaint. The Agency and its employees will attend interviews at mutually agreed upon times and locations, as requested by the Sheriff

Conduct

1. The Agency and its employees will at all times conduct themselves in a manner which reflects the integrity of the court and the justice system and which in no way discredits the administration of justice in the Province of Alberta

2. The Agency will ensure that it and its employees comply with the Civil Enforcement Act and the Civil Enforcement Regulation

3. No person connected with the Agency will act, or represent to another person that he is acting or is available to act as a Civil Enforcement Bailiff unless he is appointed as such under the Civil Enforcement Act

4. Once an enforcement document is in the hands of the Agency, it takes precedence, and the Agency's responsibility is to the Court. The Agency will therefore not act or continue to act for another client who might have an interest in the personal property against which enforcement action is to be taken, without the consent of both clients

☼ Bailiff

1. Agencies shall ensure that any Civil Enforcement Bailiff in its employ will only, present himself as a Civil Enforcement Bailiff when performing the functions under the Civil Enforcement Service Agreement

2. The Agency shall ensure that no Bailiff in its employ will, while performing his or her duties, will be in possession of a weapon of any kind, except with the express written consent of the Sheriff, or where weapons which have been seized are being transported to a safe storage location

Weapons are defined in Section 2 of the Criminal Code as follows:

Whether or not an object is a weapon depends upon its design, and its use or intended use. For example, a baseball bat which is being carried with the intention of using it to pay baseball is not a weapon, whereas, if it is being carried with the intention of using it for protection, it is a weapon

3. The use of handcuffs by an unauthorized individual on person who has not committed an offence will amount to an assault, which could lead to criminal charges and/or a civil suit for damages against the person using the handcuffs and his or her employer. Any Bailiff intending to use handcuffs should consult legal counsel and obtain prior authorization from their agency

4. No Civil Enforcement Bailiff may carry a baton while carrying out his or her duties as a Bailiff without the written consent of the Sheriff. Any application for the Sheriff's consent must include a detailed written proposal justifying the request for review

Required Equipment

The Agency must at all times have located at its premises the following equipment, in a fully functioning state:

1. Telephone

2. A facsimile machine/device (telecopier) connected to a printer or other output device for receipt of scanned/faxed printed documents and images

3. Photocopy machine

4. At least one work station capable of interfacing with the Personal Property Registry through the Alberta On-Line facility

5. A lockable "money" safe, large enough to hold all monies, seized securities, and confidential documents related to Agency activities. If it is lightweight, the safe must be floor mounted or wall mounted, in order to decrease its movability

6. Such other equipment as, from time to time, the Sheriff shall advise the Agency is required, such advice to be given in writing

Civil Enforcement Forms

- Examples of the regulated forms are included in the Civil Enforcement Regulation which you will find in section 3 of this manual.

Other Legislation

- Throughout this manual there will be reference to Acts and Regulations other than the Civil Enforcement Act and Civil Enforcement Regulation. Alberta King's Printer is the official source of Alberta government legislation. To obtain copies of the Provincial Statutes identified in relation to Civil Enforcement, please visit kings-printer.alberta.ca.



Province of Alberta

CIVIL ENFORCEMENT ACT

Revised Statutes of Alberta 2000
Chapter C-15

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Alberta King's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
Shop on-line at kings-printer.alberta.ca

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Civil Enforcement Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	*Amendments*
Civil Enforcement Act		
Civil Enforcement	276/95	*229/2001, 27/2002, 203/2002, 109/2003, 82/2004, 221/2004, 103/2005, 273/2009, 116/2010, 227/2011, 31/2012, 109/2012, 170/2012, 62/2013, 196/2013, 190/2015, 221/2017, 216/2022, 218/2022, 71/2023*

CIVIL ENFORCEMENT ACT

Chapter C-15

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

(a) "accessions" means goods that are installed in or affixed to other goods;

(b) "agency" means a person who is authorized pursuant to an agreement entered into under Part 2 to operate a civil enforcement agency and includes a sheriff where the sheriff is acting pursuant to section 9(7);

(c) "agricultural products" includes

(i) crops or livestock, and

(ii) products of crops or livestock in their unmanufactured states,

while in the possession of a person engaged in growing, raising, fattening, grazing or other agricultural operations;

(d) "bailiff" means a civil enforcement bailiff appointed under Part 2;

(e) "building materials" means materials that are incorporated into a building and includes goods attached to a building so that their removal

(i) would necessarily involve the dislocation or destruction of some other part of the building and cause substantial damage to the building, apart from the loss of value of the building resulting from the removal, or

(ii) would result in weakening the structure of the building or exposing the building to weather damage or deterioration,

but does not include heating, air conditioning or conveyancing devices or machinery installed in a building or on land for use in carrying on an activity inside the building or on the land;

(f) "chattel paper" means one or more records that evidence both an obligation and a security interest in or lease of specific goods or specific goods and accessions, but does not include a security agreement providing for a security interest in specific goods and after-acquired goods other than accessions;

(g) "civil enforcement proceedings" includes

(i) writ proceedings;

(ii) distress proceedings authorized under this Act or any other law that is in force in Alberta;

(iii) evictions authorized pursuant to a law in force in Alberta or an order of a Court;

(h) repealed 2006 cS-4.5 s107;

(i) "clerk" means the clerk of the Court;

(j) "Court" means the Court of King's Bench;

(k) "crops" means crops whether matured or otherwise, and whether naturally grown or planted, attached to land by roots or forming part of trees or plants attached to land, but includes trees only if they are

(i) nursery stock,

(ii) trees being grown for uses other than the production of lumber or wood products, or

(iii) trees being grown for use in reforestation of land other than the land on which the trees are growing;

(l) "deposit account" means a chequing, savings, demand or similar account at a financial institution;

(m) "distress" means anything done to exercise

(i) a right of a landlord to distrain for unpaid rent,

(ii) a right of a lessor of personal property to repossess,

(iii) a right of a secured party to enforce a security interest under section 56(1)(a) or 58(1) of the *Personal Property Security Act*,

(iv) a right to take possession of personal property under an order of the Court,

(v) a right of distress under an enactment, or

(vi) any other right under a law in force in Alberta to take personal property out of the possession of a person other than under the authority of a writ;

(n) "distribute" means pay out in accordance with Part 11;

(o) "document of title" means a writing issued by or addressed to a bailee

(i) that covers goods in the bailee's possession that are identified or are fungible portions of an identified mass, and

(ii) in which it is stated that the goods in the bailee's possession that are identified in it will be delivered to a named person, or to the transferee of the person, to bearer or to the order of a named person;

(p) "enforcement creditor" means a person in whose favour a writ is in force;

(q) "enforcement debt" means an amount outstanding on a money judgment in respect of which a writ is in force;

(r) "enforcement debtor" means a person against whom a writ is in force;

(s) "eviction" means anything done to enforce the right to take physical possession of premises or land, but does not include any action authorized under a lease that does not involve the physical removal of the tenant from the premises or land;

(t) "exempt" means, with respect to property,

(i) exempt from writ proceedings in accordance with Part 10, or

(ii) exempt from distress proceedings in accordance with sections 104(d) and 105(1)(b);

(u) "exigible" means, with respect to property, not exempt from writ proceedings or distress proceedings;

(u.1) "financial institution" means a bank, credit union, trust corporation, loan corporation, treasury branch or any other deposit-taking institution;

(v) "fixture" means tangible personal property that has been annexed to land and that is regarded in law as part of the land to which it has been annexed, but does not include building materials;

(w) "goods" means tangible personal property other than chattel paper, a document of title, an instrument, a security certificate and money, and includes fixtures, growing crops and the unborn young of animals, but does not include trees that are crops until they are severed or minerals until they are extracted;

(x) "instructing creditor" means the enforcement creditor on whose instructions certain writ proceedings are taken or continued;

(y) "instrument" means

(i) a bill, note or cheque within the meaning of the *Bills of Exchange Act* (Canada),

(ii) any other writing that evidences a right to the payment of money and is of a kind that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment, or

(iii) a letter of credit or an advice of credit if the letter or advice states that it must be surrendered on claiming payment under it,

but does not include

(iv) chattel paper, a document of title or a security certificate, or

(v) a writing that provides for or creates a mortgage or charge in respect of an interest in land that is specifically identified in the writing;

(z) "judgment" includes any order, decree, duty or right that may be enforced as or in the same manner as a judgment of the Court;

(aa) "judgment creditor" means a person who has a money judgment;

(bb) "land" includes any interest in land, but does not include growing crops;

(cc) repealed 2006 cS-4.5 s107;

(dd) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

(ee) "mobile home" means

(i) a vacation trailer or house trailer, or

(ii) a structure, whether ordinarily equipped with wheels or not, that is constructed or manufactured

(A) to be moved from one point to another by being towed or carried, and

(B) to provide living accommodation for one or more persons;

(ff) "money judgment" means a judgment requiring a person to pay money or that part of a judgment that requires a person to pay money;

(gg) "obligation" means a legal or equitable duty to pay money;

(hh) repealed 2023 c5 s2;

(ii) "person", when used to refer to a creditor, includes the Crown except where the context otherwise requires;

(jj) "personal property" means property other than land;

(kk) "Personal Property Registry" means the Personal Property Registry established under the *Personal Property Security Act*;

(ll) "property" includes

(i) things, as well as rights or interests in things,

(ii) anything regarded in law or equity as property or as an interest in property,

(iii) any right or interest that can be transferred for value from one person to another,

(iv) any right, including a contingent or future right, to be paid money or receive any other kind of property, and

(v) any cause of action;

(mm) "related writ" means

(i) in respect of a particular enforcement debtor, a writ that would be disclosed if a distribution seizure search was conducted of the Personal Property Registry using the name of that debtor as shown on the instructing creditor's writ, and

(ii) in respect of a defendant under Part 3, a writ that would be disclosed if a distribution seizure search was conducted of the Personal Property Registry using the name of that defendant as shown on the attachment order;

(nn) "secured obligation" means an obligation secured by an interest in property;

(nn.1) "security" means a security within the meaning of the *Securities Transfer Act*;

(oo) "security certificate" means a security certificate within the meaning of the *Securities Transfer Act*;

(pp) "seizure documents" means the documents prescribed by regulation for the purposes of instructing an agency to carry out a seizure of personal property;

(qq) "serial number goods" means serial number goods as defined in the regulations made under the *Personal Property Security Act*;

(rr) "sheriff" means a person designated as a sheriff by the Minister to exercise the powers and carry out the duties of a sheriff under this Act;

(ss) "third person" means, other than in Part 3, a person affected by writ proceedings other than the enforcement debtor or an enforcement creditor with a related writ;

(tt) "writ" means a writ of enforcement and includes any writ issued by the Court of Appeal, the Federal Court of Canada or the Supreme Court of Canada that is similar in nature to a writ of enforcement;

(uu) "writ proceedings" means any action, step or measure authorized by this Act to be taken for the purpose of enforcing a money judgment.

(2) For the purposes of this Act,

(a) an individual is deemed to know or have knowledge of a matter when information in respect of that matter is acquired by the individual under circumstances in which a reasonable person would take cognizance of the information;

(b) a limited partnership is deemed to know or have knowledge of a matter when information in respect of that matter has come to the attention of one of the general partners or a person having control or management of the partnership business under circumstances in which a reasonable person would take cognizance of the information;

(c) a partnership, other than a limited partnership, is deemed to know or have knowledge of a matter when information in respect of that matter has come to the attention of one of the partners or a person having control or management of the partnership business under circumstances in which a reasonable person would take cognizance of the information;

(d) a corporation is deemed to know or have knowledge of a matter when information in respect of that matter has come to the attention of

(i) an officer of the corporation, or

(ii) a senior employee of the corporation with responsibility for matters to which the information relates,

under circumstances in which a reasonable person would take cognizance of the information or when the information in writing has been delivered to the registered office of the corporation or attorney for service for the corporation;

(e) the members of an association are deemed to know or have knowledge of a matter when information in respect of that matter has come to the attention of

(i) an officer of the association,

(ii) a senior employee of the association with responsibility for matters to which the information relates, or

(iii) all the members,

under circumstances in which a reasonable person would take cognizance of the information;

(f) the Crown is deemed to know or have knowledge of a matter when information in respect of that matter has come to the attention of a senior employee of the Crown with responsibility for matters to which the information relates under circumstances in which a reasonable person would take cognizance of the information.

(3) A reference in this Act to "this Act" or "this enactment" includes a reference to the regulations made under this Act.

(4) A reference in this Act to a specific provision or Part of this Act includes a reference to any regulations made under this Act in respect of any matters that are the subject of that provision or Part.

RSA 2000 cC-15 s1;2002 c17 s1(2);2006 cS-4.5 s107;
2011 c20 s3;AR 217/2022;2023 c5 s2

Part 1
General

General principles

2 The following applies with respect to the carrying out of civil enforcement proceedings:

(a) except as otherwise provided for in another enactment,

(i) a money judgment may only be enforced, and

(ii) a seizure or eviction may only be carried out,

in accordance with this Act;

(b) except as otherwise provided for in this or any other enactment, all property of an enforcement debtor is subject to writ proceedings under this Act;

(c) on registration of a writ in the Personal Property Registry, that writ may be enforced, and any civil enforcement proceedings in respect of that writ may be carried out, anywhere in Alberta;

(d) except as otherwise specifically provided by this or any other Act, all writ proceedings are deemed to be taken on behalf of and for the benefit of all the enforcement creditors of an enforcement debtor;

(e) except as provided in any other enactment, a person may not be arrested or imprisoned for default in payment of a money judgment;

(f) subject to clauses (h) and (i) and Part 2, anything done by an agency or a bailiff with the written consent of all interested persons is deemed to have been done in accordance with this Act;

(g) all rights, duties and functions of creditors, agencies and bailiffs under this Act must be exercised or discharged in good faith and in a commercially reasonable manner;

(h) any waiver by a debtor of any right or duty under this Act is void if it was given before the right or duty arose;

(i) a waiver by a debtor of any exemption given by this Act is void;

(j) nothing in this section shall be construed so as to prevent a judgment creditor from soliciting or accepting payment from a judgment debtor.

RSA 2000 cC-15 s2;2009 c53 s2

Crown is bound

3(1) This Act binds the Crown in exercising any rights or remedies as a creditor in civil enforcement proceedings.

(2) Notwithstanding subsection (1), nothing in this Act prevents the Crown from collecting a debt through proceedings otherwise available to the Crown under its prerogative or any other enactment.

1994 cC-10.5 s3

Failure to comply

4 A person who has suffered loss or damage as a result of another person's failure to comply with this Act

(a) has a cause of action against that other person with respect to that failure, and

(b) is entitled, if the Court or the Court of Justice finds that the person has suffered loss or damage, to a judgment for the damages suffered or $200, whichever is greater.

RSA 2000 cC-15 s4;AR 75/2023

Applications to Court

5(1) The Court may, on application by an interested party or an agency, give directions in respect of or determine any matter or issue that arises out of any civil enforcement proceedings.

(1.1) An application under this Act

(a) must be made by way of an application to the Court, and

(b) shall not be made ex parte unless it is expressly authorized under this Act or the *Alberta Rules of Court* to be made ex parte.

(2) On considering an application under this Act, the Court may do any one or more of the following:

(a) make any order, including a binding declaration of right and injunctive relief, that is necessary to ensure compliance with this Act or to ensure protection of the interests of any person in property that is subject to civil enforcement proceedings;

(b) give directions to any person regarding the exercise of that person's rights or performance of that person's functions or duties under this Act;

(c) give directions respecting the carrying out of civil enforcement proceedings;

(d) stay enforcement of rights provided in this Act;

(e) direct that an enforcement creditor replace another enforcement creditor as the instructing creditor;

(f) abridge any period of time provided for under this Act;

(g) in the case of an application made under a provision of this Act other than subsection (1), give any other order, direction or relief that is permitted or otherwise provided for under that provision;

(h) make an order granted under this Act subject to any terms or conditions that the Court considers appropriate in the circumstances;

(i) except where this Act provides otherwise, make any other order or direction in respect of matters coming under this Act that the Court considers appropriate in the circumstances;

(j) award costs.

(3) Where the Court stays the enforcement of rights by order under subsection (2)(d),

(a) the order may be registered in the Personal Property Registry, and

(b) until the order is registered in the Personal Property Registry, the order does not affect any person who does not have actual knowledge of the order.

RSA 2000 cC-15 s5;2009 c53 s2

Service of documents

6 A document that is to be served, given or provided to a person under this Act, may be served, given or provided to that person in accordance with the regulations.

1994 cC-10.5 s6

Discontinuance of proceedings

7(1) Before any seizure pursuant to writ proceedings is released or any garnishment is discontinued, a notice of the release or of the discontinuance must, at least 30 days before the date on which the seizure is to be released or the garnishment is to be discontinued, be served

(a) on all the enforcement creditors having related writs at the time that the notice was given, and

(b) in the case of a seizure, on any person who has given notice to the agency under section 48.1.

(2) A notice given under subsection (1) does not need to be served on the instructing creditor except where the notice is being given other than on the instructions of the instructing creditor.

(3) If within 30 days from the day of being served with a notice under subsection (1), an enforcement creditor in writing instructs the agency or, in the case of garnishment, the clerk to continue the proceedings,

(a) the proceedings shall continue, and

(b) where more than one enforcement creditor instructs that the proceedings be continued, the enforcement creditor whose instructions were first received by the agency or, in the case of garnishment, by the clerk is from then on deemed to be the instructing creditor.

RSA 2000 cC-15 s7;2002 c17 s1(3);2005 c28 s3; 2006 c4 s1

Execution of documents, etc.

8 For the purposes of dealing with or disposing of property pursuant to this Act, an agency, a bailiff or a receiver appointed under this Act may

(a) do any act or thing that would otherwise have to be done by

(i) an enforcement debtor, or

(ii) a person who is subject to distress proceedings,

and

(b) execute or endorse any document that would otherwise have to be executed or endorsed by

(i) an enforcement debtor, or

(ii) a person who is subject to distress proceedings.

1994 cC-10.5 s8

Part 2
Civil Enforcement Agencies and Bailiffs

Civil enforcement agencies

9(1) The sheriff, on behalf of the Crown, may enter into an agreement with a person under which that person is authorized to operate a civil enforcement agency for the purpose of performing the following functions:

(a) the carrying out of seizures of property pursuant to writ proceedings or the right of distress;

(b) the carrying out of evictions;

(c) the selling of property that has been seized pursuant to writ proceedings or the right of distress;

(d) the distribution of the proceeds of sales referred to in clause (c) to persons who are lawfully entitled to those proceeds;

(e) the carrying out of any other functions or duties provided for or permitted under this or any other enactment or an order of the Court.

(2) In addition to authorizing a person to operate an agency, an agreement entered into under subsection (1) may contain provisions

(a) setting out the terms and conditions under which an agency operates,

(b) governing the suspension or cancellation of the agreement or any of the agency's operations,

(c) governing the rights and powers of the sheriff respecting access to and the search of any locations and premises of the agency and the removal of any property from that location or those premises, and

(d) governing any other matter respecting the authorization to operate the agency or the operations of the agency.

(3) Unless otherwise permitted by another enactment, only a person who is an agency may carry out the functions referred to in

(a) subsection (1)(a) to (d), in the case of civil enforcement proceedings other than a distress pursuant to a lease of personal property or a distress under the *Personal Property Security Act*, and

(b) subsection (1)(a), in the case of

(i) a distress pursuant to a lease of personal property, or

(ii) a distress under the *Personal Property Security Act* other than by a receiver.

(4) Notwithstanding subsections (1) and (3), an agency shall use only bailiffs for the purposes of

(a) carrying out seizures,

(b) removing seized property, and

(c) carrying out evictions.

(5) The Court shall not authorize any person who is not an agency to carry out the functions that are to be performed only by an agency under subsection (3).

(6) Repealed 2002 c17 s1(4).

(7) The sheriff may, at the direction of the Minister,

(a) carry out those duties and functions that may be carried out by an agency, and

(b) exercise those powers that may be exercised by an agency.

(8) Nothing in this section is to be construed to restrict the powers of a receiver appointed under Part 9.

RSA 2000 cC-15 s9;2002 c17 s1(4)

Civil enforcement bailiffs

10(1) The sheriff may appoint an individual as a civil enforcement bailiff to carry out, subject to any restrictions or conditions contained in the appointment,

(a) the seizure of personal property,

(b) the removal of seized personal property,

(c) evictions, and

(d) any other functions or duties provided for or permitted under this or any other enactment.

(2) The Court shall not authorize any person who is not a bailiff to carry out the functions of a bailiff referred to in subsection (1)(a), (b) and (c).

1994 cC-10.5 s10

Not a Crown agent

11(1) Neither an agency nor a bailiff is an agent of the Crown.

(2) The Crown is not liable for anything done or omitted to be done by an agency or a bailiff.

1994 cC-10.5 s11

Provision of services

12 The following applies with respect to the carrying out of the duties and functions of agencies and bailiffs:

(a) a bailiff shall only carry out the duties or functions of a bailiff if the bailiff is employed by an agency or is otherwise under contract to an agency to provide bailiff services on behalf of the agency;

(b) civil enforcement proceedings carried out by a bailiff are not invalid by reason only that the bailiff carried out the civil enforcement proceedings at a location that is outside the area within which the agency for which the bailiff provides bailiff services is permitted to operate;

(c) where an agency has been given written instructions to carry out a duty or function that is permitted pursuant to this Act or another enactment, the agency has the responsibility to carry out that duty or function when

(i) the fees and expenses that are prescribed or agreed to for the carrying out of that duty or function have been paid or arrangements that are satisfactory to the agency for the payment of those fees and expenses have been made, and

(ii) subject to the regulations, all reasonable security or indemnification that is requested by the agency for the carrying out of the duty or function has been provided;

(d) on the application of an agency or any interested person, the Court may give directions as it considers appropriate in the circumstances regarding the exercise or performance of any of the agency's or bailiff's powers, duties or functions under this Act or any other enactment.

1994 cC-10.5 s12

Conditions governing civil enforcement proceedings

13(1) In this section, "debtor" means a person against whom civil enforcement proceedings may be taken.

(2) For the purposes of carrying out civil enforcement proceedings, the following applies:

(a) a bailiff has the right to enter any location or premises of a debtor for the purposes of carrying out

(i) the seizure and the removal, or either of them as the case may be, of property of the debtor, or

(ii) the eviction of a debtor;

(a.1) where a bailiff has reasonable grounds for believing that personal property of a debtor is located at a location or in premises of a person other than the debtor, the bailiff has the right to

enter that location or those premises for the purposes of carrying out the seizure and the removal, or either of them as the case may be, of personal property of the debtor;

(b) notwithstanding clause (a.1), in the case of any location or premises of a person other than a debtor, a bailiff shall not

(i) enter, or attempt to enter, the location or premises after entry has been refused, or

(ii) use force for the purposes of gaining access to the location or premises,

unless authorized to do so by an order of the Court;

(c) notwithstanding clauses (a), (a.1) and (b), in the case of a residence of a debtor or other person, a bailiff shall not

(i) enter the residence except in the presence of a person whom the bailiff believes to be an adult who lives in the residence,

(ii) enter the residence after entry has been refused, or

(iii) use force for the purposes of gaining access to the residence,

unless authorized to do so by an order of the Court;

(c.1) a bailiff may use force but only reasonable force for the purpose of gaining access

(i) to a location or premises, other than a residence, of a debtor, or

(ii) where authorized by an order of the Court, to a location or premises of a person other than a debtor or to a residence;

(d) a bailiff who has gained lawful entry to a location or premises may gain entry by any means that are appropriate in the circumstances to

(i) any enclosure or container, or

(ii) any interior room of the premises;

(e) where a bailiff has used force to gain entry to a location or premises, the bailiff must make that location or premises reasonably secure before leaving the location or premises;

(f) a seizure is valid notwithstanding any irregularity in the procedure by which it was carried out;

(g) notwithstanding clause (f), the Court may order a seizure to be discontinued where the Court is satisfied that a person has been or is likely to be prejudiced by an irregularity in the procedure by which the seizure was carried out;

(h) a bailiff, at the time of seizure or at any time after carrying out the seizure, may remove for safekeeping the personal property that is under seizure;

(i) a bailiff may appoint the debtor or some other person as bailee of the personal property that is under seizure if the debtor or other person signs an undertaking

(i) to hold the property for the bailiff and the agency, and

(ii) to deliver up the property to the bailiff or the agency on demand by the bailiff or agency;

(j) a debtor who has possession of or control over personal property that is under seizure and has been served with the seizure documents or the documents authorizing the carrying out of the distress in respect of that property

(i) holds that property as bailee for the bailiff and the agency, and

(ii) must deliver up that personal property to the bailiff or the agency

(A) when required to do so by the bailiff or the agency, and

(B) at a location specified by the bailiff or the agency,

whether or not the debtor has signed an undertaking referred to in clause (i);

(k) where a person

(i) is under a duty to deliver to a bailiff or an agency personal property that is under seizure, and

(ii) defaults in delivering the personal property to the bailiff or agency within a reasonable time after being required to do so by the bailiff or the agency,

the Court on application may hold that person liable for civil contempt and award damages and costs against that person.

RSA 2000 cC-15 s13;2002 c17 s1(5)

Fees and interest

13.1 In addition to the amount recovered by the judgment, there may be levied under any writ of enforcement

(a) the fees and expenses incurred in enforcing the writ of enforcement, and

(b) interest on the amount recovered.

2009 c53 s2

Rendering of account

13.2 An agency that has rendered a statement of account for the provision of services under this Act shall, at the request of an enforcement debtor or a creditor of the enforcement debtor, provide to that person a detailed account of all fees and disbursements for which the statement of account was rendered.

2009 c53 s2

Complaints

14(1) Where the sheriff

(a) receives a complaint with respect to any matter concerning

(i) civil enforcement proceedings or any proceedings that are purported to be civil enforcement proceedings,

(ii) the actions or conduct of an agency, any employee or officer of an agency or a bailiff, or

(iii) the actions or conduct of any person who is not an agency or a bailiff but is or appears to be involved in carrying out civil enforcement proceedings or any proceedings that are purported to be civil enforcement proceedings,

or

(b) has reasonable grounds for believing that

(i) civil enforcement proceedings are not being carried out in accordance with this or any other enactment,

(ii) the actions or conduct of any agency, any employee or officer of an agency or a bailiff are not being carried out in accordance with this or any other enactment, or

(iii) any agreement between an agency and the Crown is not being complied with,

the sheriff may investigate the matter.

(2) Subject to subsection (3), for the purposes of carrying out an investigation under this section,

(a) the sheriff or a person acting under the sheriff's direction may enter any premises or location, unless entry to the premises or location is refused by the occupant of the premises or location, and may do one or more of the following:

(i) inspect

(A) the premises or location, and

(B) any record, object or thing relating to the matter being investigated;

(ii) make copies or take photographs of any record, object or thing referred to in subclause (i)(B) or remove it for the purpose of making copies or taking photographs;

(iii) make inquiries of any person in respect of

(A) any record, object or thing referred to in subclause (i)(B), and

(B) any action taken or carried out by an agency, an employee or officer of an agency, a bailiff or other person involved in civil enforcement proceedings or proceedings purported to be civil enforcement proceedings;

(b) notwithstanding clause (a), the sheriff or a person acting under the sheriff's direction shall not enter a residence without the permission of an adult resident of that residence unless otherwise authorized by the Court;

(c) if the sheriff or a person acting under the sheriff's direction removes any record, object or thing under clause (a)(ii), that person must

(i) give to the person from whom the items were taken a receipt for the items, and

(ii) as soon as practicable return the items to the person from whom they were taken when they have served the purposes for which they were taken.

(3) In carrying out an investigation under this section concerning the actions or conduct of any person who is not an agency, an employee or officer of an agency or a bailiff, the sheriff shall only exercise the powers permitted under subsection (2)

(a) with the permission of that person, or

(b) pursuant to an order of the Court.

(4) Where the sheriff or a person acting under the sheriff's direction has gained lawful entry to premises or a location, a person shall not impede the sheriff or a person acting under the sheriff's direction in the carrying out of any duty or function under this section.

(5) If the sheriff or a person acting under the sheriff's direction

(a) is refused entry to any premises or location,

(b) has reasonable expectation that entry to any premises or location will be refused,

(c) is impeded in any manner from carrying out a duty or function under this section, or

(d) has reasonable grounds to believe that the carrying out of a duty or function under this section may be impeded,

the sheriff may apply to the Court for an order authorizing entry into the premises or location and restraining any person from impeding the carrying out of any duty or function under this section.

(6) Where the sheriff carries out an investigation under this section, the sheriff may, for the purpose of ensuring that this or any other enactment respecting civil enforcement proceedings is being complied with or any agreement between an agency and the Crown is being complied with, issue written directions

(a) directing a person to comply with this or any other enactment;

(b) directing a person to comply with any agreement entered into between that person and the Crown under this Act or in respect of civil enforcement proceedings;

(c) governing the carrying out of civil enforcement proceedings;

(d) requiring a person to adopt certain practices or other procedures;

(e) prohibiting a person from carrying out civil enforcement proceedings or certain practices or procedures respecting civil enforcement proceedings.

(7) Where written directions are issued by the sheriff under subsection (6) and

(a) the person to whom the written directions are given does not comply with the directions or any portion of the directions, the sheriff may apply to the Court for an order directing the person to comply with the written directions, or

(b) the person to whom the written directions are issued wishes to dispute the written directions, the person may apply to the Court for a review of the written directions and an order rescinding or varying the written directions.

(8) With respect to matters coming under this section, nothing in this section shall be construed so as to limit the exercise by the sheriff of any rights or powers given to the sheriff pursuant to an agreement entered into under section 9 respecting access to and the search of premises or a location and the seizure of any property.

1994 cC-10.5 s14

Offence

15(1) A person who does any of the following is guilty of an offence:

(a) except where authorized under an enactment, carries out or attempts to carry out the functions that may be carried out only by an agency unless that person is an agency;

(b) except where authorized under an enactment, carries out or attempts to carry out the functions that may be carried out only by a bailiff unless that person is a bailiff;

(c) purports to be

(i) an agency, or

(ii) willing or otherwise in a position to carry out the functions of an agency,

unless that person is an agency;

(d) purports to be

(i) a bailiff, or

(ii) willing or otherwise in a position to carry out the functions of a bailiff,

unless that person is a bailiff;

(e) purports to be

(i) a sheriff, or

(ii) willing or otherwise in a position to carry out the functions of a sheriff,

unless that person is a sheriff;

(f) purports to be acting under the supervision or directions of a sheriff unless that person is acting under the supervision or directions of a sheriff;

(g) where the regulations prescribe the period of time in a day during which a seizure or eviction may be carried out, carries out a seizure or eviction at a time other than that permitted under the regulations;

(h) by means of threats of carrying out a seizure or sale obtains, takes or receives any property except as authorized by law;

(i) by means of unlawful force or threats of use of unlawful force

(i) enters or attempts to enter any location or premises,

(ii) seizes, takes or receives any property or attempts to seize or take any property, or

(iii) carries out or attempts to carry out an eviction;

(j) displays the word “agency”, “bailiff”, “sheriff” or “civil enforcement” either alone or as part of a word or in conjunction with any other words

(i) on any business papers or correspondence or similar documents,

(ii) on any business or identification cards or similar documents, or

(iii) on any uniform, insignia, badge or vehicle,

where the display of those words might lead the public or a member of the public into believing that the person displaying those words is, is employed by or is providing services on behalf of an agency, bailiff or sheriff, except where

(iv) the person displaying the word “agency” is employed by or providing services on behalf of any agency,

(iv.1) the person displaying the words “civil enforcement” is employed by or providing services on behalf of any agency,

(v) the person displaying the word “bailiff” is a bailiff, or

(vi) the person displaying the word “sheriff” is or is acting under the directions of a sheriff.

(1.1) Notwithstanding subsection 1(e) and (j), a person designated as a sheriff under another enactment does not, by virtue of the person’s designation as a sheriff under that other enactment and carrying out the powers and duties of a sheriff under that other enactment,

(a) contravene subsection (1)(e), or

(b) contravene subsection (1)(j) as it relates to displaying the word “sheriff”.

(2) Where

(a) a corporation is guilty of an offence under subsection (1), the corporation is liable to a fine of not more than $100 000, or

(b) an individual is guilty of an offence under subsection (1), the individual is,

(i) in the case of a first offence, liable to a fine of not more than $25 000, and

(ii) in the case of a 2nd or subsequent offence, liable to a fine of not more than $50 000 or to a term of imprisonment of not more than 6 months or to both fine and imprisonment.

(3) A prosecution under this section may be instituted at any time within 12 months after the commission of the alleged offence.

RSA 2000 cC-15 s15;2002 c17 s1(6);2011 c20 s3

Part 3
Prejudgment Relief

Definitions

16 In this Part,

(a) “claim” means a claim that may result in a money judgment being granted if the claim is established;

(b) “claimant” means a person asserting a claim;

(c) “dealing”, in reference to property, includes transferring, mortgaging, charging, using, disposing of, creating an interest in or doing anything to the property;

(d) “defendant” means a person against whom a claim is asserted;

(e) “exigible property” means property that would be exigible if the defendant were an enforcement debtor;

(f) “third person” means a person other than a defendant or a claimant.

1994 cC-10.5 s16;1995 c23 s6(4)

Attachment order

17(1) A claimant may apply to the Court for an attachment order where

(a) the claimant has commenced or is about to commence proceedings in Alberta to establish the claimant's claim, or

(b) the claimant has commenced proceedings before a foreign tribunal to establish a claim if

(i) a judgment or award of the foreign tribunal could be enforced in Alberta by action or by proceedings under an enactment dealing with the reciprocal enforcement of judgments or awards, and

(ii) the defendant appears to have exigible property in Alberta.

(2) On hearing an application for an attachment order, the Court may, subject to subsection (4), grant the order if the Court is satisfied that

(a) there is a reasonable likelihood that the claimant's claim against the defendant will be established, and

(b) there are reasonable grounds for believing that the defendant is dealing with the defendant's exigible property, or is likely to deal with that property,

(i) otherwise than for the purpose of meeting the defendant's reasonable and ordinary business or living expenses, and

(ii) in a manner that would be likely to seriously hinder the claimant in the enforcement of a judgment against the defendant.

(3) In granting an attachment order, the Court may do one or more of the following:

(a) direct that the order applies

(i) to all or specific exigible property of the defendant, or

(ii) to any exigible property to be subsequently identified in writing by a bailiff;

(b) prohibit any dealing with exigible property of the defendant;

(c) impose conditions or restrictions on any dealings with exigible property of the defendant;

(d) require the defendant or a person who has possession or control of exigible property of the defendant to deliver up the property to a person identified in the order;

(e) authorize the clerk to issue a garnishee summons;

(f) appoint a receiver;

(g) include in the order any term, condition or ancillary provision that the Court considers necessary or desirable.

(4) The Court shall not grant an attachment order unless the claimant undertakes to pay any damages or indemnity that the Court may subsequently decide should be paid to the defendant or a third person and where the Court grants an attachment order, the Court may require the claimant

(a) to give any additional undertaking that the Court considers appropriate, and

(b) to provide security in respect of any undertaking.

(5) When an attachment order is granted, it should be granted in such a manner that it causes as little inconvenience to the defendant as is consistent with achieving the purposes for which the order is granted.

(6) An attachment order shall not attach property that exceeds an amount or a value that appears to the Court to be necessary to meet the claimant's claim, including interest and costs, and any related writs, unless the Court is of the view that such a limitation would make the operation of the order unworkable or ineffective.

(7) For the purposes of an order made under subsection (3), the following applies:

(a) if the clerk is authorized to issue a garnishee summons, Part 8, with any necessary modification, applies to that garnishment;

(b) if a receiver is appointed, Part 9, with any necessary modification, applies in respect of that receivership;

(c) if the order is to apply to exigible property to be subsequently identified in writing by a bailiff, the writing shall be considered to be included as a part of the order.

(8) Any interested person may apply to the Court to vary or terminate an attachment order.

1994 cC-10.5 s17

Ex parte attachment order

18(1) An application for an attachment order may be made ex parte.

(2) Subject to subsection (3), an attachment order granted on an ex parte application must specify a date, not more than 21 days from the day that the order is granted, on which the order will expire unless the order is extended on an application on notice to the defendant.

(3) If the Court is satisfied that it would be inappropriate for an attachment order granted on an ex parte application to expire automatically after 21 days, the order may specify a later expiry date or specify that it remains in effect until it terminates in accordance with section 19.

(4) The Court, on application on notice to the defendant, may direct that an attachment order that was granted on an ex parte application remains in effect until the order terminates in accordance with section 19 or as otherwise directed by the Court.

(5) If an application under subsection (4) cannot reasonably be heard and determined before the expiry date of the relevant attachment order, the Court may on an ex parte application extend the period of time during which the order remains in force pending the determination of the application.

(6) When an application on notice to the defendant is made under subsection (4) the following applies:

(a) the onus is on the claimant to establish that the attachment order should be continued;

(b) the Court shall not continue the attachment order unless the circumstances that exist at the time of hearing the application justify the continued existence of the order;

(c) the Court may terminate the order if the Court is satisfied that the claimant failed to make full and fair disclosure of the material information that existed at the time that the claimant made the ex parte application for the attachment order.

1994 cC-10.5 s18

Termination of attachment order

19(1) Subject to section 18 and except as otherwise ordered by the Court, an attachment order terminates on whichever of the following occurs first:

(a) on the dismissal or discontinuance of the claimant's proceedings;

(b) on the 60th day from the day of the entry of a judgment in favour of the claimant.

(2) The Court may extend the operation of an attachment order beyond the times set out in subsection (1) if it appears just and equitable to do so.

1994 cC-10.5 s19

Provision of alternative security

20 If property is under attachment pursuant to an attachment order,

(a) the defendant,

(b) any person claiming an interest in the attached property, or

(c) the person in whose possession the property was at the time of the attachment,

may have the property released from attachment by providing sufficient alternative security in a form and amount as determined by the Court, having regard to all the circumstances, including the apparent value of the defendant's interest in the attached property, or by agreement between all interested persons.

1994 cC-10.5 s20

Sale, etc. of attached property

21 On application the Court may authorize the sale or other disposition of property that is subject to an attachment order without the consent of the owner of the property if in the opinion of the Court

(a) the property

(i) will depreciate substantially in value, or

(ii) will be unduly expensive to keep under attachment,

or

(b) it is necessary or prudent to sell or dispose of the property for any other reason not referred to in clause (a).

1994 cC-10.5 s21

Registration of attachment order

22 An attachment order may be

(a) registered in the Personal Property Registry, and

(b) in the case of land under the *Land Titles Act*, registered against the certificate of title to the land.

1994 cC-10.5 s22

Priorities

23(1) Subject to subsection (2), priority between an attachment order and the interest of a third person in property to which the attachment order applies shall be determined in accordance with Division 2 of Part 4 as if the attachment order were a writ.

(2) A third person who in a transaction that is permitted under an attachment order acquires an interest in property to which the attachment order applies acquires that interest free of the attachment order.

(3) Where prior to the expiration of an attachment order

(a) a writ has been issued by a clerk to the claimant in respect of the same proceedings in which the attachment order was granted,

(b) the writ is registered in the Personal Property Registry, and

(c) in the case of land, the writ is also registered under the *Land Titles Act*,

that writ has the same priority as the attachment order.

1994 cC-10.5 s23

Commencement, etc. of writ proceedings

24(1) Subject to subsection (2), writ proceedings may be commenced or continued against property that is subject to an attachment order and any money realized through those proceedings may be distributed under Part 11 without regard to the attaching claimant's claim.

(2) On application the Court may, where the Court considers that it would be just and equitable to do so, order one or more of the following:

(a) that no writ proceedings be commenced or continued against property that is the subject of an attachment order without the permission of the Court until the attachment order terminates;

(b) that money realized through writ proceedings against property that is the subject of an attachment order not be distributed until the attachment order terminates;

(c) that the attachment creditor have the status of an instructing creditor for the purposes of the distribution of the proceeds.

RSA 2000 cC-15 s24;2014 c13 s18

Inconsistent actions

25(1) Where a person knowingly assists or participates in dealing with attached property in a manner that is inconsistent with the terms of the attachment order, the Court may order that person to compensate any claimant or enforcement creditor who suffers actual loss as a result of that dealing.

(2) The Court shall not make an order under subsection (1) against a person by reason only of the person having done something that was necessary to meet a legal duty that

(a) arose before the person acquired knowledge of the attachment order, and

(b) was owed to someone other than the defendant.

(3) Nothing in this section shall be construed so as to restrict the power of the Court to punish for contempt.

1994 cC-10.5 s25

Part 4
Judgments and Writs

Division 1
Registration

Issuing of writs

25.1(1) A judgment creditor may require the court clerk of the judicial centre where the judgment has been entered to issue in respect of the judgment at any time that the judgment is in force a writ of enforcement in the form required by the Minister.

(2) Notwithstanding subsection (1), if the judgment is for payment within a specified period, the court clerk shall not issue the writ of enforcement until after the expiry of that period.

2009 c53 s2

Assignment

25.2(1) A judgment creditor may, without an order of the Court, make a total or partial assignment of the writ to another person.

(2) The court clerk, on being satisfied that all of the judgment creditor's rights under a writ have been assigned, may, without an order of the Court, amend the writ to show the name of the assignee.

(3) The court clerk, on being satisfied that a portion of the judgment creditor's rights under a writ have been assigned may, without an order of the Court, divide the writ and issue

(a) a replacement writ to the judgment creditor indicating the amount that remains owing to the judgment creditor under the writ, and

(b) a replacement writ to the assignee indicating the amount that is owing to the assignee under the writ.

(4) Where a replacement writ is issued under subsection (3), that writ

(a) stands in the place of the writ that is being replaced, and

(b) must be dated with the same date as that shown on the writ that is being replaced.

2009 c53 s2

Endorsement

25.3 If a writ of enforcement is issued for the purpose of enforcing the payment of money that is directed to be paid into Court, the judgment creditor or other person preparing the writ must, prior to the clerk's issuing the writ, state on the writ that all money paid under the writ, other than costs, must be paid into Court.

2009 c53 s2

Registration required

26 A judgment creditor may not initiate any writ proceedings in respect of a money judgment

(a) against any personal property unless a writ issued in respect of that judgment is registered in the Personal Property Registry, or

(b) against land unless a writ issued in respect of that judgment is registered in the Personal Property Registry and

(i) in the case of land under the *Land Titles Act*, is registered under the *Land Titles Act*, and

(ii) in the case of land that is not under the *Land Titles Act*, is registered, filed or otherwise recorded in accordance with the regulations.

1994 cC-10.5 s26;1996 c28 s9

When writ is in force

27(1) A writ is in force only while the judgment in respect of which the writ is issued is in force.

(2) For the purposes of subsection (1), a judgment is not in force

(a) if it has been satisfied, or

(b) on the expiration of 10 years from the day that the judgment takes effect unless the judgment is renewed or an action is brought on that judgment within the 10-year period.

1994 cC-10.5 s27;1995 c23 s6(5)

New judgment

27.1(1) In this section,

(a) "existing judgment" means a judgment that is in force;

(b) "existing registration" means, in respect of an existing writ,

(i) a registration of the writ in the Personal Property Registry if that registration is still in force;

(ii) a registration of the writ under the *Land Titles Act* if that registration is still in force;

(iii) in the case of land that is not under the *Land Titles Act*, a registration, filing or recording of the writ in accordance with the regulations if that registration, filing or recording is still in force;

(c) "existing writ" means a writ issued in respect of an existing judgment;

(d) "new judgment" means a judgment that replaces an existing judgment and that has been obtained by suing on the existing judgment or pursuant to proceedings provided for under the *Alberta Rules of Court*;

(e) "new writ" means a writ that is issued in respect of a new judgment.

(2) Where a judgment creditor has obtained a new judgment and has been issued a new writ in respect of that judgment, the judgment creditor may,

(a) if there is not an existing registration in the Personal Property Registry in respect of the matter for which the new writ was issued, register the new writ in the Personal Property Registry;

(b) if there is an existing registration in the Personal Property Registry in respect of the matter for which the new writ was issued, submit to the Personal Property Registry a status report to amend the registration in the Personal Property Registry to reflect the particulars of the new writ;

(c) in the case of land that is under the *Land Titles Act*, register the new writ under the *Land Titles Act*;

(d) in the case of land that is not under the *Land Titles Act*, register, file or otherwise record the new writ in accordance with the regulations.

(3) If an existing registration in the Personal Property Registry is amended to reflect the particulars of a new writ, that new writ has, in respect of the Personal Property Registry, the same priority as the existing writ had.

(4) If, in respect of an existing registration under the *Land Titles Act*, a new writ is registered under the *Land Titles Act*, that new writ has, in respect of the *Land Titles Act*, the same priority as the existing writ had.

(5) If, in respect of an existing registration in the case of land that is not under the *Land Titles Act,* a new writ is registered, filed or otherwise recorded in accordance with the regulations, that new writ has, in respect of that matter, the same priority as the existing writ had.

2002 c17 s1(7)

Duration of registration in Personal Property Registry

28 The registration of a writ in the Personal Property Registry

(a) is in effect for 2 years from the day that it is registered or any longer period that is prescribed by the regulations, and

(b) may be renewed in accordance with the *Personal Property Security Act* and the regulations under that Act.

1994 cC-10.5 s28

Duration of registration under Land Titles Act

29 The registration of a writ under the *Land Titles Act* is in effect for the duration of the judgment.

1994 cC-10.5 s29

Error or omission re writ

30 Where writ proceedings have been carried out and there is an error or omission

(a) on the writ, or

(b) in respect of its registration in the Personal Property Registry,

the Court may, on application, make an order validating any writ proceedings that may have taken place, subject to any interests that may have arisen in the period of time between the issuance of the writ or its registration in the Personal Property Registry, as the case may be, and the correction of the error or omission.

1994 cC-10.5 s30

Division 2
Binding Effect of Writs

Definitions

31 In this Division,

(a) "after-acquired personal property" means personal property acquired by an enforcement debtor after the relevant writ is registered in the Personal Property Registry;

(b) "attaches" means, in respect of a security interest, attaches in accordance with the *Personal Property Security Act*;

(c) "control" means, in respect of investment property and electronic chattel paper, control in accordance with the *Personal Property Security Act*;

(d) "perfected" means, in respect of a security interest, perfected in accordance with the *Personal Property Security Act*;

(e) the following terms have the meanings given to them in the *Personal Property Security Act*:

(i) buyer of goods;

(ii) consumer goods;

(iii) electronic chattel paper;

(iv) equipment;

(v) intangible;

(vi) investment property;

(vii) money;

(viii) new value;

(ix) ordinary course of business of the seller;

(x) purchase;

(xi) purchase-money security interest;

(xii) purchaser;

(xiii) security interest;

(xiv) seller;

(xv) tangible chattel paper;

(xvi) value.

RSA 2000 cC-15 s31;2023 c5 s2

Knowledge of writ

32 For the purpose of this Division, a person is considered to have knowledge of a writ if that person has knowledge that the relevant property is subject to a writ or is under seizure.

1994 cC-10.5 s32

When writ binds

33(1) A writ does not bind or otherwise affect an enforcement debtor's interest

(a) in any personal property, other than while the writ is in force and registered in the Personal Property Registry,

(b) in any land under the *Land Titles Act*, other than while the writ is in force and registered under the *Land Titles Act* against the applicable certificate of title, or

(c) in any land that is not under the *Land Titles Act*, other than while the writ is in force and is registered, filed or otherwise recorded in accordance with the regulations.

(2) A writ,

(a) in the case of personal property, on being registered in the Personal Property Registry binds all of the enforcement debtor's exigible personal property;

(b) in the case of land under the *Land Titles Act*, on being registered under the *Land Titles Act* binds all of the enforcement debtor's exigible land described in the certificate of title against which the writ is registered;

(c) in the case of land that is not under the *Land Titles Act*, on being registered, filed or otherwise recorded in accordance with the regulations, binds or otherwise affects the enforcement debtor's interest in that land to the extent permitted by the enactments that govern

(i) that land, and

(ii) claims made against interests in that land.

(3) Subsection (2)(a) applies to after-acquired personal property of the enforcement debtor from the time that the enforcement debtor acquires that property.

1994 cC-10.5 s33

Subordination of subsequent interests

34(1) Except as otherwise provided in sections 35 to 40 or in any other enactment, an interest acquired in property after the property is bound by a writ is subordinate to the writ.

(2) Where an interest in property is subordinate to a writ,

(a) the property is subject to writ proceedings to the same extent that the property would have been if the subordinate interest did not exist, and

(b) a person who acquires the property as a result of writ proceedings acquires the property free of the subordinate interest.

1994 cC-10.5 s34

Priority between writs and security interests

35(1) Except as otherwise provided in this Division, a security interest in personal property is subordinate to a writ that binds the property regardless of whether the security interest attaches before or after the personal property became bound by registration of the writ in the Personal Property Registry.

(2) Subject to section 35(6) of the *Personal Property Security Act*, a perfected security interest in personal property has priority over a writ that binds the property if

(a) the collateral is investment property and the secured party has perfected by control, or

(b) at the time the writ is registered in the Personal Property Registry,

(i) the security interest is perfected,

(ii) the security interest is registered in the Personal Property Registry, or

(iii) the secured party, or a person acting on behalf of the secured party, has possession of the personal property under section 24 of the *Personal Property Security Act*.

(3) A perfected purchase-money security interest in personal property has priority over a writ that bound the personal property before the purchase-money security interest was registered or perfected if the security interest was perfected not later than 15 days from the day that

(a) the debtor, or another person at the request of the debtor, obtains possession of the collateral, or

(b) the security interest attaches, in the case of an intangible.

(4) A perfected security interest in serial number goods that are consumer goods or equipment has priority over a writ binding the goods if the goods are not described by serial number entered into the field labelled for the receipt of serial numbers in the registration of the writ in the Personal Property Registry at the time

(a) the security interest is registered in the Personal Property Registry, or

(b) the secured party, or a person acting on behalf of the secured party, obtains possession of the personal property under section 24 of the *Personal Property Security Act*.

(5) Where

(a) the registration of a writ in the Personal Property Registry

(i) lapses as a result of a failure to renew the registration, or

(ii) has been discharged in error or without authorization,

and

(b) the writ is re-registered within 30 days after the lapse or discharge,

the lapse or discharge of the writ does not affect the priority status of the writ in relation to a competing perfected security interest that immediately prior to the lapse or discharge of the writ had a subordinate priority position, except to the extent that the competing security interest secures advances made or contracted for after the lapse or discharge and prior to the re-registration of the writ.

(6) The priority of a writ in relation to a security interest in personal property as provided by this or any other Act is not affected by measures taken to enforce the security interest or the writ.

RSA 2000 cC-15 s35;2002 c17 s1(8);2023 c5 s2

Buyer or lessee takes free of writ

36(1) A sale or lease under this section may be

(a) for cash,

(b) by exchange for other property, or

(c) on credit, and includes delivering goods or a document of title to goods under a pre-existing contract for sale but does not include a transfer as security for, or in total or partial satisfaction of, a money debt or past liability.

(2) A buyer or lessee of goods sold or leased in the ordinary course of business of the seller or lessor takes free from a writ that binds the goods.

(3) A buyer or lessee of goods, other than fixtures, that are acquired as consumer goods takes free from a writ that binds the goods if the purchase price of the goods does not exceed the prescribed amount or, in the case of a lease, the market value does not exceed the prescribed amount.

(4) A buyer or lessee of goods that are

(a) consumer goods or equipment, and

(b) prescribed as serial number goods

takes free from a writ binding the goods if the goods are not described by serial number entered into the field labelled for the receipt of serial numbers in the registration of the writ in the Personal Property Registry.

RSA 2000 cC-15 s36;2023 c5 s2

Fixtures and growing crops

37(1) Where goods are bound by a writ and while being bound by the writ the goods become a fixture, those goods shall continue to be bound by that writ.

(2) Where

(a) goods that are bound by a writ become a fixture, or

(b) a writ binds a growing crop,

a notice of that fact may be registered under the *Land Titles Act* against the certificate of title for the land.

(3) Any question of priorities between a writ and a security interest in a fixture or a growing crop shall be determined in accordance with section 36(6) or 37(4) of the *Personal Property Security Act*.

(4) Where a person acquires an interest in a fixture or a growing crop that is bound by a writ by acquiring an interest in the land on which the fixture or crop is located, that person's interest is not subordinate to the writ unless the notice referred to in subsection (2) was registered against the certificate of title before the person acquired the interest.

(5) Subsections (2), (3) and (4) apply only to land for which a certificate of title has been issued under the *Land Titles Act*.

1994 cC-10.5 s37

Transferees and purchasers of funds and negotiable property

38(1) In subsections (2), (3) and (4), "transferee" does not include a person who acquires a security interest in the money, the account or the instrument.

(2) A transferee of money takes free from a writ binding the money if the transferee

(a) acquired the money

(i) without knowledge of the writ, or

(ii) for value, whether or not the transferee had knowledge of the writ,

and

(b) took possession of the money.

(3) Subject to subsection (5), a transferee of funds received by transfer from a deposit account takes free from a writ binding the account if the transferee acquired the funds

(a) without knowledge of the writ, or

(b) for value, whether or not the transferee had knowledge of the writ.

(4) A transferee of an instrument drawn by an enforcement debtor and payable to the transferee takes free from a writ binding the instrument and the account on which the instrument is drawn if the transferee

(a) acquired the instrument

(i) without knowledge of the writ, or

(ii) for value, whether or not the transferee had knowledge of the writ,

and

(b) took possession of the instrument.

(5) A financial institution that receives payment of a debt by means of a transfer from or debit to a deposit account of an enforcement debtor held by the institution takes free from a writ binding the account only if the payment

(a) is authorized by the enforcement debtor at or after the time the debt is payable by the debtor to the financial institution and the authorization of payment is not made by the financial institution as agent of the debtor,

(b) is made by a post-dated cheque drawn by the enforcement debtor, or

(c) is made under a written authorization that is signed by the enforcement debtor as part of a loan under which the debtor became indebted to the financial institution, and the written authorization

(i) sets out specified amounts to be debited to or transferred from the deposit account at specified times or intervals, or

(ii) authorizes debits to or transfers from the deposit account when the credit in the deposit account exceeds a specified amount,

and the payment is not made by the financial institution as agent of the debtor.

(6) Nothing in subsection (5) limits the rights of an account debtor provided in section 41 of the *Personal Property Security Act*.

(7) A purchaser of an instrument or a negotiable document of title has priority over a writ binding the instrument or negotiable document of title if the purchaser

(a) acquired the instrument or negotiable document of title for value without knowledge of the writ, and

(b) took possession of the instrument or negotiable document of title.

(8) A purchaser of chattel paper has priority over a writ binding the chattel paper if the purchaser

(a) acquired the chattel paper for new value in the ordinary course of the purchaser's business, and

(b) without knowledge of the writ, took possession of tangible chattel paper or obtained control of electronic chattel paper.

RSA 2000 cC-15 s38;2006 cS-4.5 s107;2023 c5 s2

Protected purchaser of security

39 A person, other than a secured party, who is a protected purchaser of a security within the meaning of the *Securities Transfer Act* has priority over a writ that binds the security if that person did not have knowledge of the writ at the time the person obtained control of the security.

RSA 2000 cC-15 s39;2006 cS-4.5 s107;2023 c5 s2

Priority of liens

40 When a person in the ordinary course of business furnishes materials or services with respect to goods that are bound by a writ, any lien that the person has with respect to the materials or services has priority over the writ unless the lien is given under an enactment that provides that the lien does not have that priority.

1994 cC-10.5 s40

Effect of seizure

41 Subject to section 35(6) of the *Personal Property Security Act*, the position of a person who acquires an interest in personal property that is bound by a writ is determined by this Division regardless of whether the personal property has been seized.

1994 cC-10.5 s41

Interaction between writs

42(1) An interest in property is not subordinate to a writ by reason only of the fact that the interest is subordinate to another writ.

(2) Nothing in this section is to be construed so as to create any priority as between writs.

1994 cC-10.5 s42

Part 5
Seizure of Personal Property

Applies to all exigible personal property

43(1) For the purposes of enforcing a writ, all exigible personal property of an enforcement debtor is liable to seizure.

(2) Subject to this Act, any exigible personal property of an enforcement debtor that shall be seized pursuant to writ proceedings shall be seized and dealt with in accordance with this Part.

1994 cC-10.5 s43;1996 c28 s9

Demand on third person

44(1) Where there are reasonable grounds for believing that exigible personal property of an enforcement debtor is in the possession or control of a third person, the agency may and, if so instructed by the instructing creditor, must serve a demand on the third person requiring the third person to deliver the property to the agency or make it available for seizure within 15 days from the day that the demand is served on the third person.

(2) A third person on whom a demand is served under this section must forthwith

(a) deliver the property to the agency,

(b) advise the agency of the place at which seizure of the property may be effected and take reasonable steps to ensure that the property remains at that place until it is seized, or

(c) where the third person has a right as against the enforcement debtor to retain the property or does not have possession or control of the property, advise the agency that the third person is not required to comply with clause (a) or (b) by reason that the third person

(i) has a right as against the enforcement debtor to retain the property, or

(ii) does not have possession or control of the property.

(3) Where a third person complies with a demand made under this section, the agency must compensate the third person for any expenses reasonably incurred by the third person in complying with that demand.

(4) A third person who without reasonable excuse fails to comply with a demand made under this section must compensate the enforcement creditors with a related writ for any pecuniary loss suffered by them as a result of the non-compliance.

(5) When an agency takes possession of property from a third person in respect of whom a demand was made under this section, the third person is discharged of any responsibility that the third person may have been under to hold the property for, or return it to, the debtor.

(6) This section does not apply to property held by a securities intermediary, as defined in the *Securities Transfer Act*, if the enforcement debtor has a security entitlement, as defined in the *Securities Transfer Act*, against the securities intermediary with respect to that property.

RSA 2000 cC-15 s44;2006 cS-4.5 s107

Effecting seizure

45(1) Personal property that is described in a notice of seizure is seized when a bailiff,

(a) while at the place at which the property is located, serves the seizure documents on

(i) the enforcement debtor or an adult member of the enforcement debtor's household,

(ii) an adult occupying or working at the location at which the property is located, or

(iii) a person who has possession of or control over the property,

or

(b) subject to the regulations, attaches to the property documents indicating that the property is seized or posts the notice of seizure in a conspicuous place at the location at which the property is located.

(2) Notwithstanding subsection (1), where this or another enactment sets out a different seizure process in respect of certain property or classes of property, that property is seized when it is seized pursuant to that seizure process.

(3) Where a bailiff effects seizure under subsection (1) or under section 57(1) but at the time of the seizure did not serve the seizure documents on the enforcement debtor or an adult member of the debtor's household, an agency must serve the seizure documents on the debtor as soon after effecting seizure as is practicable.

(4) Notwithstanding subsection (3), if an agency is unable to serve the seizure documents

(a) on the enforcement debtor, or

(b) on an adult member of the enforcement debtor's household,

the instructing creditor may proceed in the same manner as if the enforcement debtor had been served with the seizure documents and had filed a notice of objection in respect of the seizure.

(5) A person is guilty of an offence if that person without lawful authority removes, damages or otherwise interferes

(a) with seizure documents or identifying documents that are attached to seized property or posted under subsection (1)(b), or

(b) with any property that is under seizure.

1994 cC-10.5 s45;1997 c18 s3

Objection

46(1) Where an enforcement debtor wishes to object to a seizure of personal property, the enforcement debtor must within 15 days from the day that

(a) the seizure documents are served under section 45(1)(a)(i) on the enforcement debtor or an adult member of the enforcement debtor's household, or

(b) the seizure documents are served under section 45(3) on the enforcement debtor,

serve a notice of objection in the prescribed form on the agency that carried out the seizure.

(2) On being served with a notice of objection, the agency shall not sell or otherwise dispose of the property unless permitted to do so by the Court.

(3) A notice of objection is void and shall be disregarded if

(a) a reason for the objection is not set out in the notice of objection, or

(b) the notice of objection is not served on the agency within the 15-day period provided for under subsection (1).

1994 cC-10.5 s46

Termination of seizure

47(1) Once personal property is seized, that property remains under seizure until the agency

(a) sells or otherwise disposes of the property under this Act, or

(b) releases the property from seizure.

(2) If personal property has been under seizure for at least 45 days, the agency may give 15 days' notice of the agency's intention to release the property from seizure to

(a) every enforcement creditor who, at the time that the notice is given, has a related writ against the enforcement debtor, and

(b) any person who has given notice to the agency under section 48.1.

(3) Unless within the 15-day period referred to in subsection (2) the agency has been directed by a person given a notice under subsection (2) to continue the seizure, the agency may release from seizure the property in respect of which the notice was given.

(4) Subsections (2) and (3) as amended by section 3(4) of the *Justice and Court Statutes Amendment Act, 2011*, apply only to personal property seized on or after the coming into force of this subsection.

RSA 2000 cC-15 s47;2002 c17 s1(9);2006 c4 s1;2011 c20 s3

Sale of property, etc.

48 For the purposes of selling seized personal property, the following applies:

(a) subject to clauses (h) and (i), property must not be sold until the period of time for serving on the agency a notice of objection with respect to the seizure of the property has expired;

(b) subject to clause (a), an agency must sell the property as soon after being instructed to do so as is practicable;

(c) the agency may delay the sale if it is commercially reasonable to do so;

(d) subject to this Part, the agency may without an order of the Court sell the property by any commercially reasonable method;

(e) the agency must, at least 15 days before the day on which the sale is to take place, give notice to the instructing creditor and the enforcement debtor of the method of sale being used;

(f) the agency may sell the property to an enforcement creditor by private sale if

(i) at least 15 days before the day of the sale, the agency gives notice of the terms of the sale to

(A) the enforcement debtor, and

(B) all of the other enforcement creditors having related writs at the time that the notice is given,

and

(ii) within the 15-day period neither the enforcement debtor nor any of the enforcement creditors having related writs serves on the agency a notice of objection to the sale;

(g) if an objection to a private sale is served on the agency in accordance with clause (f)(ii), the matter shall be dealt with in the same manner as a notice of objection is dealt with under section 46;

(h) on application the Court may by order permit the agency to effect an expeditious sale or disposal of property where the Court is of the opinion that in the circumstances it is appropriate to sell or dispose of the property in an expeditious manner;

(i) notwithstanding clauses (a) and (e), the agency may at any time without an order of the Court effect an expeditious sale of property that is perishable or is rapidly declining in value or an instrument or a security, and the proceeds arising from that sale

(i) stand in the place of the instrument, security or property that was sold, and

(ii) must not be distributed until the period for the enforcement debtor to serve a notice of objection under section 46 has expired;

(j) subject to section 34(2), when property is sold,

(i) the buyer obtains only the interest in the property

(A) of the enforcement debtor, and

(B) of any other person with an interest in the property who has consented to the sale or disposition of the interest,

and

(ii) the sale of the property does not adversely affect the rights or interest of any other person in the property.

RSA 2000 cC-15 s48;2002 c17 s1(10);
2006 cS-4.5 s107

Notice re personal property already subject to civil enforcement proceedings

48.1(1) A person who has a right of distress against personal property that is already subject to writ proceedings may give notice of that person's claim to the civil enforcement agency that is conducting the writ proceedings.

(2) An enforcement creditor may give notice of that person's claim against personal property that is already subject to distress proceedings to the civil enforcement agency that is conducting the distress proceedings.

2006 c4 s1

Personal property already under seizure

48.2(1) A person who has a right of distress against personal property that is already under seizure pursuant to other civil enforcement proceedings

(a) may distrain against the seized property notwithstanding that it is already under seizure;

(b) after having distrained against the seized property under clause (a), may, with the prior written consent of the person with control of the civil enforcement proceedings, assume control of the civil enforcement proceedings relating to the seized property.

(2) An enforcement creditor who wishes to seize personal property that is already under seizure pursuant to a right of distress

(a) may seize the property notwithstanding that it is already under seizure;

(b) after having seized the property under clause (a), may, with the prior written consent of the person with control of the civil enforcement proceedings, assume control of the civil enforcement proceedings related to the seized property.

(3) Any action taken under subsection (1) or (2) does not affect priority to the seized property or its proceeds.

(4) A person who has assumed control of civil enforcement proceedings pursuant to subsection (1) or (2) is responsible for the personal property and any storage costs incurred in respect of that property.

2006 c4 s1;2011 c20 s3

Part 6
Special Seizure Mechanisms

Application of Part

49 Except where it would conflict with this Part, Part 5 applies to seizure proceedings against property governed by this Part.

1994 cC-10.5 s49

Division 1
Property Other than Securities

Cash and instruments

50 For the purposes of seizing and dealing with cash and instruments, the following applies:

(a) seized cash may not be distributed as enforcement proceeds until the expiration of the time within which the enforcement debtor may serve a notice of objection in accordance with section 46(1);

(b) the seizure of an instrument constitutes the agency that seized the instrument as the irrevocable agent of the enforcement debtor for the purpose of liquidating the instrument;

(c) without restricting the generality of clause (b), the agency that seized an instrument may do one or more of the following as if the agency had been specifically authorized by the enforcement debtor to do so:

(i) present the instrument for payment and receive payment on it;

(ii) sue any person liable on the instrument in the name of the debtor;

(iii) negotiate the instrument;

(d) an agency that endorses an instrument on behalf of the enforcement debtor must do so in a manner that will exclude recourse against the enforcement debtor.

1994 cC-10.5 s50

Secured obligations

51 For the purposes of seizing and dealing with a secured obligation, other than a security or an obligation evidenced by an instrument, the following applies:

(a) seizure of a secured obligation is effected by

(i) identifying the obligation and the security for it in the notice of seizure,

(ii) registering the notice of seizure in the Personal Property Registry,

(iii) if the collateral for the secured obligation is land, registering under the *Land Titles Act* the notice of the seizure against the certificate of title to the land, and

(iv) serving the seizure documents on the enforcement debtor;

(b) if the enforcement debtor's security has not been registered in the Personal Property Registry or under the *Land Titles Act* when the secured obligation is seized, an agency may register the security in the Personal Property Registry or under the *Land Titles Act*, as the case may be;

(c) after seizing a secured obligation, an agency may serve the notice of seizure on the person liable to pay the obligation and after being served with the notice that person must pay to the agency any amount that is or becomes payable in respect of the obligation;

(d) after serving the notice of seizure on the person liable to pay the obligation, an agency, as an alternative to selling the secured obligation under Part 5, may collect the obligation through any proceedings, including an action or enforcement of the security, that could otherwise have been taken by the enforcement debtor.

RSA 2000 cC-15 s51;2006 cS-4.5 s107

Agricultural products

52 For the purposes of seizing and dealing with agricultural products, the following applies:

(a) an agency may seize growing crops of an enforcement debtor;

(b) a growing crop must not be sold until it has been harvested;

(c) an agency has the same rights and duties as the enforcement debtor regarding the sale of seized agricultural products under any applicable marketing legislation or plan;

(d) unless the enforcement debtor undertakes to harvest a seized crop, an agency may require the instructing creditor to provide security for the payment of any harvesting expenses that may be incurred by the agency;

(e) if the instructing creditor does not provide the requested security, the agency may release the crop from seizure;

(f) any harvesting or marketing expenses incurred by an agency in connection with a seized crop are a first charge on and payable out of the proceeds of the crop in priority to any other claim

or right in the property including any security interest, lien, charge, encumbrance, mortgage or assignment whether arising pursuant to a statute or otherwise;

(g) the benefit of the charge referred to in clause (f) extends to an enforcement creditor who has paid the harvesting expenses incurred by an agency.

1994 cC-10.5 s52

Fixtures

53 For the purposes of seizing and dealing with fixtures, the following applies:

(a) a fixture may be seized and sold as personal property

(i) in the circumstances set out in clause (b), or

(ii) as authorized by the Court;

(b) a fixture that is bound by a writ may be seized and sold in accordance with Part 5 if

(i) the fee simple interest in the land to which the fixture is affixed is not beneficially owned by the enforcement debtor, and

(ii) any interest in the fixture of a person who has an interest in the land is subordinate to the writ;

(c) an agency that seizes a fixture must serve on each person who appears on the records of the Registrar of Land Titles, at the time the notice is given, to have an interest in the land a notice containing

(i) a description of the seized fixture and of the land to which it is affixed,

(ii) the amount for which writs are alleged to have priority over the person's interest in the fixture, and

(iii) a statement that the fixture may be removed and sold unless the amount referred to in clause (g) is paid on or before a specified date that is not less than 15 days from the day that the notice is served;

(d) the notice given under clause (c) may be served in accordance with this Act or by registered mail addressed to the address of the person to be notified as it appears in the records of the Registrar of Land Titles;

(e) a person who is entitled to receive a notice under clause (c) may apply to the Court for an order postponing removal of the fixture from the land or for the determination of any issue relating to the seizure;

(f) if a fixture is seized and removed, any person other than the enforcement debtor who had an interest in the land at the time that the fixture was affixed to the land

(i) is entitled to reimbursement from the agency for any damage to that person's interest caused during the removal of the fixture, but

(ii) is not entitled to reimbursement for diminution in the value of the land caused by the absence of the fixture or the need to replace it;

(g) any person with an interest in the land to which a fixture is affixed may retain the fixture by paying to the agency the lesser of

(i) the amount for which the person's interest in the fixture is subordinate to any writs, and

(ii) the market value of the fixture;

(h) if the appropriate payment is made to the agency under clause (g), the fixture ceases to be bound by any writ against the enforcement debtor.

1994 cC-10.5 s53

Serial number goods

54 Serial number goods may be seized

(a) in accordance with Part 5, or

(b) subject to the regulations, by

(i) registering in the Personal Property Registry a notice of the seizure that identifies the goods by serial number, and

(ii) serving the seizure documents on the enforcement debtor.

1994 cC-10.5 s54

Mobile homes

55 For the purpose of acquiring possession of a seized mobile home, the following applies:

(a) where

(i) the mobile home is occupied by the enforcement debtor or some other person, and

(ii) the occupant fails, on demand, to deliver up possession of the mobile home,

the instructing creditor, on notice to the occupant, may apply to the Court for an order directing the occupant to deliver up possession of the mobile home;

(b) an agency may obtain possession of the mobile home as authorized by the order referred to in clause (a) if

(i) the occupant has been served with the order, and

(ii) the occupant has failed to deliver up possession of the mobile home as directed by the order.

1994 cC-10.5 s55

Division 2
Securities

Definitions

56(1) In this Division, "Alberta private company" means a corporation other than a distributing corporation within the meaning of the *Business Corporations Act*.

(2) In this Division, "appropriate person", "endorsement", "entitlement order", "instruction", "issuer", "securities intermediary" and "security entitlement" have the same meaning as in the *Securities Transfer Act*.

RSA 2000 cC-15 s56;2006 cS-4.5 s107

Effecting seizure

57(1) An agency may seize the interest of an enforcement debtor in a security or a security entitlement in accordance with sections 47 to 51 of the *Securities Transfer Act*.

(2) Notwithstanding section 48 of the *Securities Transfer Act*, an agency may seize the interest of an enforcement debtor in a security issued by an Alberta private company by serving a notice of seizure on the issuer at the issuer's chief executive office.

(3) If a seizure under this section is by notice to an issuer or securities intermediary, the seizure becomes effective when the issuer or securities intermediary has had a reasonable opportunity to act on the seizure, having regard to the time and manner of receipt of the notice.

(4) If an enforcement debtor's interest in a security or a security entitlement is seized in accordance with this section and that interest is subject to a prior security interest,

(a) the seizure does not affect the prior security interest, and

(b) notwithstanding sections 57.1 to 64, the ability of the agency to deal with the security or security entitlement is limited to those rights and powers that the enforcement debtor would have had but for the seizure.

RSA 2000 cC-15 s57;2006 cS-4.5 s107

Powers of agency on seizure

57.1(1) If an enforcement debtor's interest in a security or a security entitlement is seized in accordance with section 57, the agency is constituted as the appropriate person for the purposes of dealing with or disposing of the seized property and, for the duration of the seizure, the enforcement debtor is not the appropriate person for the purposes of dealing with or disposing of the seized property.

(2) On seizure of an enforcement debtor's interest in a security or a security entitlement in accordance with section 57, the agency may

(a) do any act or thing that would otherwise have to be done by the enforcement debtor, or

(b) execute or endorse any document that would otherwise have to be executed or endorsed by the enforcement debtor.

(3) Any endorsement, instruction or entitlement order made by an agency as the appropriate person pursuant to subsection (1) or by a receiver must be accompanied by the certificate of the agency or receiver stating that the endorsement, instruction or entitlement order has been made by the agency or receiver under the authority of this Act.

2006 cS-4.5 s107

Duties of Alberta private company

58 An Alberta private company that has been served with a notice of seizure regarding a security of which the enforcement debtor is the registered holder shall do the following:

(a) send to the agency any documents and allow the agency to inspect any records that the enforcement debtor, as the registered holder of the security, is entitled to receive or inspect;

(b) pay to the agency any dividend or other payment in respect of the security that would otherwise be payable by the Alberta private company to the enforcement debtor;

(c) comply with any direction given by the agency regarding the seized security where the Alberta private company would be required to comply with the direction if that direction was given by the enforcement debtor while the security was not under seizure.

RSA 2000 cC-15 s58;2006 cS-4.5 s107

Agency may deal with seized property

59 Where an agency has seized a debtor's interest in a security entitlement by serving a notice of seizure on an intermediary whose securities intermediary's jurisdiction within the meaning of the *Securities Transfer Act* is Alberta, the following applies:

(a) the agency is entitled to receive any information or documents relating to the security entitlement that the intermediary is required to give to the enforcement debtor;

(b) the intermediary shall pay to the agency any distribution, dividend or other payment in respect of the security entitlement that would otherwise be payable by the intermediary to the enforcement debtor;

(c) the agency is entitled to give any direction to the intermediary regarding the seized security entitlement that the enforcement debtor would otherwise be entitled to give.

RSA 2000 cC-15 s59;2006 cS-4.5 s107

Liability of Alberta private company or securities intermediary

60 An Alberta private company or securities intermediary who fails to comply with a duty imposed on it under section 58 or 59 is liable for any pecuniary loss suffered by the enforcement creditors as a result of the failure.

RSA 2000 cC-15 s60;2006 cS-4.5 s107

Liquidation of security

61(1) An agency may liquidate a seized security by any means that the nature of the security permits.

(2) No restriction on the transfer of a security issued by an Alberta private company applies to the transfer of the security by an agency under this Act.

(3) No restriction on the transfer of a security issued by a cooperative, other than a constraint under section 114 of the *Cooperatives Act*, applies to the transfer of the security by an agency under this Act.

RSA 2000 cC-15 s61;2001 cC-28.1 s448;2006 cS-4.5 s107

Liquidation procedure re non-market securities

62 The following applies only in respect of shares issued by an Alberta private company:

(a) where an Alberta private company has been served with a notice of seizure in respect of certain shares, the Alberta private company must so inform any person who requests information from the Alberta private company regarding the enforcement debtor's ownership of or ability to transfer those shares;

(b) on being instructed to sell seized shares, the agency shall serve a notice of intended sale on

(i) the Alberta private company,

(ii) any person who, to the knowledge of the agency, would have a preferential right to acquire the shares on a voluntary sale of the shares by the enforcement debtor, and

(iii) every registered shareholder of the Alberta private company, if there are not more than 15 registered shareholders;

(c) the notice of intended sale must set out the method of sale that the agency intends to follow in selling the shares;

(d) after complying with clause (b), the agency shall not take any further steps to sell the shares until 15 days have elapsed from the day that the notice was served under clause (b);

(e) the agency, subject to clause (f), must in selling shares use a method of sale that

(i) follows as closely as possible any procedure that the enforcement debtor would be required to follow in order to sell the shares, and

(ii) subject to subclause (i), provide to the Alberta private company and the existing shareholders of the Alberta private company a reasonable opportunity to buy or redeem the shares before they are offered for sale to any other person;

(f) the agency is not required to comply with clause (e) to the extent that the method of sale referred to in clause (e) would prevent the shares from being sold at all or prevent them from being sold within a reasonable time or for a reasonable price;

(g) a person who would otherwise be entitled to acquire or redeem the shares for a predetermined price or at a price fixed by reference to a predetermined formula is entitled to buy or redeem the shares from the agency for that price unless the Court determines that a sale at that price would unfairly prejudice the enforcement debtor or the enforcement creditors;

(h) at any time before the shares are sold by the agency, any person referred to in clause (b) may pay to the agency an amount sufficient to discharge all related writs and any outstanding fees or charges of the agency and the taxable fees and disbursements of the instructing creditor, and on paying that amount to the agency that person has a lien on the shares for the amount paid to the agency, plus interest;

(i) on application by the agency or any interested person, the Court may make any order that the Court considers appropriate regarding the method of liquidating seized shares, including an order doing one or more of the following:

(i) approving, with or without modification, or rejecting

(A) the method of sale proposed by the agency or by any other person,

(B) any proposed term of the sale, or

(C) any proposed method of realizing the value of the shares other than through sale;

(ii) suspending sale proceedings;

(iii) directing that the Alberta private company be liquidated and its proceeds disposed of according to law;

(j) if the agency has sent a notice of an intended sale to the persons mentioned in clause (b) and no application is made under clause (i) before the shares are sold, the method of sale set out in the notice of intended sale is deemed to have met the requirements of clause (e).

RSA 2000 cC-15 s62;2006 cS-4.5 s107

63 Repealed 2006 cS-4.5 s107.

Missing security certificate

64 Where

(a) liquidation of the enforcement debtor's interest in a security issued by an Alberta private company would ordinarily require presentation of a security certificate to the Alberta private company or a transfer agent of the Alberta private company,

(b) the security certificate appears to have been lost, destroyed or wrongfully taken, and

(c) the instructing creditor has made satisfactory provision for indemnification of the Alberta private company against any liability the Alberta private company may incur in respect of the security certificate,

the Court on application may require the Alberta private company to acknowledge a transfer or other disposition of the security without presentation of the security certificate.

RSA 2000 cC-15 s64;2006 cS-4.5 s107

Effect of transfer

65(1) In addition to any agreement to which a transferee is deemed by section 146 of the *Business Corporations Act* or Part 4, Division 10 of the *Cooperatives Act* to be a party, a transferee of a security from the agency is deemed to be a party to any shareholders' agreement regarding

(a) the management of the affairs of the Alberta private company, or

(b) the exercise of voting rights attached to the seized shares,

to which the enforcement debtor was a party at the time of the seizure and of which the transferee had knowledge at the time of the transfer if the shareholders' agreement contains provisions intended to have the effect of precluding the enforcement debtor from transferring the security except to a person who agrees to be a party to that shareholders' agreement.

(2) Notwithstanding subsection (1) of this section, Part 4, Division 10 of the *Cooperatives Act* and section 146 of the *Business Corporations Act*, the Court may grant a declaration that the transferee is not bound by a term or provision of any agreement, bylaw or article that discriminates against the transferee by reason of the transferee acquiring the securities through writ proceedings.

RSA 2000 cC-15 s65;2001 cC-28.1 s448;2006 cS-4.5 s107

66 Repealed 2006 cS-4.5 s107.

Part 7
Land

Applies to all land

67 For the purposes of enforcing a writ,

(a) all land of the enforcement debtor that is under the *Land Titles Act* is liable to sale under this Part, and

(b) all land of the enforcement debtor that is not under the *Land Titles Act* is, subject to the enactments governing that land, liable

(i) to sale, or

(ii) to be otherwise dealt with,

in accordance with the regulations.

1994 cC-10.5 s67

Instruction to sell

68 To initiate enforcement proceedings to sell land an enforcement creditor must provide to an agency instructions to sell the land and any relevant documents or information that are required by the agency.

1994 cC-10.5 s68

Method of sale

69 An agency may sell land by any method of sale that is commercially reasonable.

1994 cC-10.5 s69

Notice of intention to sell

70(1) Before selling land under this Act, an agency must give notice of intention to sell the land in accordance with the regulations.

(2) If an agency has given notice of intention to sell land, no other agency may give notice of intention to sell the same land while the original notice is still in effect.

(3) For the purposes of subsection (2), a notice of intention to sell remains in effect until

(a) the notice is withdrawn by the agency that gave it, or

(b) the Court on application by any interested person declares that the notice is no longer in effect.

RSA 2000 cC-15 s70;2002 c17 s1(11)

Growing crops

71 Growing crops may be sold as part of a sale of land under this Part if the notice of intention to sell states that the crops are to be sold along with the land.

1994 cC-10.5 s71

Waiting period

72(1) Once the regulations governing the giving of notice of intention to sell have been complied with, an agency shall not, unless otherwise permitted by the Court, offer the land for sale until a waiting period of 180 days has expired from the day that all the requirements of those regulations have been complied with.

(2) A Court may, subject to subsection (3), extend or shorten the 180-day waiting period.

(3) The Court may shorten the 180-day waiting period only if the Court is satisfied that the land is not exempt.

1994 cC-10.5 s72

Exemption

73(1) Before the expiration of the waiting period referred to in section 72, an enforcement debtor who is an individual may serve on the agency a written claim claiming an exemption under Part 10.

(2) Unless the Court orders otherwise, an enforcement debtor who serves a written claim in accordance with subsection (1) is presumed to be entitled to the applicable exemption under Part 10.

(3) Where an enforcement debtor does not within the waiting period referred to in section 72 serve on the agency a written claim under subsection (1), the enforcement debtor may not, without the permission of the Court, subsequently claim that the land is in whole or in part exempt.

(4) On the expiration of the waiting period referred to in section 72, the agency may offer the land for sale in accordance with the notice of intention to sell given under this Part.

RSA 2000 cC-15 s73;2014 c13 s18

Sale of land

74(1) At least 30 days before offering land for sale the agency must serve notice of the method of sale on the enforcement debtor and any other person specified by the regulations.

(2) In addition to any information prescribed by the regulations, the notice of the method of sale may set out the minimum price for which the agency proposes to sell the land.

(3) If the notice of the method of sale sets out the minimum price for which the agency proposes to sell the land, the following applies:

(a) the notice must state that any person who objects to the land being sold for the proposed minimum price must serve a notice of objection on the agency within 30 days from the day of being served with notice of the method of sale;

(b) if any person serves a notice of objection on the agency within the time mentioned in clause (a), the agency must not sell the land except on terms that are approved of by the Court;

(c) if a notice of objection is not served on the agency within the time mentioned in clause (a), the agency may, without an order of the Court, complete the sale of the land for a price that equals or exceeds the proposed minimum price.

(4) If the notice of the method of sale does not set out the minimum price for which the agency proposes to sell the land, the following applies:

(a) on entering into an agreement to sell the land, the agency must serve notice of the terms of the sale on

(i) every person who was served with notice of the method of sale, and

(ii) if the instructing creditor is the buyer, every other enforcement creditor with a related writ at the time that the notice is given;

(b) the notice of the terms of sale must state that any person who objects to the terms of the proposed sale must serve a notice of objection on the agency within 15 days from the day of being served with notice of the terms of sale;

(c) if a person serves a notice of objection on the agency within the time mentioned in clause (b), the agency shall not complete the sale unless authorized to do so by the Court;

(d) if a notice of objection is not served on the agency within the time mentioned in clause (b), the agency may, without an order of the Court, complete the sale.

1994 cC-10.5 s74

Transfer of land

75(1) On presentation to the Registrar of Land Titles of

(a) a transfer of land that is executed by the agency, and

(b) a certificate certifying that the agency has complied with the requirements of this Part and that

(i) a notice of objection to the sale was not served on the agency within the period of time prescribed under section 74, or

(ii) a notice of objection to the sale was served on the agency within the period of time prescribed under section 74 and that the Court has authorized the sale of the land,

the Registrar shall, subject to subsection (2), transfer the enforcement debtor's interest in the land to the transferee free of all writs that were registered against the enforcement debtor's interest in the land, but unless otherwise ordered by the Court, subject to any other encumbrances or interests that were registered against the enforcement debtor's interest in the land.

(2) Where an interest in land is sold pursuant to a Court order referred to in subsection (1)(b) or made under section 74(3)(b) or (4)(c), the Registrar shall not transfer the interest until the Registrar has been satisfied by the agency

(a) that all persons who have a right to appeal that order have given written undertakings not to appeal the order or, if the order has been appealed, not to take a further appeal, or

(b) in the case of the appropriate undertakings not being given under clause (a),

(i) that the order is no longer subject to an appeal, or

(ii) if the order has been appealed, that the appeal has been concluded and the order is no longer subject to a further appeal.

1994 cC-10.5 s75;1995 c23 s6(8)

Severance of joint tenancy, etc.

76(1) Writ proceedings against an enforcement debtor's interest as a joint tenant of land sever the joint tenancy when an agency has entered into an agreement to sell the debtor's interest.

(2) If a writ is registered against land in which an enforcement debtor holds an interest in joint tenancy and the enforcement debtor dies, the writ shall continue to bind the land in an amount equal to the lesser of

(a) the amount owing on the writ, and

(b) the value that the debtor's interest in the land would have been if the joint tenancy had been severed immediately before the debtor's death.

1994 cC-10.5 s76

Part 8
Garnishment

Interpretation

77(1) In this Part,

(a) "current obligation" means an obligation, or any portion of an obligation, that on the day of service of a garnishee summons on the garnishee

(i) is payable,

(ii) is payable on demand, or

(iii) is payable on satisfaction of a condition to which section 83(1) applies;

(a.1) "deposit account" means, notwithstanding section 1(1)(l), a chequing, savings, demand or similar account at a financial institution in Alberta, but does not include an account or arrangement under which money is deposited for a fixed term whether or not the term may be abridged, extended or renewed;

(b) "employment earnings" means wages, salary, commissions or remuneration for work by an individual however computed;

(c) "future obligation" means an obligation or any portion of an obligation that is not a current obligation and that

(i) will arise or become payable in certain circumstances or at a certain time or times under

(A) an existing agreement or trust,

(B) an issued security, or

(C) the will of a deceased person,

(ii) will arise or become payable in the ordinary course of events from an existing employment relationship,

(iii) is a statutory obligation that is likely to arise or become payable as a result of an event that has occurred, or

(iv) may arise or become payable in respect of an existing cause of action;

(d) "garnished obligation" means an obligation against which a garnishee summons has been issued;

(e) "garnishee" means a person on whom a garnishee summons is served for the purposes of attaching an obligation that is owed or may become owing by that person to an enforcement debtor;

(f) "garnishee summons amount" means

(i) the amount for which a garnishee summons was originally issued, or

(ii) where the garnishee has been served with a notice of a change in the amount referred to in subclause (i), the amount set out in that notice;

(g) "joint entitlement" means an obligation that is or will be owed to 2 or more persons jointly;

(h) "net pay" means, in respect of any month, the total employment earnings payable by an employer to a person in that month minus any deductions prescribed by regulation;

(i) "obligation" means a legal or equitable duty to pay money;

(j) "pay period" means a period at the end of which a person is entitled to be paid all or some portion of that person's employment earnings for that period;

(k) "security" has the meaning set out in section 56(1)(e);

(l) "statutory obligation" means an obligation imposed by an enactment.

(2) For the purposes of subsection (1)(c),

(a) a reference to an existing state of affairs or to an event that has taken place refers to a state of affairs or event that is existing or that has taken place when the relevant garnishee summons is served on the garnishee, and

(b) a reference to an existing agreement includes an agreement that amends or replaces an agreement that was existing when the relevant garnishee summons was served on the garnishee.

RSA 2000 cC-15 s77;2023 c5 s2

Irregularity

77.1 Notwithstanding the powers of the Court under section 5(2), a garnishee summons shall not be set aside for an irregularity unless in the opinion of the Court the irregularity has prejudiced the debtor or garnishee.

2009 c53 s2

General principles re garnishment

78 For the purpose of enforcing a writ by means of garnishment, the following applies:

(a) except as otherwise provided by this or any other enactment, any current obligation or future obligation is attachable by garnishment;

(b) an obligation that is evidenced by an instrument is not attachable by garnishment;

(c) a garnishee summons may be issued against more than one obligation;

(d) subject to the regulations, if a garnishee summons is in effect and another garnishee summons is issued against the same obligation, that subsequent garnishee summons is of no effect;

(e) a garnishee summons attaches the garnished obligation when the garnishee summons is served on the garnishee;

(f) an obligation that is owed to an enforcement debtor by a person carrying on business as a partnership within Alberta may be attached if the garnishee summons is served on the partnership within Alberta notwithstanding that one or more members of the partnership do not reside in Alberta;

(g) where a joint entitlement is owed to an enforcement debtor and any other person, a garnishee summons may be issued against that joint entitlement;

(h) a payment made by a garnishee in accordance with this Part or on a judgment granted under section 84 discharges the garnishee, to the extent of the payment, as against the enforcement debtor;

(i) a garnishee is entitled to a set-off to which the garnishee would have been entitled in the absence of garnishment proceedings if

(i) the right to the set-off already existed when the garnishee summons was served on the garnishee,

(ii) the right to the set-off arose after the garnishee summons was served on the garnishee but the set-off arose in consequence of an obligation entered into by the garnishee prior to service of the garnishee summons, or

(iii) it would be inequitable not to allow the set-off;

(j) money held in a court is not subject to garnishment;

(k) money that is attached by a garnishee summons must, subject to this Act, be paid into Court by the garnishee.

1994 cC-10.5 s78;1995 c23 s6(9)

When garnishee summons is in effect

79(1) Subject to subsection (2), a garnishee summons issued on or after the coming into force of this subsection expires 2 years from the day on which the summons was issued.

(2) Subject to section 83(2), where a garnishee summons is issued in respect of a deposit account, the garnishee summons expires 60 days from the day on which it was issued.

(3) A garnishee summons remains in effect until the earliest of the following occurs:

(a) the garnishee summons expires;

(b) the garnishee pays the garnishee summons amounts to the clerk who issued the garnishee summons;

(c) the enforcement creditor notifies the garnishee that the garnishee summons is no longer in effect;

(d) the garnishment proceedings are terminated by order of the Court.

RSA 2000 cC-15 s79;2002 c17 s1(12);2011 c20 s3

Discretionary exemption

80 Where the source of a garnished future obligation

(a) is property of the enforcement debtor, or

(b) is an agreement between the enforcement debtor and the garnishee,

the Court may exempt from attachment as much of the obligation as is required by the enforcement debtor to keep or maintain the property or to perform the agreement, as the case may be.

1994 cC-10.5 s80

Employment earnings

81(1) For the purposes of garnishing an enforcement debtor's employment earnings from the enforcement debtor's employer, the following applies:

(a) in any month during which a garnishee summons is in effect, the garnishee summons attaches the amount, if any, by which an enforcement debtor's net pay for the month exceeds the enforcement debtor's actual employment earnings exemption for the month;

(b) the employment earnings that are attached by a garnishee summons in any month must, at the end of the enforcement debtor's last pay period that ends during the month, be paid by the garnishee to the clerk who issued the garnishee summons;

(c) at the end of an enforcement debtor's last pay period for each month during which a garnishee summons is in effect, the garnishee shall deliver to the clerk who issued the garnishee summons a statement setting out

(i) the enforcement debtor's total employment earnings for the pay periods that ended during the month,

(ii) the number of the enforcement debtor's dependants, and

(iii) the particulars of any amounts deducted in calculating the enforcement debtor's net pay for the month;

(d) subject to clause (e), an enforcement debtor's actual employment earnings exemption for any month is the sum of

(i) the enforcement debtor's minimum exemption, and

(ii) one half of any amount by which the enforcement debtor's net pay exceeds the enforcement debtor's minimum exemption;

(e) an enforcement debtor's actual employment earnings exemption for any month shall not exceed the enforcement debtor's maximum exemption;

(f) an enforcement debtor's minimum and maximum employment earnings exemption for any month must be determined in accordance with the regulations;

(g) if the enforcement debtor earns employment income from more than one source, the Court on application may reduce or eliminate the enforcement debtor's actual exemption that is applicable to any source of employment income;

(h) if an enforcement debtor's employment earnings from a particular source vary substantially between months by reason that the enforcement debtor is paid

(i) at intervals in excess of one month,

(ii) at irregular intervals, or

(iii) in irregular amounts,

the Court on application may increase the minimum or maximum exemption for any particular month, so that the enforcement debtor's total exemptions over the course of the garnishment proceedings will approximate what they would have been if the enforcement debtor's employment earnings had been uniformly distributed over the relevant months;

(i) a garnishee's compensation for dealing with the garnishee summons as permitted under this Part must always be included in the calculation of the amount attached by a garnishee summons, but may actually be deducted from the enforcement debtor's employment earnings only where the debtor's net pay exceeds the enforcement debtor's actual exemption;

(j) the portion of an enforcement debtor's employment earnings that is exempt from garnishment and the portion that is attached by a garnishee summons issued in respect of a judgment for the payment of support, maintenance or alimony must be determined in accordance with the *Maintenance Enforcement Act*;

(k) an interruption of less than 60 days in an enforcement debtor's employment is not to be taken into account in determining the effect of a garnishee summons issued against the enforcement debtor's employment earnings.

(2) Sections 79(3)(b) and 80 do not apply to a garnishee summons issued against employment earnings.

RSA 2000 cC-15 s81;2002 c17 s1(13);2003 cF-4.5 s115;
2011 c20 s3

Registered plan payments

81.1(1) In this section,

(a) "registered plan" means

(i) a registered retirement savings plan as defined in section 146 of the *Income Tax Act* (Canada),

(ii) a registered retirement income fund as defined in section 146.3 of the *Income Tax Act* (Canada), or

(iii) a deferred profit sharing plan as defined in section 147 of the *Income Tax Act* (Canada);

(b) "registered plan payment" means a payment out of a registered plan.

(2) The Lieutenant Governor in Council may make regulations respecting the garnishing of an enforcement debtor's registered plan payments, including, without limitation, regulations respecting

(a) the determination of the amount of a registered plan payment that is attached by a garnishee summons, including the determination of any registered plan payment exemptions;

(b) when the amount that is attached by a garnishee summons is to be paid;

(c) information that must be provided by the garnishee to assist in determining the amount of a registered plan payment that is attached by a garnishee summons.

(3) Sections 79(3)(b) and 80 do not apply to a garnishee summons issued against registered plan payments.

(4) This section does not apply with respect to a maintenance order enforced under the *Maintenance Enforcement Act*.

2009 c18 s2

Joint entitlement

82 For the purposes of garnishing a joint entitlement in which an enforcement debtor has an interest, the following applies:

(a) on being served with a garnishee summons, the garnishee's response to the summons must include the names and addresses of the joint obligees other than the enforcement debtor;

(b) subject to clause (c), after a garnishee has responded to a garnishee summons, the instructing creditor must serve a copy of the garnishee summons and a notice of the garnishee's response on each joint obligee;

(c) if disclosure of a joint obligee's address would be unlawful or a breach of a legal duty owed by the garnishee to the obligee, the garnishee, instead of complying with clause (a), must

(i) serve the garnishee summons on the obligee, and

(ii) certify in the garnishee's response that the garnishee has done so;

(d) where a joint entitlement is owed to an enforcement debtor and any other person, it is presumed for the purposes of this Part that, subject to clauses (e), (f) and (g), an equal portion of the joint entitlement is owed to each joint owner;

(e) if, on an ex parte application by an enforcement creditor, it appears to the Court that the enforcement debtor may be beneficially entitled to a larger portion of the joint entitlement than is presumed under clause (d), the Court may require the garnishee to pay the larger portion to the clerk;

(f) if an amount is received by the clerk that is in excess of the portion of a joint entitlement that is attributed to the enforcement debtor under clause (d), that amount may not be distributed unless the Court is satisfied, on an application on notice to the other obligees, that the enforcement debtor is beneficially entitled to the excess amount;

(g) on the application of any interested person, the Court may determine the actual beneficial interest of each joint obligee;

(h) when money is received by the clerk in respect of a joint entitlement, that money shall not, unless the Court otherwise directs, be distributed until 30 days have expired from the day that the notice is served on all the joint obligees.

1994 cC-10.5 s82

Deposit accounts

83(1) For the purposes of determining whether a deposit account obligation has arisen or is payable, a condition of the account agreement

(a) that the account holder must apply in person to make or give notice before making a withdrawal, or

(b) that any person making a withdrawal must present a pass-book or other document to the garnishee,

is to be disregarded for the purposes of this Part.

(2) A garnishee summons that attaches a joint deposit account only attaches the portion of the joint entitlement that is a current obligation.

(3) Where the employment earnings of an enforcement debtor are paid directly into a deposit account by or on behalf of the enforcement debtor's employer, the enforcement debtor may apply to the Court for an order directing that the enforcement debtor be entitled to an employment earnings exemption similar to that which the enforcement debtor would have been entitled to if the employment earnings had been garnished from the employer.

(3.1) Where registered plan payments of an enforcement debtor are paid directly into a deposit account by or on behalf of the plan administrator, the enforcement debtor may apply to the Court for an order directing that the enforcement debtor be entitled to a registered plan payment exemption similar to that which the enforcement debtor would have been entitled to if the registered plan payments had been garnished under section 81.1.

(3.2) In subsection (3.1),

(a) "plan administrator" means

(i) an issuer of a registered retirement savings plan as defined in section 146 of the *Income Tax Act* (Canada),

(ii) a carrier of a registered retirement income fund as defined in section 146.3 of the *Income Tax Act* (Canada), or

(iii) a trustee of a deferred profit sharing plan as defined in section 147 of the *Income Tax Act* (Canada);

(b) "registered plan payment" means a registered plan payment as defined in section 81.1.

(4) The Court may on application make any order necessary to prevent a garnishee from being prejudiced by the operation of this section.

RSA 2000 cC-15 s83;2002 c17 s1(14);2009 c18 s3

Enforcement of garnishee's duties

84(1) Where a garnishee

(a) does not comply with any requirement of this Part, the Court may grant appropriate relief on the application of an enforcement creditor, or

(b) has failed to pay money to the clerk in accordance with this Part, the Court may grant judgment against the garnishee for the amount of the garnishee summons or a lesser amount as the Court considers appropriate in the circumstances.

(2) A judgment granted under subsection (1)(b) may be in the name of the creditor making the application but the judgment is for the benefit of all the enforcement creditors who would have shared in the distribution if the money had been paid to the clerk in accordance with this Part.

1994 cC-10.5 s84

Part 9
Receivers and Special Remedies

Court appointed remedies

85(1) Notwithstanding any rule of law or equity to the contrary, where certain exigible property of an enforcement debtor cannot otherwise be conveniently realized, the Court on the application of an enforcement creditor may do one or more of the following:

(a) appoint a receiver of the property;

(b) order the enforcement debtor or any person in possession or control of the property to deliver up the property to an agency or to another person named in the order;

(c) enjoin the enforcement debtor or any other person from disposing of or otherwise dealing with the property;

(d) make any other or additional order that the Court considers necessary or appropriate to facilitate realization of the property.

(2) Where the Court appoints a receiver under subsection (1), the Court may in the order direct that the order apply to property acquired by the enforcement debtor after the order is granted.

1994 cC-10.5 s85;1995 c23 s6(10)

Considerations re appointment of receivers

86 In determining whether to appoint a receiver under section 85, the Court must consider at least the following:

(a) whether it would be more practical to realize on the property through other proceedings authorized by this Act;

(b) whether the appointment of a receiver would be an effective means of realizing on the property;

(c) the probable cost of the receivership in relation to the probable benefits to be derived by the appointment of a receiver;

(d) whether the appointment of a receiver would cause undue hardship or prejudice to the enforcement debtor or a third person;

(e) the likelihood of the writs against the enforcement debtor being satisfied without resorting to the property in question.

1994 cC-10.5 s86

Receivers

87 With respect to receivers, the following applies:

(a) a person may not be appointed as a receiver unless that person

(i) has satisfied the qualifications, if any, set out in the regulations, and

(ii) has agreed in writing to act as a receiver in respect of the matter for which the appointment is to be made;

(b) the Court may give a receiver those powers that the Court considers necessary or appropriate for the realization of the property, including, without limiting the generality of the foregoing, the power to manage or sell the property or bring any proceedings in relation to the property;

(c) unless otherwise ordered by the Court, a receiver may take into the receiver's custody and control the property over which the receiver is being appointed.

1994 cC-10.5 s87;1995 c23 s6(11)

Part 10
Exemptions

Exempted property

88 Subject to section 89, the interest of an enforcement debtor in the following is exempt from writ proceedings:

(a) the food required by the enforcement debtor and the enforcement debtor's dependants during the next 12 months;

(b) the necessary clothing of the enforcement debtor and the enforcement debtor's dependants up to the value prescribed by the regulations;

(c) household furnishings and appliances up to the value prescribed by the regulations;

(d) one motor vehicle up to the value prescribed by the regulations;

(e) medical and dental aids that are required by the enforcement debtor and the enforcement debtor's dependants;

(f) in the case of an enforcement debtor whose primary occupation is farming, up to 160 acres of land if the enforcement debtor's principal residence is located on that land and that land is part of that enforcement debtor's farm;

(g) the principal residence of an enforcement debtor, including a residence that is a mobile home, up to the value prescribed by the regulations for that residence but if the enforcement debtor is a co-owner of the residence, the amount of the exemption allowed under this provision is reduced to an amount that is proportionate to the enforcement debtor's ownership interest in the residence;

(h) in the case of an enforcement debtor whose primary occupation is not farming, personal property up to the value prescribed by the regulations that is used by the enforcement debtor to earn income from the enforcement debtor's occupation;

(i) in the case of an enforcement debtor whose primary occupation is farming, the personal property that is necessary for the proper and efficient conduct of the enforcement debtor's farming operations for the next 12 months;

(j) any property as prescribed by the regulations.

RSA 2000 cC-15 s88;2002 c17 s1(15)

Property exempt up to the prescribed value

89(1) This section applies to property in which the enforcement debtor's interest is exempt from writ proceedings up to a prescribed value, but it does not apply to property where other property of the same description has been selected for exemption under section 90.

(2) Property to which this section applies may be sold in writ proceedings only if the proceeds of the sale exceed the total of any amounts that would be payable out of the proceeds in respect of the following:

(a) money payable under section 96(4);

(b) money payable to the enforcement debtor or a subordinate secured creditor or encumbrancer under section 98(1).

(3) A bailiff may seize personal property to which this section applies except where the bailiff knows or should reasonably know that the property could not be sold for more than the total of the amounts referred to in subsection (2).

(4) Notwithstanding sections 7 and 47, an agency whose bailiff has seized personal property under subsection (3) must release the property from seizure without delay on acquiring knowledge that the property cannot be sold for more than the total of the amounts referred to in subsection (2).

(5) An agency that sells property to which this section applies must deal with the proceeds in accordance with Part 11.

RSA 2000 cC-15 s89;2002 c17 s1(16)

Selection of property

90(1) If

(a) an enforcement debtor owns more than one item of a type of property for which there is an exemption under section 88, and

(b) the total value of the items exceeds the maximum prescribed value of the exemption for that type of property,

the enforcement debtor may select the items, up to the maximum prescribed value of the exemption, that will be exempt.

(2) If the enforcement debtor does not in a timely manner make a selection under subsection (1), the bailiff may select the items that are exempt.

1994 cC-10.5 s90

Determination of exemption

91 On application to the Court to determine whether property is exempt, the Court must make its determination on the basis of the circumstances that exist

(a) at the time of the seizure, in the case of personal property that has been seized, and

(b) at the time that the notice of intention to sell is given, in the case of enforcement against land.

1994 cC-10.5 s91

Estate

92(1) Where a debtor is deceased, the property of that debtor that would be exempt if the debtor were alive remains exempt from writ proceedings against the debtor's estate for the period of time that the property is required for the maintenance and support of the deceased debtor's dependants.

(2) For the purposes of section 90, if a debtor has died, the representative of the debtor's estate may make a selection of the property to be exempt.

1994 cC-10.5 s92;1996 c28 s9

Exemption of registered plans and registered disability savings plans

92.1(1) In this section,

(a) "beneficiary" with respect to a registered education savings plan means a beneficiary as defined in section 146.1 of the federal Act;

(a.1) "current obligation or future obligation" means a current obligation or future obligation within the meaning of section 77;

(b) "DPSP" means a deferred profit sharing plan as defined in section 147 of the federal Act;

(c) "enforcement process" means writ proceedings, attachment orders under Part 3 and any other pre-judgment and post-judgment remedies under any other enactment or law that may result in a money judgment, but does not include a remedy of a secured creditor enforcing the secured creditor's security;

(d) "federal Act" means the *Income Tax Act* (Canada);

(e) "plan holder" means

(i) with respect to an RRSP, an annuitant as defined in section 146 of the federal Act,

(ii) with respect to an RRIF, an annuitant as defined in section 146.3 of the federal Act,

(iii) with respect to a registered disability savings plan, a beneficiary within the meaning of section 146.4 of the federal Act, and

(iv) with respect to a DPSP, a beneficiary within the meaning of section 147 of the federal Act;

(e.1) "refund of payments" means a refund of payments as defined in section 146.1 of the federal Act;

(f) "registered disability savings plan" means a registered disability savings plan as defined in section 146.4 of the federal Act;

(f.1) "registered education savings plan" means a registered education savings plan as defined in section 146.1 of the federal Act;

(g) "registered plan" means a DPSP, an RRIF or an RRSP;

(h) "RRIF" means a registered retirement income fund as defined in section 146.3 of the federal Act;

(i) "RRSP" means a registered retirement savings plan as defined in section 146 of the federal Act.

(2) Property in a registered plan, including any current obligation or future obligation under the plan, is exempt from any enforcement process, but a payment out of a registered plan to a plan holder is not exempt.

(3) Property in a registered disability savings plan, including any current obligation or future obligation under the plan and any payments out of a registered disability savings plan to a plan holder are exempt from any enforcement process.

(3.1) Property in a registered education savings plan, including any current obligation or future obligation under the plan, and any payments, or refunds of payments, out of a registered education savings plan to or for a beneficiary to assist the beneficiary to further the beneficiary's education at a post-secondary school level are exempt from any enforcement process, but any other payments or refunds of payments out of a registered education savings plan are not exempt.

(4) For the purposes of subsection (2), a transfer of property held in one registered plan to another registered plan does not constitute a payment out of a registered plan.

(4.1) For the purposes of subsection (3.1), the following transfers do not constitute payments or refunds of payments out of a registered education savings plan:

(a) a transfer of property held in one registered education savings plan to another registered education savings plan as described in subsection 146.1(6.1) of the federal Act;

(b) a transfer of property held in a registered education savings plan to a registered disability savings plan pursuant to an election under subsection 146.1(1.1) of the federal Act;

(c) a transfer of property held in a registered education savings plan to an RRSP in respect of which subsection 204.94(2) of the federal Act applies.

(5) A transfer of property held in one registered plan to another registered plan does not constitute a fraudulent or preferential transfer under the *Fraudulent Preferences Act*.

(5.1) A transfer of property held in a registered education savings plan referred to in subsection (4.1) does not constitute a fraudulent or preferential transfer under the *Fraudulent Preferences Act*.

(6) This section does not apply to a contract of life insurance under Part 5 of the *Insurance Act* that is a registered plan or a registered education savings plan.

(7) This section does not apply to an enforcement process commenced in respect of a registered plan or registered disability savings plan before this section comes into force.

(8) This section does not apply to an enforcement process commenced in respect of a registered education savings plan before this subsection comes into force.

2009 c18 s4;2013 c23 s2

Non-applicability of Part

93 The exemptions set out in this Part do not apply to the following:

(a) to an enforcement debtor that is not an individual;

(b) to partnership property;

(c) to writ proceedings on a judgment for the payment of support, maintenance or alimony;

(d) to property that the enforcement debtor has abandoned;

(e) to writ proceedings on a money judgment arising out of an act for which the enforcement debtor has been convicted of an offence under the *Criminal Code* (Canada).

RSA 2000 cC-15 s93;2003 cF-4.5 s115

Part 11
Distributions

Definition

94 In this Part, "distributing authority" means

(a) in the case of writ proceedings other than garnishment, an agency, and

(b) in the case of garnishment, the clerk.

1994 cC-10.5 s94

Claim to be treated as a writ

95 For the purposes of this Part, a claim made against an enforcement debtor under an enactment other than this Act shall be treated in the same manner as a related writ if

(a) under that enactment

(i) the claim is deemed to be or is referred to as a writ of enforcement or it is otherwise indicated in that enactment that the claim is to be treated as a writ of enforcement, or

(ii) the person making the claim is deemed to be or is referred to as an enforcement creditor or it is otherwise indicated in that enactment that the person making the claim is to be treated as an enforcement creditor,

and

(b) the claim is registered in the Personal Property Registry.

1994 cC-10.5 s95

Applies to all distributions

96(1) All money that

(a) is realized through writ proceedings, or

(b) is otherwise received by an agency as a result of the existence of an enforcement debt,

must be dealt with in accordance with this Part.

(2) Where property that is bound by a writ is sold in distress proceedings under a landlord's right of distraint or in proceedings to enforce a security interest or encumbrance that has priority over the writ,

(a) if the property is sold by a distributing authority, this Part applies to any portion of the proceeds that exceeds the amount

(i) for which the landlord is entitled to distrain, or

(ii) that is necessary to discharge the security interest or encumbrance,

and

(b) if the property is sold pursuant to a judicial sale or by a person other than a distributing authority, any portion of the proceeds in excess of the amount necessary to discharge the security interest or encumbrance shall be paid to an agency.

(3) Nothing in this Part other than section 102 shall be construed so as to prejudice any right to money that is based on an interest, including a security interest or an encumbrance,

(a) in the money, or

(b) in the property from which the money is derived,

where that interest has priority over the relevant writs.

(4) Where a distributing authority receives money in which a person has a security interest or other interest that has priority over the claims of enforcement creditors, the distributing authority must pay to that person the money to which the person is entitled, and any money paid under this section does not form part of a distributable fund.

RSA 2000 cC-15 s96;2002 c17 s1(17)

Distributable fund

97 For the purposes of determining what constitutes a distributable fund, the following applies:

(a) subject to clauses (b) and (c), any money to which this Part applies constitutes a distributable fund when the money is received by a distributing authority;

(b) where this Act or an order of the Court requires that money that is received by a distributing authority not be distributed before a certain period of time elapses or a certain event occurs, that money constitutes a distributable fund only when the period elapses or the event occurs;

(c) money payable in accordance with section 96(4) or 98 does not constitute or form part of a distributable fund.

RSA 2000 cC-15 s97;2002 c17 s1(18)

Money derived from exempted property

98(1) A distributing authority that receives money that is exempt or that represents the proceeds of exempt property must make the following payments from the money:

(a) if the money is subject to a subordinate security interest or subordinate encumbrance or there is an enforcement creditor against whom the exemption does not apply,

(i) pay the prescribed amount of the exemption to the secured creditor, encumbrancer or enforcement creditor, as the case may be, or

(ii) if the amount owed to the secured creditor, encumbrancer or enforcement creditor is less than the prescribed amount of the exemption, pay the secured creditor, encumbrancer or enforcement creditor, as the case may be, the amount owed and pay the balance of the prescribed amount of the exemption to the enforcement debtor;

(b) if there is no creditor to whom clause (a) applies, pay the prescribed amount of the exemption to the enforcement debtor.

(2) After payment of the amounts required to be paid under subsection (1), any money remaining constitutes a distributable fund.

(3) Except where money that is paid to an enforcement debtor under subsection (1) is intermingled with other funds of the enforcement debtor, any money that is paid to an enforcement debtor under subsection (1), including any deposit account into which it is paid, is exempt for a period of 60 days from the day that the money is paid to the enforcement debtor.

RSA 2000 cC-15 s98;2002 c17 s1(19)

Eligible claims

99(1) The eligible claims against a distributable fund are

(a) the amounts outstanding on all related writs that are in force against the enforcement debtor, and

(b) the costs that the Court has directed to be paid out of the fund pursuant to section 103(2), if not otherwise included in an eligible claim.

(2) Subject to section 103(2), eligible claims against a distributable fund shall be identified and the amount of each claim fixed as of the date that the fund is constituted.

(3) Where the total amount of the eligible claims exceeds the amount of a distributable fund, the distributing authority must apply the distributable fund toward the claims in the following order of priority:

(a) repealed 2002 c17 s1(20);

(b) first, to other fees and expenses of a distributing authority that may be claimed against the enforcement debtor that were earned or incurred in connection with the enforcement measures that have produced the fund;

(c) second, to other costs that may be claimed against the enforcement debtor that were incurred by the instructing creditor in connection with the enforcement measures that have produced the fund and any other costs that the Court has directed to be paid out of the fund;

(d) third, to claims referred to in section 103(1);

(e) fourth, to eligible claims that by virtue of any other enactment or law in force in Alberta are entitled to priority over the eligible claims of enforcement creditors generally;

(f) fifth, to the balance of the instructing creditor's claim up to an amount not exceeding

(i) $2000, plus

(ii) after the payments referred to in clauses (a) to (e) are made, 15% of the amount by which the balance of the fund remaining exceeds $15 000;

(g) sixth, to all other eligible claims, including any unpaid balance of the instructing creditor's claim, on a prorated basis.

(4) Where a garnishee summons or other enforcement proceedings result in the distributing authority receiving distributable funds at different times, the total amount payable to the instructing creditor under subsection (3)(f) is limited to the amount that would have been payable under subsection (3)(f) if the several funds had been a single distributable fund.

RSA 2000 cC-15 s99;2002 c17 s1(20)

Distributable fund exceeds claims, etc.

100 Where the amount of the distributable fund from which eligible claims are to be paid is equal to or greater than the amount of the eligible claims against the distributable fund, the distributing authority must, from the distributable fund,

(a) first, pay the eligible claims, and

(b) second, on paying the eligible claims pursuant to clause (a), pay the remaining balance

(i) to the enforcement debtor, or

(ii) to any other person who is entitled to the money.

1994 cC-10.5 s100;1996 c28 s9

Claims exceed a distributable fund

101(1) Subject to subsections (1.1) and (1.2), where the amount of the distributable fund is less than the total amount of all eligible claims but is greater than the total amount distributable under section 99(3)(a) to (f), the following applies:

(a) the distributing authority must serve a statement setting out the proposed distribution on the enforcement debtor and on each of the enforcement creditors who have related writs at the time that the statement is given;

(b) if a person on whom a statement was served under clause (a) wishes to object to the proposed distribution of the distributable fund, that person must within 15 days from the day of being served with that statement serve on the distributing authority a written notice of the objection to the distribution;

(c) if an objection has not been made in accordance with clause (b) or any objection that is made is withdrawn,

(i) the statement of proposed distribution is final and conclusive as between all persons on whom the statement was served and the distributing authority, and

(ii) the distributing authority must distribute the fund in accordance with the statement of proposed distribution;

(d) a person who has made an objection in accordance with clause (b) is deemed to have withdrawn the objection unless, within 15 days from the day of serving the notice of objection on the distributing authority, that person

(i) files with the Court, and

(ii) serves on the distributing authority,

an application, returnable not more than 30 days from the day that the application is filed, for an order determining the matter in respect of which the objection was made;

(d.1) a person who has made an objection must, in accordance with the regulations and the *Alberta Rules of Court*, serve the application referred to in clause (d) on the persons interested in the matter;

(e) where an objection has been made in accordance with clause (b), the distributing authority must distribute in accordance with the proposed distribution as much of the fund as will not prejudice the effect of the objection if the objection is upheld by the Court.

(1.1) Where subsection (1) applies but there is only one eligible claim to which section 99(3)(g) would apply, the distributing authority must immediately distribute the fund in accordance with section 99(3).

(1.2) Where subsection (1) applies to a distributable fund that consists of money paid under a garnishee summons, the following applies:

(a) a statement of the proposed distribution that is served in accordance with subsection (1)(a) must set out

(i) the proposed distribution of the distributable fund, and

(ii) the method of determining the proportion of any distributable fund produced by the garnishee summons in the future that is to be paid to the instructing creditor and to other enforcement creditors;

(b) a distributing authority that has served a statement of proposed distribution in accordance with clause (a) is not required to serve another statement of proposed distribution in respect of a distributable fund produced by the garnishee summons in the future unless, at the time that the distributable fund is constituted, there are enforcement creditors with related writs who have not previously been served with that statement;

(c) if pursuant to clause (b) a distributing authority does not serve another statement of proposed distribution in respect of a distributable fund, the distributing authority must

(i) distribute the distributable fund as soon as possible after the fund is constituted, and

(ii) send to the enforcement debtor and to each person who receives a portion of the distributable fund a statement showing how the fund has been distributed.

(2) Where the amount of the distributable fund does not exceed the total amount distributable under section 99(3)(a) to (f), the distributing authority must as soon as possible distribute the fund in accordance with section 99(3).

(3) Notwithstanding subsections (1.1), (1.2) and (2), where a distributing authority has any doubt regarding the validity or priority of a claim, whether it is a claim of an enforcement creditor or otherwise, against money received by the distributing authority, the following applies:

(a) the distributing authority

(i) must serve a notice to that effect on the person asserting the claim, and

(ii) may serve that notice on any other persons as the distributing authority considers appropriate;

(b) the notice referred to in clause (a) must set out how the distributing authority proposes to distribute the money;

(c) subsection (1)(b) to (e) apply to a notice served under clause (a) as if that notice were a statement served under subsection (1).

RSA 2000 cC-15 s101;2002 c17 s1(21);2009 c53 s2

Liability

102 There is no liability accruing to a distributing authority for failing to distribute money to a creditor of an enforcement debtor if the creditor's claim is not registered in the Personal Property Registry at the time that the distributable fund is constituted.

1994 cC-10.5 s102

Funds protected by court proceedings

103(1) Where interpleader proceedings are taken by a distributing authority or an enforcement creditor, the eligible claims of creditors who agree to contribute on a prorated basis to the cost of contesting the adverse claim, to the extent that they are not entitled to a higher priority, have priority pursuant to section 99(3)(d) with respect to any portion of a distributable fund that results from or is preserved by the proceedings.

(2) The Court may direct that insofar as the costs, including costs on the basis of a lawyer's charges to a client, of proceedings referred to in subsection (1) are not paid by an adverse party, those costs must be paid out of a distributable fund that results from or is preserved by the proceedings.

RSA 2000 cC-15 s103;2009 c53 s2

Part 12
Distress

Distress by landlord

104 In carrying out a distress by a landlord for rent, the following applies:

(a) sections 34(2), 45, 46, 47(1) and 48 apply to the distress as if it were a seizure made pursuant to writ proceedings;

(a.1) section 47(2) and (3) apply to the distress as if it were a seizure made under writ proceedings, except that the notice of intention referred to in section 47(2) need only be served on the landlord and on any person who has given notice to the agency under section 48.1;

(b) a landlord shall not distrain for rent against personal property that belongs to any person other than the tenant or a person who is liable for the rent;

(c) clause (b) does not apply in favour of

(i) a person claiming title under or by virtue of writ proceedings against the tenant,

(ii) a person whose title is derived by purchase, gift, transfer or assignment, or otherwise, from the tenant, whether absolute or in trust,

(iii) a person who has a security interest in personal property on the premises other than a person who has a purchase-money security interest in the personal property as original collateral or as proceeds,

(iv) any person involved in a transaction involving the disposition of the tenant's property for the purpose of defeating the claim of or the right of distress by the landlord, or

(v) a relative of the tenant who lives on the premises as a member of the tenant's family;

(d) except in the case where a tenant has absconded or is about to abscond from Alberta without leaving in Alberta a spouse or an adult interdependent partner or any children under the age of majority,

(i) in the case of a residential tenancy, the property set out in section 88(a), (b), (c), (e), (h) and (i), and

(ii) in the case of a non-residential tenancy, the property set out in section 88(a), (b), (c), (e) and (i)

is exempt to a value not exceeding an amount prescribed by the regulations, and sections 89 to 92 apply in the same manner as if the tenant or the person who is liable for the rent were an enforcement debtor and the distress proceedings were writ proceedings.

RSA 2000 cC-15 s104;2002 cA-4.5 s24;
2002 c17 s1(22);2006 c4 s1

Distress by mortgagee, etc.

105(1) Notwithstanding any mortgage or any agreement relating to a mortgage, any distress carried out pursuant to the right of a mortgagee of land or the mortgagee's assigns to distrain for interest in arrears or principal due on a mortgage

(a) is limited to the personal property of the mortgagor or the mortgagor's assigns, and

(b) is subject to the exemptions allowed for personal property pursuant to section 104(d) in the same manner as if the mortgagor or the mortgagor's assigns were a tenant.

(2) Sections 45 to 48 apply to a distress under subsection (1) as if it were a seizure made pursuant to writ proceedings.

1994 cC-10.5 s105;1995 c23 s6(15)

105.1 and **105.2** Repealed 2006 c4 s1.

Part 13
Regulations and Rules of Court

Regulations

106(1) The Lieutenant Governor in Council may make regulations

(a) defining, for the purposes of this Act, any term that is not otherwise defined by this Act;

(b) prescribing those documents that must or, at the discretion of the person registering them, may be registered in the Personal Property Registry;

(c) governing documents, reports, notices, status reports, records and returns that are to be used under this Act;

(c.1) prescribing the purchase price amount and market value amount referred to in section 36(3);

(d) governing fees that may be charged or received in respect of any matter coming under this Act;

(e) prescribing and governing the determination of the value of property that is exempt;

(f) prescribing property as exempt for the purposes of section 88(j);

(g) governing the selection of exempt property by enforcement debtors and their representatives;

(h) governing the determination of persons who qualify as dependants for the purposes of this Act;

(i) prescribing persons who are to provide reports in respect of matters coming under this Act and the persons to whom the reports are to be made;

(j) subject to the provisions of this Act respecting the seizure of property, governing the carrying out of seizures and the removal, handling, storage and release of seized property;

(k) subject to the provisions of this Act respecting evictions and distraints, governing the carrying out of evictions and distraints;

(l) governing the determination of enforcement debtors' employment earnings exemptions;

(m) prescribing the deductions that are to be used in determining a person's net pay;

(n) governing the distribution of proceeds that arise from distress proceedings;

(o) subject to Part 7, governing procedures respecting enforcement against land;

(p) with respect to land that is not registered under the *Land Titles Act*,

(i) governing the registration, filing or recording of a writ for the purposes of this Act;

(ii) subject to any enactment, governing the binding of or the affecting of an enforcement debtor's interest in land;

(iii) modifying the operation of sections 26 and 68 to 76;

(iv) providing other provisions to operate in place of sections 26 and 68 to 76;

(v) providing for applications to the Court with regard to enforcement against land;

(vi) authorizing the Court, on application to approve a sale of land, to modify for the purposes of the sale the procedure set out in the provisions referred to in subclauses (iii) and (iv);

(vii) requiring that any order made pursuant to an application referred to in subclause (vi) be made subject to any provisions of any enactments or agreements governing the disposition of interests in land that is not under the *Land Titles Act*;

(q) subject to the provisions of this Act respecting agencies, bailiffs and receivers, governing

(i) the agreements entered into under section 9;

(ii) the appointments and the suspensions and revocations of appointments of bailiffs and receivers;

(iii) the qualifications of agencies, bailiffs and receivers;

(iv) the carrying out of the duties and functions of agencies, bailiffs and receivers;

(v) the records, reports and information to be maintained, held in confidence and released, as the case may be, by agencies, bailiffs and receivers;

(vi) the handling, holding and distribution of property and funds by agencies, bailiffs and receivers;

(vii) the supervision and inspection of agencies, bailiffs and receivers and their operations;

(viii) the security and indemnification to be provided to agencies, bailiffs and receivers;

(r) for the purposes of section 59(2), governing the extent to which an intermediary may enforce a security interest or lien;

(s) subject to section 28, prescribing the period of time during which the registration of the writ in the Personal Property Registry remains in effect;

(t) governing the circumstances under which section 54(b) may be used for the seizure of serial number goods;

(u) notwithstanding anything in this Act, providing for and governing

(i) the carrying out of any functions under this Act by electronic means, and

(ii) the creation, registration, service, transmittal, storage, recording, presentation and handling of documents under this Act by electronic means.

(2) Where this Act states that a document is to contain certain information or statements, the regulations may require the documents to contain information or statements that are additional to those required by this Act.

(3) The Lieutenant Governor in Council may make regulations

(a) governing

(i) the service or giving of documents under this Act, and

(ii) when notices or other documents are considered to have been given for the purpose of determining whether a person has a related writ;

(b) governing the circumstances in which applications to the Court may be made for the purposes of this Act and the relief that may be granted in respect of those applications;

(c) subject to any provisions of this Act respecting writs, governing

(i) the determination of amounts that remain outstanding or otherwise owing on writs;

(ii) the period of time within which a writ may be issued by the clerk;

(iii) the period of time during which a writ remains in force;

(iv) the renewal of writs;

(v) the amending of writs;

(d) governing the examination of and information to be provided by persons for the purposes of

(i) determining or verifying the identity of an enforcement debtor, and

(ii) determining the ability of

(A) an enforcement debtor to satisfy the claims of an enforcement creditor, and

(B) a person who is subject to the right of distress to satisfy the claim of a person who has the right of distress;

(e) subject to the provisions of this Act respecting garnishment, governing

(i) the issuing and service of garnishee summons;

(ii) the time at which a garnishee summons attaches a current obligation or future obligation;

(iii) the amount payable under a garnishee summons;

(iv) the payment of money into Court by a garnishee;

(v) the information to be provided by a garnishee;

(vi) the amount payable to a garnishee as compensation for carrying out the garnishee's duties;

(vii) the liability incurred for not complying with a garnishee summons and the provisions of this Act governing garnishment;

(viii) the handling of funds received under garnishment;

(ix) the provision of information by the clerk;

(x) the making of objections with respect to garnishment;

(xi) the garnishment, when a garnished obligation arises or becomes payable on the satisfaction of a condition;

(xii) the renewal of garnishee summonses;

(xiii) the disclosure by the garnishee of the address of the enforcement debtor;

(f) for the purposes of Division 2 of Part 6, prescribing

(i) the circumstances in which service of a notice of seizure on a transfer agent of an issuer constitutes service on the issuer, and

(ii) the duties of the transfer agent when served with a notice of seizure;

(g) prescribing, with respect to an issuer or intermediary under Division 2 of Part 6 or with respect to a garnishee,

(i) a grace period following service of a notice of seizure on an issuer or intermediary or a garnishee summons on a garnishee during which the issuer, intermediary or garnishee is not subject to the duties that would otherwise arise by virtue of that service, and

(ii) the conditions, if any, that must be met for an issuer, intermediary or garnishee to receive the benefit of the grace period;

(h) governing the enforcement of an order of possession and the disposition of any personal property removed from a location or premises.

RSA 2000 cC-15 s106;2009 c53 s2;2011 c14 s4;2023 c5 s2

Forms

106.1 The Minister may make regulations respecting forms for the purposes of this Act.

2011 c14 s4

107 Repealed 2009 c53 s2.

Part 14
Transitional

Deemed references

108(1) Any reference in any enactment or document

(a) to an execution creditor is deemed to also be a reference to an enforcement creditor;

(b) to an execution debtor is deemed to also be a reference to an enforcement debtor;

(c) to an execution is deemed to also be a reference to a writ proceeding;

(d) to a writ of execution is deemed to also be a reference to a writ of enforcement.

(2) Any reference in an enactment or document to

(a) the *Execution Creditors Act*, RSA 1980 cE-14, or a provision of that Act,

(b) the *Exemptions Act*, RSA 1980 cE-15, or a provision of that Act,

(c) the *Seizures Act*, RSA 1980 cS-11, or a provision of that Act, or

(d) the Garnishee Rules under the *Alberta Rules of Court* or a provision of those Rules as they existed immediately prior to January 1, 1996,

is deemed to be a reference to this Act or the corresponding or similar provision of this Act, as the case may be.

1994 cC-10.5 s108

Province of Alberta

CIVIL ENFORCEMENT ACT

CIVIL ENFORCEMENT REGULATION

Alberta Regulation 276/1995

With amendments up to and including Alberta Regulation 84/2025

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

(Consolidated up to 84/2025)

ALBERTA REGULATION 276/95

Civil Enforcement Act

CIVIL ENFORCEMENT REGULATION

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Definitions

1 In this Regulation,

(a) "Act" means the *Civil Enforcement Act*;

(b) "agency" means a civil enforcement agency;

(c) "bailiff" means a civil enforcement bailiff;

(c.1) "fax" means a machine or device that electronically transmits a copy of a document, picture or other printed material by means of a telecommunication system;

(c.2) "recorded mail" means recorded mail as defined in the *Alberta Rules of Court*;

(d) "Registry" means the Personal Property Registry.

(e) repealed AR 116/2010 s2.

AR 276/95 s1;116/2010

Definitions re the Act

2 For the purposes of the Act, "seizure documents" means

(a) the warrant under which the seizure or distress is carried out,

(b) the Notice of Seizure of Personal Property and Addendum, where applicable,

(c) the Notice of Objection where applicable, and

(d) the Information for Debtor where the seizure is conducted pursuant

(i) to writ proceedings, or

(ii) to distress proceedings by a landlord.

AR 276/95 s2;203/2002

Purchase price and market value limit

2.1 For the purposes of section 36(3) of the Act, the prescribed amount for the purchase price and the market value is $1500.

AR 71/2023 s2

Forms

3(1) The forms set out in Schedule 4 are to be used for the purposes of carrying out seizures, evictions, sales and distributions under the Act.

(2) The undertaking referred to in section 13(2)(i) of the Act shall be in the form set out in Schedule 4.

Part 1
Civil Enforcement Agencies, Bailiffs and Receivers

Division 1
Business of Agencies and Bailiffs

Address for service

4 An agency must maintain

(a) an address for service in Alberta,

(b) a fax number of a receiving fax that is located in Alberta by which documents may be served on the agency, and

(c) an e-mail address by which documents may be served on the agency.

AR 276/95 s4;116/2010;221/2017

Information on documents, etc.

5 Where an agency provides a written document, letter or form, or similar material, to any person, the agency must set out on that document, letter, form or material the agency's

(a) name, address, e-mail address, telephone number and fax number, and

(b) address for service, if the agency's address for service is not the same as the agency's address.

AR 276/95 s5;116/2010;221/2017

Fees

6(1) An agency

(a) must provide to the sheriff a current tariff of fees setting out the fees that the agency charges for carrying out a duty or function under the Act,

(b) is only eligible to charge a fee for carrying out a duty or function if a fee for carrying out that duty or function is set out in the agency's tariff of fees that is provided to the sheriff, and

(c) shall not charge a fee for carrying out a duty or function other than the fee set out in the agency's tariff of fees that is provided to the sheriff.

(2) An agency may change its tariff of fees that the agency has provided to the sheriff by providing the sheriff with an amended or new tariff of fees.

(3) An agency's tariff of fees or an amendment to an agency's tariff of fees is not effective until it is actually received by the sheriff.

Review of account

6.1(1) An enforcement debtor or a creditor of an enforcement debtor may request a review officer to review the account of an agency.

(2) A request for review under subsection (1) must be made within 6 months from the day that the statement of account was received by the enforcement debtor.

(3) On receiving a request for review under subsection (1), the review officer shall grant an appointment for the review of the account.

(4) On service of a notice of the appointment for the review of the account on the agency, the review officer must,

(a) on the payment or tendering of the fees to the review officer, review the account presented to the review officer, and

(b) if requested to do so, provide a certificate of the review setting out the amount reviewed.

(5) Part 10 of the *Alberta Rules of Court* applies with any necessary modifications to the review of an account under this section.

AR 116/2010 s5

Reports

7 Where a bailiff

(a) has seized or removed property or attempted to seize or remove property,

(b) has carried out or attempted to carry out an eviction, or

(c) has enforced or attempted to enforce an order of the Court,

the bailiff must complete a Bailiff's Report and Addendum, where applicable, in the form set out in Schedule 4 and provide to the instructing creditor a copy of that report and the agency's statement of account for the services rendered.

Carrying out seizures and evictions

8(1) Unless otherwise ordered by the Court, an agency shall not carry out or attempt to carry out a seizure or eviction or a removal of seized property at a residence between the hours of 10 p.m. and the following 6 a.m.

(2) On effecting a seizure in respect of writ proceedings or landlord distress proceedings, a bailiff must provide to the person whose property was seized an Information for Debtor form as set out in Schedule 4.

(3) A seizure of property shall not be conducted under section 54(b)(i) of the Act unless

(a) a bailiff has attempted to effect the seizure under section 45 of the Act and has failed to do so

(i) because the property to be seized is not reasonably accessible due to weather conditions or the location of the property, or

(ii) because of concerns respecting the safety of the property or of the bailiff,

or

(b) an agency has reasonable grounds for believing that

(i) an attempt to seize the property under section 45 of the Act would likely be unsuccessful due to a reason referred to in clause (a), or

(ii) seizing the property under section 54(b)(i) of the Act rather than section 45 of the Act would likely result in a substantial saving in the overall cost of the seizure proceedings.

(4) Where a seizure is conducted under section 54(b)(i) of the Act, the agency must attach to the seizure documents served under section 54(b)(ii) of the Act a statement

(a) stating that the seizure was not effected under section 45 of the Act, and

(b) setting out the reasons or circumstances referred to in subsection (3) as to why the seizure was not effected under section 45 of the Act.

AR 276/95 s8;103/2005

Access to motor vehicle information

8.1(1) In this section,

(a) "motor vehicle information" means personal driving and motor vehicle information as defined in section 8(1)(a) of the *Traffic Safety Act*;

(b) "Registrar" means the Registrar as defined in the *Traffic Safety Act*.

(2) Motor vehicle information may be released by the Registrar under the *Access to Motor Vehicle Information Regulation* (AR 140/2003) to agencies and bailiffs for the purpose of carrying out seizures of personal property under the Act.

AR 82/2004 s2

Landlord's powers

9 Nothing in the Act shall be construed so as to restrict a landlord from

(a) re-entering and taking physical possession of leased premises, or

(b) taking steps to deny access to leased premises,

pursuant to a lease where the exercise of those powers does not involve the physical removal of the tenant.

Indemnification

10(1) In this section, "agency" includes a bailiff and any other person acting on behalf of an agency.

(2) Any agreement or arrangement entered into between an agency and a creditor in respect of

(a) a seizure of property,

(b) the removal, handling, storage or release of seized property,

(c) evictions,

(d) distress proceedings,

(e) distribution of proceeds, or

(f) any other duty or function that an agency may carry out under the Act

must not purport to exclude or restrict the agency's liability for or indemnify an agency against the negligence or wilful misconduct by the agency.

(3) If an agreement or arrangement entered into between an agency and a creditor in respect of any matter referred to in subsection (2)(a) to (f) contains any provision that

(a) purports to exclude or restrict or has the effect of excluding or restricting the agency's liability for, or

(b) purports to indemnify or has the effect of indemnifying an agency against liability for

negligence or willful misconduct by the agency, that provision is void.

Distribution re distress

11(1) Proceeds arising from landlord distress proceedings shall be distributed in the following manner:

(a) first, to the fees and expenses earned or incurred by a distributing authority in connection with the distress;

(b) second, to the costs incurred by the landlord in connection with the carrying out of the distress, and any other costs that the Court has directed to be paid out of the proceeds;

(c) third, to the landlord's claim;

(d) fourth, subject to section 96(2) of the Act, to the person against whom the distress was carried out.

(2) Nothing in this section shall be construed so as to prejudice any right to money that is based on an interest, including a security interest or an encumbrance,

(a) in the money, or

(b) in the property from which the money is derived,

where that interest has priority over the right to realize on the property seized under the distress proceedings.

Code of Conduct

12 In carrying out their duties and functions,

(a) agencies must comply with the Code of Conduct for Civil Enforcement Agencies set out in Schedule 1, and

(b) bailiffs must comply with the Code of Conduct for Civil Enforcement Bailiffs set out in Schedule 2.

Reports registered in Registry

13(1) An agency must,

(a) within 3 days from the day of conducting a seizure, register in the Registry a report in a form acceptable to the sheriff setting out the details of the seizure;

(b) within 10 days from the day of disposing of or releasing from seizure personal property that has been seized, amend, in a form acceptable to the sheriff, the registration referred to in clause (a) setting out the details of the disposition or release from seizure of the property;

(c) within 3 days from the day of conducting a distribution of funds, amend, in a form acceptable to the sheriff, the registration referred to in clause (a) setting out the details of the distribution of the funds.

(2) For the purposes of determining time periods under subsection (1), Saturdays and holidays are to be excluded when making the determination.

AR 276/95 s13;203/2002

Distribution of funds

14(1) Within 30 days from the day that money becomes a distributable fund, the agency must serve, in any manner permitted under section 35.05 or 35.06, a proposed distribution under Part 11 of the Act.

(2) If

(a) there are no objections to a proposed distribution referred to in subsection (1), or

(b) there were objections to a proposed distribution referred to in subsection (1) but the objections were abandoned or were withdrawn or deemed to be withdrawn,

the agency must make the distribution forthwith.

(3) Within 30 days from the day of acquiring the proceeds that arise from distress proceedings, the distributing authority must distribute the proceeds.

AR 276/95 s14;116/2010

Discharge of process

15(1) Where an agency has carried out a distribution, the agency must, within one year from the day of completing the distribution, register in the Registry a discharge of all of the reports registered in the Registry under section 13.

(2) Where an agency that has a debtor's property under seizure releases that property from seizure, the agency must, as soon as practicable after that property has been released from seizure, notify the debtor that the debtor's property has been released from seizure.

AR 276/95 s15;203/2002

Records re civil enforcement proceedings

16 An agency must maintain an accurate and complete record that is satisfactory to the sheriff of all matters in respect of civil enforcement proceedings in which the agency was involved.

Financial records

17 An agency must maintain financial records satisfactory to the sheriff.

Deposit, withdrawal and payment of money

18(1) Where an agency receives money in respect of civil enforcement proceedings, the agency must within 3 days from the day of receiving that money deposit that money in a trust account maintained in a bank, treasury branch, loan corporation, trust corporation or credit union at an office that is located in Alberta.

(2) An agency shall not withdraw money from a trust account except for the following purposes:

(a) a distribution made pursuant to the Act;

(b) the payment to the agency of fees and disbursements to which the agency is entitled;

(c) the correction of an error caused by money being deposited in the trust account by mistake;

(d) the return of all or part of a deposit provided by an instructing creditor;

(e) any other payment that is required under law.

Records to be maintained

19(1) For a period of time prescribed or otherwise approved by the sheriff an agency must maintain at a location approved by the sheriff and in a format approved by the sheriff all of the agency's files, records, documents and other things created or received while engaged in the business of an agency.

(2) An agency must during normal business hours of the agency provide public access to all of the files, records, books, papers, documents and other things referred to in subsection (1), unless otherwise directed by the sheriff.

AR 276/95 s19;116/2010

Monthly report

20 An agency must, within the time prescribed by the sheriff, provide to the sheriff monthly reports that are satisfactory to the sheriff.

Division 2
Appointment of Bailiffs

Definition

21 In this Division, "appeal panel" means the persons designated by the Minister to conduct an appeal under this Division.

Application

22(1) An application for appointment as a bailiff must be made in a form acceptable to the sheriff and be accompanied by

(a) a non refundable fee of $400, and

(b) an affidavit of the applicant in the form set out in Schedule 3.

(2) The sheriff may

(a) with respect to a person who has applied for appointment as a bailiff, make whatever inquiry and investigation that the sheriff considers appropriate, and

(b) make or refuse to make the appointment when in the opinion of the sheriff that action is in the public interest.

(3) A person shall not be appointed as a bailiff unless that person has

(a) to the satisfaction of the sheriff, completed training and passed an examination approved by the sheriff,

(b) entered into any agreement, undertaking or other arrangement as may be required by the sheriff,

(c) provided to the sheriff a current criminal record check, and

(d) provided to the sheriff either a fingerprint check in respect of that person or an undertaking to provide a fingerprint check within a time to be specified by the sheriff.

AR 276/95 s22;203/2002;103/2005;116/2010;84/2025

Term of appointment, etc.

23(1) The appointment of a bailiff expires 2 years from the day that the appointment comes into effect, unless cancelled sooner.

(2) The appointment of a bailiff is not in effect during the time that the bailiff is not employed by or otherwise providing services for an agency.

Renewal of appointment

24(1) An appointment of a bailiff may be renewed for further periods of 2 years each.

(2) Where a bailiff wishes to renew that bailiff's appointment, the bailiff must, not less than 30 days prior to the expiration of that appointment, forward to the sheriff

(a) an application for a renewal of the bailiff's appointment in a form acceptable to the sheriff, and

(b) a renewal fee of $200.

AR 276/95 s24;203/2002;84/2025

Ongoing training

25 As a condition of a person maintaining that person's appointment as a bailiff, the sheriff may from time to time require that person to take ongoing training as may be prescribed by the sheriff.

Suspension, etc. of appointment

26 At the discretion of the sheriff, the sheriff may suspend or cancel an appointment of a bailiff if the bailiff

(a) is convicted of an indictable offence;

(a.1) is convicted of an offence for which the Crown had the option of proceeding summarily or by indictment;

(b) is convicted of a contravention of the Act or an offence under any law concerning fraud, breach of trust or intentional bodily injury;

(c) fails in the opinion of the sheriff to comply with any provision of the Code of Conduct for Civil Enforcement Bailiffs;

(d) fails to pay a judgment for damages sustained by reason of an act or omission arising from the duties, functions or responsibilities of the bailiff;

(e) has made an untrue statement in the application for appointment as a bailiff;

(f) fails to comply with a written direction of the sheriff;

(g) is not in the opinion of the sheriff a fit and proper person to hold an appointment as a bailiff;

(h) fails to take ongoing training as required by the sheriff;

(i) fails to comply with an undertaking provided under section 22(3)(d).

AR 276/95 s26;103/2005;116/2010

Notification

27 When the sheriff

(a) refuses to issue or renew a person's appointment as a bailiff, or

(b) has cancelled or suspended or proposes to cancel or suspend a person's existing appointment as a bailiff,

the sheriff must inform that person by registered mail of the sheriff's decision.

Review of sheriff's decision

28(1) On receiving the sheriff's decision, the person in respect of whom the decision was made may, not later than 30 days from the day that the sheriff sent the notification of the sheriff's decision to that person, submit in writing a request to the sheriff that the decision be reviewed by the sheriff.

(2) Where a person requests a review under subsection (1), that person may in respect of that review make any submissions or submit any material that the person considers relevant to the matter being reviewed.

(3) When requested to conduct a review of a decision, the sheriff must, within 30 days from the day that the request for a review was received by the sheriff,

(a) consider any additional information and material provided,

(b) review the reasons on which the original decision was based, and

(c) by registered mail inform the person who requested the review of the sheriff's decision on the review.

AR 276/95 s28;203/2002

Appeal

29(1) When the sheriff has conducted a review under section 28 and given a decision on the review, the person who requested the review may appeal that decision to an appeal panel by serving a notice of appeal on the sheriff not later than 15 days from the day that the notice of the sheriff's decision was given.

(2) The notice of appeal must set out the grounds on which the appeal is based.

(3) Within 30 days from the day that the sheriff was served with a notice of appeal, the Minister must appoint an appeal panel to hear the appeal.

(4) The appeal panel may

(a) confirm, reverse or vary the decision of the sheriff, and

(b) make any decision with respect to the subject-matter of the appeal that the sheriff was entitled to make in the first instance.

(5) The appeal panel must inform the appellant by registered mail of the decision of the appeal panel.

Address to which material may be sent

30 Where a decision or other material is to be sent to a person by the sheriff or an appeal panel, that decision or other material may be sent to that person at that person's latest address known to the sheriff or the appeal panel.

When appointment is suspended

31(1) If a person's appointment as a bailiff is suspended or cancelled or the person ceases to be employed as a bailiff by or under contract to any agency, that person

(a) must return to the sheriff the bailiff's identification card and badge issued to that person, and

(b) shall not carry out any of the duties or functions of a bailiff.

(2) When an appointment has been cancelled, it cannot be reactivated except through a new application and the payment of the required fee.

Division 3
Receivers

Receivers

32 Only the following persons are eligible to be appointed as receivers under the Act:

(a) a licensed trustee in bankruptcy;

(b) a person, other than a licensed trustee in bankruptcy, who

(i) to the satisfaction of the Court, is qualified to carry out the functions and duties of a receiver in the circumstances for which the receiver is being appointed, and

(ii) provides such security as may be required by the Court.

Duties of receiver

33(1) Unless otherwise ordered by the Court, a receiver must do the following:

(a) take custody and control of the property that is subject to the receivership;

(b) hold in a trust account all money coming under the receiver's control through the receivership;

(c) keep detailed records, in accordance with accepted accounting practices, of all receipts, expenditures and transactions involving the property that is subject to the receivership;

(d) at least once in every 180-day period after the receiver's appointment, file with the clerk of the Court financial statements of the receiver's administration;

(e) on completion of the receiver's duties, file with the clerk of the Court a final account of the receiver's administration.

(2) Where a receiver has filed a financial statement or a final account, as the case may be, with the clerk of the Court under subsection (1)(d) or (e), the receiver must, within 15 days from the day of that filing, register in the Registry a notice that the financial statement or the final account, as the case may be, has been filed with the clerk of the Court.

Inspection of records

34(1) An enforcement debtor, an enforcement creditor or an agency may, by a request in writing served on a receiver, require the receiver to make the following documents and material available for inspection during normal business hours at the place of business in Alberta of the receiver:

(a) the records referred to in section 33(1)(c);

(b) the financial statements referred to in section 33(1)(d);

(c) the final account referred to in section 33(1)(e).

(2) Unless otherwise ordered by the Court, a receiver must comply with a request made under subsection (1) within 15 days from the day of being served with the request.

Distribution of proceeds

35 Where a receiver liquidates property that is subject to the receivership, the receiver shall, unless otherwise ordered by the Court, distribute the proceeds from the property in the same manner as if the receiver were a distributing authority under Part 11 of the Act.

Part 1.1
Writs and Service of Documents

Changes of name

35.01 Where the name shown on a judgment or writ of a person who is entitled to enforce the judgment or writ is incorrect or has changed, the clerk may, without an order of the Court, issue a writ or amend a writ that has already been issued so that the person is properly named in the writ.

AR 116/2010 s10

Clerical errors

35.02 Where there is a clerical error on a writ, the clerk may, without an order of the Court, correct the error on the face of the writ.

AR 116/2010 s10

Court order

35.03(1) A party claiming to be entitled to enforce a judgment may apply to the Court for an order directing one or more of the following:

(a) that a writ be issued showing the proper name of the judgment debtor where the judgment debtor's name as shown on the judgment is not the judgment debtor's proper name;

(b) that a change be made to a writ;

(c) that a new writ be issued;

(d) that any issue or question necessary to determine the rights of the parties be decided in any way in which a question in an action may be decided.

(2) An application referred to in subsection (1) may be made ex parte unless the Court directs otherwise.

AR 116/2010 s10

Amendment of writ

35.04 If a writ of enforcement has been issued for costs that are reduced on appeal, the writ of enforcement shall be returned to the court clerk who issued it for amendment in accordance with the order made on the appeal.

AR 116/2010 s10

Service of documents

35.05(1) In this Part and Parts 3 and 4, "document" means a document or notice that is issued or granted in respect of matters under the Act or this Regulation.

(2) Unless the Act or this Regulation expressly requires otherwise, a document that is to be served by one party on another party under the Act or this Regulation may be served or delivered by any method of communication that is

(a) appropriate for the type of document, and

(b) a normal method of communication between the parties,

including ordinary mail, fax, e-mail or recorded mail.

(3) For the purposes of subsection (2), communication by fax or e-mail is a normal method of communication between the parties if

(a) previous communications have been sent or received by that method, or

(b) the intended recipient of the communication has provided a fax number or an e-mail address to the sender.

(4) The Court or an agency may be served by fax or e-mail only if the court clerk or an officer of the agency has consented in writing to be served by that method in respect of the matter to which the document to be served pertains.

(5) A document may be served on an individual who is not required to be served by another method under this Part

(a) by being left with the individual, or

(b) by being sent by ordinary or recorded mail addressed to the individual.

(6) A document may be served on a corporation

(a) by being sent to or left with

(i) an officer of the corporation who appears to have management or control responsibilities with respect to the corporation, or

(ii) an individual who appears to have management or control responsibilities with respect to the corporation at its principal place of business or activity in Alberta, or at the corporation's place of business or activity in Alberta where the claim arose,

or

(b) by being sent by ordinary or recorded mail, addressed to the corporation, to the corporation's principal place of business or activity in Alberta.

(7) A document may be served on a limited partnership

(a) by being sent to or left with

(i) a general partner who is an individual, or

(ii) an individual who appears to have management or control responsibilities with respect to the limited partnership at its principal place of business or activity in Alberta, or at the limited partnership's place of business or activity in Alberta where the claim arose,

or

(b) by being sent by ordinary or recorded mail, addressed to the limited partnership, to the limited partnership's principal place of business or activity in Alberta.

(8) A document may be served on a partnership other than a limited partnership

(a) by being sent to or left with

(i) a partner who is an individual, or

(ii) an individual who appears to have management or control responsibilities with respect to the partnership at its principal place of business or activity in Alberta, or at the partnership's place of business or activity in Alberta where the claim arose,

or

(b) by being sent by ordinary or recorded mail, addressed to the partnership, to the partnership's principal place of business or activity in Alberta.

(9) A document may be served on an individual carrying on business or operating or engaging in an activity under another name

(a) by being sent to or left with

(i) the individual, or

(ii) an individual who appears to have management or control responsibilities with respect to the business, operation or activity at its principal place of business, operation or activity in Alberta, or at the individual's place of business, operation or activity in Alberta where the claim arose,

or

(b) by being sent by ordinary or recorded mail, addressed to the business or operating name, to the business, operation or activity's principal place of business or activity in Alberta.

(10) A document may be served on a corporation carrying on business or operating under a name other than its own

(a) by being sent to or left with

(i) an officer of the corporation who appears to have management or control responsibilities with respect to the corporation, or

(ii) an individual who appears to have management or control responsibilities with respect to the corporation at its principal place of business, operation or activity in Alberta, or at the corporation's place of business, operation or activity in Alberta where the claim arose,

or

(b) by being sent by ordinary or recorded mail, addressed to the business or operating name of the corporation, to the corporation's principal place of business or operation in Alberta.

(11) Service under this Part is effected

(a) if the document is left with an individual, on the date it is left,

(b) if the document is sent by recorded mail, in accordance with section 35.06,

(c) if the document is sent by fax or e-mail, when the sender of the fax or e-mail receives confirmation of the successfully completed transmission, and

(d) if the document is sent by ordinary mail, in accordance with section 23 of the *Interpretation Act*.

(12) A document that is to be given to or served on an agency under the Act or this Regulation may be given or served by personal service on

(a) an officer of the agency, or

(b) a bailiff who acts on behalf of the agency.

(13) Unless a provision of the Act requires service or delivery of the original or a certified copy of a document, it is sufficient to serve or deliver a copy of the document.

AR 116/2010 s10

Recorded mail service

35.06(1) A document, other than a document required to be served personally, may be served on a person in Alberta by being sent by recorded mail, addressed to the person at the address for service provided by the person in the most recently filed document in respect of a matter under the Act or this Regulation.

(2) Service is effected under this section on the earlier of

(a) the date acknowledgment of receipt is signed, or

(b) 7 days after the date on which the recorded mail is sent.

AR 116/2010 s10

Personal service

35.07 The following documents must be served by personal service as specified:

(a) a notice of intention to sell under section 70 of the Act, on the enforcement creditor and every registered owner;

(b) a garnishee summons under section 35.26, if served by the enforcement creditor on the enforcement debtor.

AR 116/2010 s10

Part 1.2
Identification of Debtor

Identification of debtor

35.08(1) In this Part,

(a) "replying creditor" means an enforcement creditor;

(b) "requesting creditor" means a creditor whose debtor is or may be a person against whom the replying creditor has a writ, and includes a representative of the creditor;

(c) "written demand" means a written demand made under subsection (2).

(2) A requesting creditor may, by a written demand served on a replying creditor, inquire as to one or both of the following:

(a) whether the replying creditor has a writ against the requesting creditor's debtor;

(b) the amount owing under the replying creditor's writ.

(3) In a written demand, the requesting creditor must set out

(a) an address to which the reply to the written demand may be made,

(b) the nature of the inquiry being made under subsection (2), and

(c) if an inquiry is being made pursuant to subsection (2)(a),

(i) the name of the requesting creditor's debtor, and

(ii) the occupation, address and date of birth of the requesting creditor's debtor, where that information is known to the requesting creditor.

(4) A written demand may be served on a replying creditor

(a) at the most recent address shown for the replying creditor on the registration of the replying creditor's writ registered in the Personal Property Registry, or

(b) in any other manner by which a document may be served under this Regulation.

(5) Subject to subsection (7), a replying creditor must, within 15 days from the day of being served with a written demand, provide to the requesting creditor a written reply,

(a) in the case of an inquiry being made pursuant to subsection (2)(a),

(i) stating whether or not the requesting creditor's debtor is the same person as the replying creditor's debtor, or

(ii) if the replying creditor does not know whether or not the requesting creditor's debtor is the same person as the replying creditor's debtor, stating that fact,

and

(b) in the case of an inquiry being made pursuant to subsection (2)(b), stating the amount that is owing under the replying creditor's writ.

(6) A distributing authority may exercise all of the powers of a requesting creditor under this section in the same manner as if it were a requesting creditor.

(7) If a replying creditor fails, without reasonable excuse, to comply with a written demand, the requesting creditor, in addition to any other remedy provided under the Act or this Regulation, may apply to the court for an order requiring the replying creditor to comply with the written demand.

(8) On an application made under subsection (7), the Court may make an order requiring the replying creditor to comply with the written demand, and may give any other order the Court considers appropriate in the circumstances.

(9) An application referred to in subsection (7) may be made ex parte unless the Court directs otherwise.

AR 116/2010 s10

Part 1.3
Information Regarding Enforcement Debtors

Debtor to provide information

35.09 For the purposes of determining the ability of an enforcement debtor to satisfy the claims of enforcement creditors, an enforcement creditor may require the enforcement debtor to provide information in accordance with this Part.

AR 116/2010 s10

Financial report of debtor

35.10(1) An enforcement creditor may, on written notice to an enforcement debtor, require the enforcement debtor to provide to the enforcement creditor a financial report of the enforcement debtor verified by statutory declaration.

(2) Within 15 days from the day on which the enforcement debtor is served with a notice under subsection (1), the enforcement debtor must provide the enforcement debtor's financial report to the enforcement creditor.

(3) Once an enforcement debtor has provided a financial report to an enforcement creditor under subsection (2), no enforcement creditor may, without an order of the Court, require the enforcement debtor to provide another financial report under subsection (1) until one year has expired from the day on which the enforcement debtor provided the previous financial report.

(4) Where an enforcement creditor has been provided with a financial report of an enforcement debtor under subsection (2), the enforcement creditor must, within 15 days of being provided with the financial report, register in the Personal Property Registry a status report for the writ indicating that the enforcement debtor has provided the enforcement creditor with the financial report.

(5) An enforcement creditor who has been provided with a financial report of an enforcement debtor under subsection (2) must, on a written request made by any other enforcement creditor of that enforcement debtor and the tendering of a fee of $25, provide to that other enforcement creditor a copy of that financial report.

AR 116/2010 s10

Questioning of debtor

35.11(1) On service of a written notice on an enforcement debtor by an enforcement creditor, the enforcement creditor may require the enforcement debtor to attend for questioning under oath by the enforcement creditor with respect to matters referred to in section 35.12.

(2) A notice served on an enforcement debtor under subsection (1) must be served on the enforcement debtor at least 5 days before the day on which the enforcement debtor is required to attend for questioning.

(3) Once an enforcement creditor has questioned an enforcement debtor under subsection (1), that enforcement creditor may not, without an order of the Court, again question that enforcement debtor under subsection (1) until one year has elapsed from the day of that previous questioning.

AR 116/2010 s10

Matters subject to questioning

35.12(1) An enforcement debtor may be questioned on matters in respect of the following:

(a) the property and financial means that the enforcement debtor had when the liability to which the judgment relates was incurred or, if the judgment is for costs only, when the proceedings were commenced;

(b) the property and financial means that the enforcement debtor presently has;

(c) any disposal of property made by the enforcement debtor since incurring the liability or, if the judgment is for costs only, since the proceedings were commenced;

(d) any matter relating to exemptions;

(e) where the enforcement debtor is a corporation, the name and address of, and any other pertinent information relating to, any director or officer or any former director or officer of the corporation.

(2) In addition to questioning an enforcement debtor in respect of matters referred to in subsection (1), where an enforcement debtor has provided a financial report under section 35.10, the enforcement creditor may, in conducting questioning under section 35.11, question the enforcement debtor respecting the financial report.

AR 116/2010 s10

Questioning of employees

35.13 Where the enforcement debtor is not a corporation, an enforcement creditor may, on an order of the Court, question under oath any employee of the enforcement debtor with respect to any matter about which the enforcement creditor may question the enforcement debtor.

AR 116/2010 s10

Questioning of directors, officers and employees of a corporation

35.14(1) Where the enforcement debtor is a corporation, an enforcement creditor may, for the purposes of questioning the enforcement debtor, question under oath any director or officer of the corporation.

(2) On an order of the Court, an enforcement creditor may question under oath

(a) an employee of the corporation, or

(b) a former director, officer or employee of the corporation

with respect to any matter about which the enforcement creditor may question a director or officer of the corporation.

AR 116/2010 s10

Questioning of transferee

35.15(1) Where an enforcement debtor has transferred exigible property to another person

(a) after the date when the liability or debt that was the subject of the action was incurred, or

(b) if the judgment is for costs only, after the date of the commencement of the action,

the Court may by order direct that other person to attend before a person named in the order and be questioned under oath.

(2) If the transferee referred to in subsection (1) is a corporation, the enforcement creditor may, on an order of the Court, question any present or former director, officer or employee of the corporation.

(3) A person questioned under this section may be questioned in respect of the following matters:

(a) the property transferred;

(b) the disposal of any property by the enforcement debtor after the dates referred to in subsection (1);

(c) any debts owing by the transferee to the enforcement debtor;

(d) any other matter specified in the order.

AR 116/2010 s10

Person in possession of exigible property

35.16(1) Where the Court is satisfied that there are reasonable grounds for believing that another person is in possession of or has control over exigible property of an enforcement debtor, the Court may by order direct that other person to attend before a person named in the order and be questioned under oath.

(2) If the other person in possession of the exigible property is a corporation, the enforcement creditor may, on an order of the Court, question any present or former director, officer or employee of the corporation.

(3) A person questioned under this section may be questioned in respect of the following matters:

(a) the exigible property that is in the possession or under the control of the other person referred to in subsection (1);

(b) the means by which the exigible property came into the possession or under the control of the other person referred to in subsection (1);

(c) any other matter specified in the order.

AR 116/2010 s10

Enforcement of duties

35.17 If a person who is required under this Part to provide a financial report, submit to questioning or provide a copy of a financial report fails to do so or fails to answer a question that may properly be asked of that person, the Court may, on application, do one or more of the following:

(a) direct that the person comply with the requirements under this Part or answer the question, as the case may be;

(b) hold the person in civil contempt;

(c) make any other order that the Court considers appropriate in the circumstances.

AR 116/2010 s10

Alberta Rules of Court apply

35.18 Unless a matter is otherwise provided for under this Part, the provisions of Part 5 of the *Alberta Rules of Court* apply, with any necessary modification, to questioning under this Part.

AR 116/2010 s10

Part 1.4
Garnishment

Definitions

35.19 In this Part,

(a) "amount of all relevant claims" means the total of

(i) the amount outstanding on all related writs that are in force against the debtor, and

(ii) where a garnishee summons is authorized by an attachment order, the amount authorized to be attached in respect of the prejudgment claimant's claim;

(b) "creditor" means an enforcement creditor or a prejudgment claimant;

(c) "debtor" means an enforcement debtor or a defendant in respect of whom an attachment order has been granted;

(d) "expiry date", with respect to a garnishee summons, means the expiry date indicated in the garnishee summons or in the latest renewal statement served on the garnishee in accordance with section 35.28;

(e) "prejudgment claimant" means a claimant who has obtained an attachment order authorizing the clerk to issue a garnishee summons before judgment.

AR 116/2010 s10

Amounts outstanding

35.20 The amount outstanding at any relevant time

(a) on a garnishee summons in respect of which no renewal statement or adjustment notice has been served on the garnishee is

(i) the amount for which the garnishee summons was issued

less

(ii) any amount paid by the garnishee to the clerk on account of the garnishee summons,

or

(b) on a garnishee summons in respect of which one or more renewal statements or adjustment notices have been served on the garnishee is

(i) the amount of all relevant claims as set out in the latest renewal statement or adjustment notice served on the garnishee

less

(ii) any amount paid by the garnishee to the clerk after service of the latest renewal statement or adjustment notice.

AR 116/2010 s10

Issuing of garnishee summons

35.21(1) A creditor may require the clerk to issue a garnishee summons by

(a) filing with the clerk an affidavit in support of the garnishee summons, and either

(i) in the case of a prejudgment claimant, a copy of the attachment order authorizing the clerk to issue a garnishee summons, or

(ii) where the creditor is the Workers' Compensation Board, a certificate in the form set out in Schedule C to the *Workers' Compensation Regulation* (AR 325/2002),

and

(b) providing the clerk with any other information that the clerk requires in order to issue the garnishee summons.

(2) When the creditor has complied with this section, the clerk shall issue a garnishee summons in Form 11 in Schedule 4 for the amount of all relevant claims.

(3) A garnishee summons is deemed to be issued against any current obligation or future obligation of the type indicated in the garnishee summons as being owed by the garnishee to the debtor.

AR 116/2010 s10

Service

35.22(1) In order for a garnishee summons to attach to an obligation, the garnishee summons must

(a) be served in triplicate on the garnishee in accordance with section 35.05, and

(b) be accompanied by a garnishee's compensation fee in the amount of $25.

(2) For the purposes of garnishment, an obligation is owed to the debtor, even though it has been assigned, charged or encumbered by the debtor, if the assignment, charge or encumbrance is fraudulent as against the creditor.

(3) An obligation that is owed to an enforcement debtor by a partnership carrying on business within Alberta may be attached if the garnishee summons is served on the partnership within Alberta, notwithstanding that one or more members of the partnership are resident outside Alberta.

AR 116/2010 s10

Duties of garnishee

35.23(1) This section does not apply to a garnishee summons that attaches employment earnings.

(2) Within 15 days from the day of being served with a garnishee summons, a garnishee must do the following:

(a) if able, serve a copy of the garnishee summons on the debtor

(i) in accordance with section 35.05, or

(ii) by mailing a copy of the garnishee summons to the debtor by ordinary mail addressed to the current address of the debtor, as shown on the records of the garnishee;

(b) deliver to the clerk the garnishee's response referred to in subsection (5);

(c) pay to the clerk the lesser of

(i) the amount outstanding on the garnishee summons, and

(ii) the amount payable to the debtor in respect of any current obligation attached by the garnishee summons,

less the garnishee's compensation in the amount of $10.

(3) When a future obligation that has been attached by a garnishee summons becomes payable, the garnishee must immediately

(a) deliver to the clerk the garnishee's response setting out

(i) the amount of the future obligation that is now payable, and

(ii) the amount that is being paid by the garnishee to the clerk on account of the garnishee summons,

and

(b) pay to the clerk the lesser of

(i) the amount outstanding on the garnishee summons, and

(ii) the amount of the future obligation that has become payable to the debtor,

less the garnishee's compensation in the amount of $10.

(4) For the purpose of subsections (2)(c) and (3)(b), the amount payable by the garnishee to the clerk in respect of a joint entitlement must, unless otherwise ordered by the Court, be calculated on the assumption that an equal portion of the joint entitlement is payable to each joint obligee.

(5) For the purposes of subsection (2)(b), the garnishee's response must contain as much of the following as is applicable:

(a) either

(i) a certificate stating that the garnishee has delivered a copy of the garnishee summons to the debtor, or

(ii) a statement setting out the reason why the garnishee has been unable to deliver the garnishee summons to the debtor;

(b) the amount of any current obligation attached by the garnishee summons;

(c) the amount that is being paid by the garnishee to the clerk on account of the garnishee summons;

(d) where the garnishee summons has attached a future obligation, the following, if known:

(i) the date or dates on which the future obligation, or any portion of it, is expected to become payable;

(ii) the amount that is expected to be payable on each date referred to in subclause (i);

(iii) the nature of any contingencies that must be satisfied before the future obligation will become payable;

(e) where the garnishee summons has attached a joint entitlement,

(i) the name of each joint obligee other than the debtor, and

(ii) either

(A) the address of each joint obligee other than the debtor, or

(B) in the case of circumstances referred to in section 82(c) of the Act, a certificate stating that the garnishee has delivered a copy of the garnishee summons to each joint obligee other than the debtor;

(f) if the garnishee disputes the existence of an attachable obligation, the grounds for the dispute;

(g) if the garnishee believes that an obligation against which the garnishee summons has been issued is or may be owed to a person other than the debtor,

(i) the reasons for that belief, and

(ii) the name and address of that other person;

(h) if another garnishee summons regarding the same obligation has previously been served on the garnishee and is still in effect,

(i) a statement stating that another garnishee summons regarding the same obligation is in effect, and

(ii) the expiry date of that other garnishee summons.

(6) A garnishee who disputes the existence of an attachable obligation may pay the money to the clerk to be held by the clerk pending the determination of the dispute.

AR 116/2010 s10

Grace period

35.24(1) With respect to a garnishee summons, other than a garnishee summons that attaches employment earnings, a garnishee who pays an attached obligation to the debtor during the grace period determined in accordance with subsection (2) does not incur any liability under section 84 of the Act if the garnishee establishes to the satisfaction of the Court that

(a) the garnishee attempted in good faith to identify the obligation attached by the garnishee summons and to prevent it from being paid to the enforcement debtor, and

(b) either

(i) the payment was not authorized, permitted or effected by an officer, employee or agent of the garnishee who had actual knowledge of the garnishment before the payment was made, or

(ii) it was not reasonably possible in the circumstances to prevent the payment from being made to the debtor.

(2) For the purposes of subsection (1), the grace period begins when the garnishee summons is served on the garnishee and ends

(a) at midnight on the day that the garnishee summons is served, if the garnishee summons is served on the office, branch or agent of the garnishee that is responsible for paying the attached obligation, or

(b) at midnight on the 7th day following the day that the garnishee summons is served on the garnishee, if service of the garnishee summons is effected otherwise than as stated under clause (a).

AR 116/2010 s10

Employment earnings

35.25(1) Unless the Court otherwise orders, a garnishee summons does not attach a debtor's employment earnings that are ordinarily payable at the end of the pay period during which the garnishee summons is served unless the garnishee summons is served on the garnishee

(a) at least 5 days before the end of the pay period, in the case of a pay period that is 10 days or less, and

(b) at least 10 days before the end of the pay period, in the case of a pay period that is more than 10 days.

(2) Subsection (1) does not apply to any amount that the garnishee does in fact pay to the clerk under a garnishee summons.

(3) Within 15 days from the day of service of the garnishee summons on a garnishee for the purpose of attaching employment earnings, the garnishee must

(a) if able, serve a copy of the garnishee summons on the debtor

(i) in accordance with section 35.05, or

(ii) by mailing a copy of the garnishee summons to the debtor by ordinary mail addressed to the current address of the debtor, as shown on the records of the garnishee,

and

(b) deliver to the clerk a written response containing as much of the following as is applicable:

(i) a statement acknowledging or denying that the debtor is employed by the garnishee;

(ii) a statement indicating the frequency with which the debtor's employment earnings are paid to the debtor;

(iii) either

(A) a certificate stating that the garnishee has delivered a copy of the garnishee summons to the debtor, or

(B) a statement setting out the reasons why the garnishee has been unable to deliver the garnishee summons to the debtor;

(iv) if another garnishee summons against the debtor's employment earnings has previously been served on the garnishee and is still in effect,

(A) a statement stating that another garnishee summons against the debtor's employment earnings is in effect, and

(B) the expiry date of that other garnishee summons.

(4) Within 5 days after the end of the debtor's last pay period in any month during which a garnishee summons is in effect, the garnishee must

(a) pay to the clerk the amount of the debtor's employment earnings for the month that are attached by the garnishee summons, less the garnishee's compensation in the amount of $10, and

(b) deliver to the clerk the statement required under section 81(1)(c) of the Act.

(5) Notwithstanding subsection (4), where a debtor's employment earnings are paid more frequently than monthly, the garnishee may elect to comply with subsection (4) at the end of each pay period, rather than at the end of the last pay period in each month.

(6) If a garnishee elects under subsection (5) to comply with subsection (4) at the end of each pay period, the debtor's minimum and maximum employment earnings exemption for each pay period is determined by multiplying the monthly exemption by the number of days in the pay period and dividing the product by 30.

(7) Section 78(d) of the Act does not apply to a subsequent garnishee summons where the garnishee summons that is already in effect was issued pursuant to the *Maintenance Enforcement Act*.

AR 116/2010 s10

Service by enforcement creditor

35.26(1) Instead of relying on a garnishee to serve a garnishee summons on an enforcement debtor, an enforcement creditor may at any time serve the garnishee summons on the enforcement debtor.

(2) If an enforcement creditor serves a garnishee summons on an enforcement debtor,

(a) that service of the garnishee summons has the same effect as if the garnishee summons had been served on the enforcement debtor by the garnishee, and

(b) the enforcement creditor must complete the certificate referred to in section 35.23(5)(a)(i).

(3) Nothing in this section shall be construed so as to remove from a garnishee any obligation to serve the garnishee summons on the enforcement debtor.

AR 116/2010 s10

Money attached by prejudgment garnishee summons

35.27(1) The clerk shall pay out money that is paid into Court pursuant to a prejudgment garnishee summons only as directed by the Court or as provided by this section.

(2) Except as otherwise ordered by the Court, the money or the portion of the money referred to in subsection (1) necessary to satisfy any related writ that is in force against the debtor constitutes a distributable fund for the purposes of Part 11 of the Act when

(a) the clerk is satisfied that there is a related writ in force against the debtor, and

(b) the period of time referred to in section 35.30(1) has expired.

(3) Except as otherwise ordered by the Court, if

(a) a discontinuance of the claimant's action has been filed or a judgment dismissing the claimant's action has been entered with the clerk, and

(b) there are no related writs in force against the debtor,

the clerk must pay the money referred to in subsection (1) to the debtor on the debtor's written request to do so.

AR 116/2010 s10

Renewal

35.28(1) This section applies to any garnishee summons except a garnishee summons that has been issued against a deposit account or joint account.

(2) At any time within 60 days before the expiry date of a garnishee summons, the instructing creditor may require the clerk to issue a renewal statement by providing to the clerk a completed renewal statement in Form 12 in Schedule 4 in respect of the garnishee summons stating the amount outstanding on all related writs in force against the debtor.

(3) When a renewal statement is served on the garnishee on or before the expiry date of the expiring garnishee summons,

(a) the garnishee summons is renewed for a period of 2 years from its current expiry date, and

(b) the garnishee must, within 15 days from the day of being served with the renewal statement, update the status of any contingency referred to in the garnishee's response delivered to the clerk under section 35.23(2)(b).

(4) A renewal statement is void if it is not served on the garnishee on or before the expiry date of the expiring garnishee summons.

(5) There is no limit on the number of times that a garnishee summons may be renewed.

(6) Notwithstanding section 78(d) of the Act, a subsequent garnishee summons issued against a joint account is effective if

(a) the garnishee summons already in effect did not attach any amount owing, or

(b) the subsequent garnishee summons issued against the joint account is authorized by the Court.

AR 116/2010 s10;109/2012

Change in amount outstanding

35.29 When a garnishee summons is in effect, any creditor may serve on the garnishee an adjustment notice setting out the amount of all relevant claims.

AR 116/2010 s10

Distribution of funds

35.30(1) Unless otherwise ordered by the Court, money paid into Court pursuant to a garnishee summons shall not be distributed under Part 11 of the Act until 15 days from the day that the debtor is served with the garnishee summons in accordance with section 35.24, 35.25 or 35.26, as the case may be.

(2) The clerk is not required to make a distribution where the distributable fund is less than $100.

(3) The clerk may deduct from the funds being distributed a distribution fee in the amount set out in Schedule B to the *Alberta Rules of Court*.

AR 116/2010 s10

Proposal to pay out

35.31 Where money has been paid into Court pursuant to a garnishee summons, the clerk may provide to a person who is shown in a Personal Property Registry search result as having a right or interest in that money a notice setting out the manner in which the clerk proposes to pay out that money.

AR 116/2010 s10

Part 2
Exemptions

Definitions

36 For the purposes of Part 12 of the Act and this Part,

(a) "dependant" means one or more of the following:

(i) the spouse or adult interdependent partner of the enforcement debtor;

(ii) any child of an enforcement debtor who is under the age of 18 years and lives with the debtor;

(iii) any relative of an enforcement debtor or of the enforcement debtor's spouse or adult interdependent partner who, by reason of mental or physical infirmity, is financially dependent on the enforcement debtor;

(iv) any other person who the Court determines is financially dependent on the enforcement debtor;

(b) "relative" means

(i) a spouse or adult interdependent partner;

(ii) a parent or grandparent;

(iii) a child;

(iv) a brother or sister;

(v) a brother-in-law, sister-in-law, father-in-law or mother-in-law;

(vi) an aunt or uncle;

(vii) a first or second cousin.

(c) repealed AR 109/2003 s6.

AR 276/95 s36;109/2003

General exemptions

37(1) The following are the maximum amounts allowed for exempt property under section 88 of the Act:

(a) the maximum exemption for clothing referred to in section 88(b) of the Act is $4000;

(b) the maximum exemption for household furnishings and appliances referred to in section 88(c) of the Act is $4000;

(c) the maximum exemption for the motor vehicle referred to in section 88(d) of the Act is $5000;

(d) the maximum exemption for personal property referred to in section 88(h) of the Act is $10 000;

(e) the maximum exemption for a principal residence referred to in section 88(g) of the Act is $40 000.

(2) In addition to the property referred to in section 88 of the Act, the following property is exempt from writ proceedings:

(a) where an enforcement debtor sells

(i) exempt property, or

(ii) property that is exempt up to a prescribed value,

the proceeds from that sale, or the proceeds from that sale up to the stated value, as the case may be, are exempt for a period of 60 days from the day of the sale if those proceeds are not intermingled with any other funds of the enforcement debtor;

(b) any payment made to an enforcement debtor that is

(i) an income support payment paid under the *Income and Employment Supports Act*,

(ii) a handicap benefit paid under the *Assured Income for the Severely Handicapped Act*, or

(iii) a widow's pension paid under the *Widows' Pension Act*,

if the proceeds from the payment are not intermingled with any other funds of the enforcement debtor;

(c) any property that is exempt from writ proceedings under another enactment in force in Alberta.

AR 276/95 s37;203/2002;103/2005

Distress

38(1) For the purposes of Part 12 of the Act and this section, "household furnishings and appliances" means

(a) one washing machine and dryer,

(b) one kitchen suite,

(c) bedroom suites and bedding,

(d) kitchen appliances, including one each of a stove, a microwave, a refrigerator and a freezer,

(e) kitchen utensils, and

(f) carriages, strollers, cradles and cribs necessary for the use of the debtor's children;

(2) Where a distress is carried out under Part 12 of the Act, the following are the maximum amounts allowed for exempt property under section 88 of the Act:

(a) the maximum exemption for clothing referred to in section 88(b) of the Act is $4000;

(b) the maximum exemption for household furnishings and appliances referred to in section 88(c) of the Act is $1000;

(c) the maximum exemption for personal property referred to in section 88(h) of the Act is $10 000, in the case of a distress carried out in respect of residential premises.

AR 276/95 s38;203/2002

Employment earnings

39(1) For the purposes of section 77(1)(h) of the Act, the following are the deductions to be made from a person's total employment earnings in order to determine that person's net pay:

(a) income tax paid by that person;

(b) Canada Pension Plan contributions paid by that person;

(c) Unemployment Insurance contributions paid by that person.

(2) Unless otherwise ordered by the Court, for the purpose of determining an enforcement debtor's minimum and maximum employment earnings exemption under section 81 of the Act,

(a) the minimum exemption is $800 plus $200 per dependant, and

(b) the maximum exemption is $2400 plus $200 per dependant.

(3) The Court, on application, may modify the minimum or maximum employment earnings exemption to which an enforcement debtor is entitled.

(4) In considering an application under subsection (3), the Court should take into consideration at least the following:

(a) the family responsibilities of the enforcement debtor;

(b) the personal circumstances of the enforcement debtor;

(c) the conduct of the enforcement debtor in the carrying out of the enforcement debtor's financial affairs;

(d) the earnings of the enforcement debtor's dependants.

AR 276/95 s39;109/2003

Determination of employment earnings exemptions

40(1) For the purposes of determining, with respect to a debtor's employment earnings, the exemptions to which a debtor is entitled, a garnishee may assume that the debtor does not have any dependants other than those persons that the debtor has, in a written statement given to the garnishee, identified as dependants of the debtor.

(2) Except as otherwise ordered by the Court, the garnishee, if acting in good faith, is entitled to rely on the written statement given to the garnishee by the debtor under subsection (1).

Amount owing

40.01 The amount owing at any time on a writ is the total of

(a) the amount of the judgment in respect of which the writ was issued,

(b) the costs assessed as payable that are not included in the amount of the judgment, and

(c) interest owing in respect of the judgment and the costs referred to in clause (b),

less the amounts, if any, paid to the judgment creditor on account of the judgment.

AR 116/2010 s11

Registered plan payment

40.1(1) In this section, "net registered plan payment" means the amount determined under subsection (3).

(2) For the purposes of garnishing an enforcement debtor's registered plan payment, the following applies:

(a) in any month during which a garnishee summons is in effect, the garnishee summons attaches the amount, if any, by which an enforcement debtor's net registered plan payment for the month exceeds the enforcement debtor's actual registered plan payment exemption for the month;

(b) the registered plan payment that is attached by a garnishee summons in any month must be paid by the garnishee to the clerk who issued the garnishee summons;

(c) at the end of each month during which a garnishee summons is in effect, the garnishee shall deliver to the clerk who issued the garnishee summons a statement setting out

(i) the enforcement debtor's total registered plan payments during the month,

(ii) the number of the enforcement debtor's dependants, and

(iii) the particulars of any amounts deducted in calculating the enforcement debtor's net registered plan payment for the month;

(d) subject to clause (e), an enforcement debtor's actual registered plan payment exemption for any month is the sum of

(i) the enforcement debtor's minimum exemption, and

(ii) 1/2 of any amount by which the enforcement debtor's net registered plan payment exceeds the enforcement debtor's minimum exemption;

(e) an enforcement debtor's actual registered plan payment exemption for any month must not exceed the enforcement debtor's maximum exemption;

(f) if the enforcement debtor receives a registered plan payment from more than one source, the Court on application may reduce or eliminate the enforcement debtor's actual exemption that is applicable to any source of a registered plan payment;

(g) a garnishee's compensation for dealing with the garnishee summons as permitted under the Act must always be included in the calculation of the amount attached by a garnishee summons, but may actually be deducted from the enforcement debtor's registered plan payment only where the debtor's net registered plan payment exceeds the enforcement debtor's actual exemption.

(3) The net registered plan payment is the registered plan payment less any amounts deducted or withheld pursuant to the *Alberta Personal Income Tax Act* and the *Income Tax Act* (Canada).

(4) For the purposes of determining, with respect to a debtor's registered plan payment, the actual exemptions to which a debtor is entitled, a garnishee may assume that the debtor does not have any dependants other than those persons that the debtor has, in a written statement given to the garnishee, identified as dependants of the debtor.

(5) Except as otherwise ordered by the Court, the garnishee, if acting in good faith, is entitled to rely on the written statement given to the garnishee by the debtor under subsection (4).

AR 273/2009 s2

Minimum and maximum exemptions

40.2(1) Subject to this section, for the purpose of determining an enforcement debtor's minimum and maximum registered plan payment exemption under section 40.1(2)(d),

(a) the minimum exemption is $800 plus $200 per dependant, and

(b) the maximum exemption is $2400 plus $200 per dependant.

(2) Where an enforcement debtor's registered plan payment from a particular source varies substantially between months by reason that the enforcement debtor receives a registered plan payment

(a) at intervals in excess of one month,

(b) at irregular intervals, or

(c) in irregular amounts,

the Court, on application, may increase the minimum or maximum exemption for any particular month, so that the enforcement debtor's total exemptions over the course of the garnishment proceedings will approximate what they would have been if the enforcement debtor's registered plan payments had been uniformly distributed over the relevant months.

(3) The Court, on application, may modify the minimum or maximum registered plan payment exemption to which an enforcement debtor is entitled.

(4) In considering an application under subsection (3), the Court must take into consideration at least the following:

(a) the family responsibilities of the enforcement debtor;

(b) the personal circumstances of the enforcement debtor;

(c) the conduct of the enforcement debtor in the carrying out of the enforcement debtor's financial affairs;

(d) the earnings of the enforcement debtor's dependants.

AR 273/2009 s2

Part 3
Reporting Obligations of Enforcement Creditors

Payments

41 If an enforcement creditor

(a) receives any money on account of the amount owing under a writ of enforcement, or

(b) receives anything by way of satisfaction, either wholly or in part, of the amount owing under a writ of enforcement,

the enforcement creditor must, within 15 days from the day that the enforcement creditor received that money or that satisfaction, register in the Registry a status report to amend the amount owing under the writ of enforcement.

Stays

42 If an enforcement creditor enters into an agreement that provides that proceedings under a writ of enforcement are to be stayed or suspended, the enforcement creditor must, within 15 days from the day of entering into that agreement, register in the Registry a status report that discloses the fact that the proceedings are stayed or suspended, as the case may be.

Effect of non-registration

43 Where an enforcement creditor fails to register in the Registry

(a) a status report under section 41 amending the amount owing under the writ of enforcement, or

(b) a status report under section 42 that discloses the fact that the proceedings under a writ of enforcement have been stayed or suspended, as the case may be,

that failure does not affect the validity of the writ of enforcement.

Distribution

44 The requirement to register a status report in the Registry under section 41 does not apply in the case where the enforcement creditor receives money or satisfaction by way of a distribution made by a distributing authority.

Part 4
Sale of Land Under Writ of Enforcement

Definitions

45 In this Part,

(a) "registered owner" means a person who is shown on a certificate of title issued under the *Land Titles Act* as an owner, including a co-owner, of a freehold or leasehold estate in land that is the subject of sale proceedings under the *Civil Enforcement Act*;

(b) "responsible Minister" means, in respect of land that has not been brought under the *Land Titles Act*, the member of the Executive Council

(i) who has responsibility for the administration of the land, or

(ii) whose consent to a disposition of the land by a person with an interest in the land is required by an enactment;

(c) "standard information" means the following information:

(i) the name of the enforcement debtor whose land is the subject of sale proceedings;

(ii) the name and address for service, including the fax number, of the agency that is carrying out the sale proceedings;

(iii) the name and address for service of the instructing creditor;

(iv) the judicial district and action number in which the instructing creditor's writ of enforcement was issued;

(v) the legal description of the land that is the subject of the sale proceedings;

(vi) the nature of the enforcement debtor's interest in the land, insofar as it is known to the instructing creditor;

(d) "subordinate claimant" means, in respect of land that is the subject of sale proceedings under the Act, a person who has or claims to have an interest in the land that is subordinate to a writ of enforcement.

AR 276/95 s45;116/2010

Notice of intention to sell

46(1) The notice of intention to sell land required by section 70 of the Act

(a) must contain

(i) all of the standard information,

(ii) a statement that the agency has been instructed by the instructing creditor to sell the enforcement debtor's interest in the land described in the notice,

(iii) a statement that, unless the Court otherwise orders, the agency cannot offer the land for sale until the expiration of a 180-day waiting period after the notice has been served on the persons who are required to be served with the notice,

(iv) a statement that if the debtor's principal residence is located on the land, the land may be exempt, in whole or in part, from sale under writ proceedings, and

(v) a statement that if the enforcement debtor claims that the land is exempt in whole or in part from sale under writ proceedings, the enforcement debtor must serve a written claim on the agency before the expiration of the waiting period,

and

(b) must be served on

(i) the enforcement debtor,

(ii) every registered owner, and

(iii) every subordinate claimant whose claim is recorded on the certificate of title for the land.

(2) Before land may be sold under the Act by an agency, the agency must file a caveat against the certificate of title to the land setting out the notice of intention to sell the land.

AR 276/95 s46;203/2002

Notice of method of sale

47(1) The notice of the method of sale required by section 74 of the Act must contain

(a) all of the standard information,

(b) the proposed method of sale,

(c) if the proposed method of sale is by listing with a real estate agent,

(i) the name, business address and telephone number of the listing agent,

(ii) the price at which the land is to be listed,

(iii) whether the listing is to be exclusive or multiple,

(iv) the duration of the listing, and

(v) the amount of, or method of calculating, the real estate agent's commission,

(d) if the proposed method of sale is by tender,

(i) the method of publicizing the invitation for tender, and

(ii) the terms of the invitation for tenders,

and

(e) if the proposed method of sale is by auction,

(i) the name of the auction agency,

(ii) the terms on which it is proposed to offer the land for auction, and

(iii) the amount of or method of calculating the auction agency's commission.

(2) The notice of the proposed method of sale required by section 74 of the Act must be served on

(a) the enforcement debtor,

(b) every registered owner, and

(c) every subordinate claimant whose claim is recorded on the certificate of title for the land.

(3) Where an agency sells land, the agency must

(a) within 10 days from the day of the sale of the land register in the Registry a report in a form acceptable to the sheriff setting out the details of the sale, and

(b) within 3 days from the day of conducting a distribution of funds arising from the sale of the land, amend, in a form acceptable to the sheriff, the registration referred to in clause (a) setting out the details of the distribution of the funds.

(4) For the purposes of determining time periods under subsection (3), Saturdays and holidays are to be excluded when making the determination.

AR 276/95 s47;203/2002

Land not under the Land Titles Act

48(1) This section applies only to the sale of an enforcement debtor's interest in land that has not been brought under the *Land Titles Act*.

(2) Part 7 of the Act, except for section 75 of the Act, and sections 46(a) and 47(1) of this Regulation apply to the sale of an enforcement debtor's interest in land that has not been brought under the *Land Titles Act*.

(3) The notice of intended sale required by section 70 of the Act and the notice of the method of sale required by section 74 of the Act must be served on

(a) the enforcement debtor,

(b) any subordinate claimant of whom the agency has knowledge, and

(c) the responsible Minister.

(3.1) For the purposes of this section, except in subsection (3)(a), notice may be provided by means of

(a) personal service on the person to be served,

(b) recorded mail addressed to the person to be served, or

(c) leaving the document containing the notice with, or sending it by recorded mail to an address described in subsection (3.2) addressed to, the person to be served.

(3.2) The address for the purposes of subsection (3.1)(c) is any of the following:

(a) the address of the place where the person to be served resides;

(b) if the person to be served carries on business at the address of the secured land that is the subject of the action, that address;

(c) if the address of the place where the person to be served resides is not known to the person attempting service and if the person to be served does not carry on business at the address of the secured land that is the subject of the action,

(i) the address of the person to be served shown on the current title to the secured land, or

(ii) if the person to be served is named as a secured party in a current registration of a security interest in the Personal Property Registry, the address of that person as shown in the registration;

(d) in the case of an offeror or tenderer, the address of the offeror or tenderer shown in the offer or tender for the secured property.

(3.3) Service is effected under subsection (3.1)(c)

(a) if the document is left at the address, on the date it is left, or

(b) if the document is sent by recorded mail, on the earlier of

(i) the date confirmation of receipt is signed, or

(ii) 7 days after the date on which the recorded mail is sent.

(3.4) For the purposes of subsection (3)(a), service of the notice of intended sale must be provided by means of personal service or recorded mail on the enforcement debtor.

(4) An agency that is carrying out a sale under this section must comply with any direction as to the method or conditions of sale that is given to the agency by the responsible Minister.

AR 276/95;116/2010

Service

48.1(1) For the purposes of this Part, except in section 46(1)(b)(i) and (ii), notice may be provided by means of

(a) personal service on the person to be served,

(b) recorded mail addressed to the person to be served, or

(c) leaving the document containing the notice with, or sending it by recorded mail to an address described in subsection (2) addressed to, the person to be served.

(2) The address for the purposes of subsection (1)(c) is any of the following:

(a) the address of the place where the person to be served resides;

(b) if the person to be served carries on business at the address of the secured land that is the subject of the action, that address;

(c) if the address of the place where the person to be served resides is not known to the person attempting service and if the person to be served does not carry on business at the address of the secured land that is the subject of the action,

(i) the address of the person to be served shown on the current title to the secured land, or

(ii) if the person to be served is named as a secured party in a current registration of a security interest in the Personal Property Registry, the address of that person as shown in the registration;

(d) in the case of an offeror or tenderer, the address of the offeror or tenderer shown in the offer or tender for the secured property.

(3) Service is effected under subsection (1)(c)

(a) if the document is left at the address, on the date it is left, or

(b) if the document is sent by recorded mail, on the earlier of

(i) the date confirmation of receipt is signed, or

(ii) 7 days after the date on which the recorded mail is sent.

(4) For the purposes of section 46(1)(b)(i) and (ii), notice must be provided by means of personal service or recorded mail on the enforcement debtor and every registered owner.

AR 116/2010 s14

Part 5 Repealed AR 203/2002 s12.

Part 6
Repeal and Commencement

62 Repealed AR 221/2017 s10.

Repeal

63 The following are repealed:

(a) *Fees Regulation* (Alta. Reg. 219/93);

(b) *Forms Regulation* (Alta. Reg. 472/81);

(c) *Forms Regulation* (Alta. Reg. 491/81);

(d) *Seizures (Tariff of Fees) Regulation* (Alta. Reg. 138/87).

Commencement

64(1) This Regulation comes into force on the day that the *Civil Enforcement Act* comes into force.

(2) Notwithstanding subsection (1), Part 5 comes into force on the day that section 109 of the *Civil Enforcement Act* comes into force.

Schedule 1

Code of Conduct for Civil Enforcement Agencies

1 In this Code of Conduct, a reference to a civil enforcement agency includes a reference to the directors, officers and employees of a civil enforcement agency.

2 A civil enforcement agency must

(a) discharge the agency's responsibilities with integrity;

(b) treat all persons fairly, courteously and with respect;

(c) provide equal and impartial services to all persons for whom the agency provides services;

(d) comply with the provisions of

(i) the *Civil Enforcement Act*,

(ii) the regulations under the *Civil Enforcement Act*, and

(iii) any other law that governs the conduct of a civil enforcement agency in the discharge of the agency's responsibilities;

(e) make full disclosure to the client;

(f) report all activities to the client;

(g) provide the client with detailed and accurate accounts of fees and disbursements;

(h) report all unlawful activities of which it becomes aware in the course of providing services under the Act to the sheriff and take any action as directed by the sheriff.

3 A civil enforcement agency must not

(a) conduct any seizure activities relating to a debt in which the agency has a financial interest other than in the form of fees paid to the agency pursuant to the tariff of fees provided to the sheriff;

(b) disclose any information of a confidential nature that comes to the knowledge of the agency except as required to perform the services of an agency;

(c) charge a fee other than the amount set out in the tariff of fees provided to the sheriff;

(d) carry on or have an interest in an auction sales business, as defined in the *Public Auctions Act*, a dealer wholesale auction business, an auction business that uses its facility for storing seized property or any other business engaged in the sale of seized property;

(e) carry on business as a private investigator or operate as a collection agency or as a collector for a collection agency;

(f) directly or indirectly, purchase any property that has been the subject of a seizure by an agency unless the agency has the consent of the debtor and all affected creditors to do so.

4 A civil enforcement agency must ensure that a civil enforcement bailiff who is acting on behalf of that agency complies with the Code of Conduct for Civil Enforcement Bailiffs.

5 A civil enforcement agency must notify every creditor for whom the agency is acting of any potential conflict of interest that may arise between that agency and that creditor.

AR 276/95 Sched.1;103/2005

Schedule 2

Code of Conduct for Civil Enforcement Bailiffs

1 A civil enforcement bailiff must

(a) discharge all of the bailiff's responsibilities with integrity;

(b) treat all persons fairly, courteously and with respect;

(c) provide equal and impartial services to all persons to whom the bailiff provides services;

(d) comply with the provisions of

(i) the *Civil Enforcement Act*,

(ii) the regulations under the *Civil Enforcement Act*, and

(iii) any other law that governs the conduct of civil enforcement bailiffs in the discharge of their responsibilities;

(d.1) report all unlawful activities discovered during the course of carrying out his or her duties or functions under the Act to the instructing civil enforcement agency;

(e) when discharging the duties or functions of a civil enforcement bailiff,

(i) carry on the bailiff's person the badge and identification card issued by the Alberta Department of Justice showing that the bailiff is a civil enforcement bailiff, and

(ii) where requested to do so, produce for inspection that badge and identification card.

2 A civil enforcement bailiff must not

(a) carry on any collection agency business, private investigation business or business engaged in the sale of seized property;

(b) directly or indirectly, purchase any property that has been the subject of a seizure by the bailiff unless the bailiff has the consent to do so of the debtor and all affected creditors;

(c) perform any services while under the influence of alcohol or illicit drugs;

(d) mislead or attempt to mislead anyone in the discharge of the bailiff's responsibilities;

(e) directly or indirectly, demand or receive any fee, reward or gratuity for performing or not performing any services other than the fees charged by the civil enforcement agency under whose authority the bailiff is providing services;

(f) except as authorized under the Act, use, or allow the use of, the bailiff's position or title to advance or benefit the private interests of the bailiff or of another person or organization or group of persons;

(g) disclose any information of a confidential nature that comes to the bailiff's knowledge except as required to perform the services of the bailiff;

(h) represent that the bailiff is a civil enforcement bailiff or use the badge or identification card referred to in section 1(e), except when acting under the authority of a civil enforcement agency.

AR 276/95 Sched. 2;103/2005;170/2012;216/2022

Schedule 3

Affidavit

I, _____, of the _____of _____ in the Province of _____ make oath and say:

1 That I have applied for an appointment as a bailiff under the *Civil Enforcement Act*;

2 That I have not been convicted of any offence under a law in force in Canada or outside Canada, excluding minor traffic offences, other than the following:

3 That there are no proceedings against me pending under any law in force in Canada or outside Canada, excluding minor traffic offences, other than the following:

4 That I have never been refused an appointment as a bailiff, except as follows:

5 That I have never used a name other than the name given in this affidavit, except as follows:

SWORN BEFORE ME at the _____ of)
_____, in the Province of Alberta, the)
____ day of _____, _____ ,)
A.D. _____) ____(Applicant's signature
_____)
A Commissioner for Oaths)
in and for the Province of Alberta))

Schedule 4

Warrant

(Writ of Enforcement)

Civil Enforcement Agency File Number

Form 1
Civil Enforcement Regulation

TO:

Name of Civil Enforcement Agency

Address of Civil Enforcement Agency

A Writ of Enforcement has been registered at Personal Property Registry as _____
Registration Number

You are hereby instructed to seize the personal property of

Name of Debtor | Address of Debtor

in order to realize the sum of $ _____ owing to _____
Amount Owing as registered at P.P.R. | Name of Creditor

and the total amount of all related writs plus costs

Location of personal property if different from the debtor's address

Dated at _____, Alberta, on _____.
Date

Instructing Creditor or Authorized Agent

Signature | Print Name | Telephone Number (include area code)

Complete mailing address including postal code | Fax Number (include area code)

RELATED WRITS – SEE PAGE 2 OR ATTACHED SEARCH RESULTS

Amount Owing This Writ	$	
PLUS Total of Related Writs	$	
PLUS Seizure Fees and Costs	$	
TOTAL	$	

Related Writs

Creditor/Instructing Party may complete.

Name(s) and Address(es) of Creditor(s)

	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
	$
TOTAL	$

Warrant

(Distress)

Civil Enforcement Agency File Number

Previous P.P.R. Registration Number
(W.C.B. only)

Form 2
Civil Enforcement Regulation

Type of Distress _____ Code _____

AFS - Agriculture Financial Services Act
BAN - Bank Act
LRO - Landlord Distress
MGA - Municipal Government Act
WLA - Woodmen's Lien Act
WCB - Workers' Compensation Act
OTH - Other

TO:

_____
Name of Civil Enforcement Agency

_____
Address of Civil Enforcement Agency

You are hereby instructed to seize the personal property of

_____
Name of Debtor

_____
Address of Debtor

in order to satisfy an outstanding debt in the amount of $ _____ owing to

_____ plus costs.
Name of Creditor

_____
Location of personal property if different from the debtor's address

Dated at _____, Alberta, on _____.
Date

Instructing Creditor or Authorized Agent

_____ _____ _____
Signature Print Name Telephone Number
(include area code)

_____ _____
Complete mailing address including postal code Fax Number
(include area code)

Warrant

(Garage Keepers' Lien Act)

Civil Enforcement Agency File Number

Form 3
Civil Enforcement Regulation

TO: _____

Name of Civil Enforcement Agency

_____

Address of Civil Enforcement Agency

You are hereby instructed to seize the following vehicle:

Make	Model	Serial Number	Licence Number

the property of

_____ _____

Name of Owner Address of Owner

now in the possession of

_____ _____

Name of Party in Possession Address of Party in Possession

This vehicle is subject to a garage keeper's lien registered in the Personal Property Registry on _____

Date

as _____ . Seizure is instructed to realize the sum of $ _____ plus costs claimed.

Registration Number

by _____ for

Name of Creditor

Check one of the boxes below to indicate the reason for the claim

☐ storage of motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle

☐ repair of a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle

☐ maintenance of a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle

☐ price of accessories or parts furnished for a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle

☐ possession of the motor vehicle or farm vehicle was surrendered to the owner or owner's agent on _____

Date

☐ repairs were completed to the motor vehicle, farm vehicle or part of a motor vehicle or a farm vehicle where the vehicle was not, at the time of repair, in the possession of the garage keeper on _____

Date

☐ accessories or parts were furnished to the motor vehicle or farm vehicle on _____

Date

Dated at _____, Alberta, on _____.

Date

Instructing Creditor or Authorized Agent

_____ _____ _____

Signature Print Name Telephone Number
(include area code)

_____ _____

Complete mailing address including postal code Fax Number
(include area code)

Warrant

(Personal Property Security Act)

Civil Enforcement Agency File Number

Previous P.P.R. Registration Number

Form 4
Civil Enforcement Regulation

TO:

_____
Name of Civil Enforcement Agency

_____
Address of Civil Enforcement Agency

A security agreement was entered into on _____ between
Date

_____ as debtor
Name of Debtor

_____
Address of Debtor

and

_____ as secured party.
Name of Secured Party

_____
Address of Secured Party

This security agreement is now in default and you are therefore instructed to seize the following personal property which is the subject-matter of the agreement: (describe personal property to be seized)

The personal property is located at _____

Seizure is instructed to realize the sum of $ _____ owing under the security agreement plus costs.

Dated at _____, Alberta, on _____.
Date

Instructing Creditor or Authorized Agent

_____ _____ _____
Signature Print Name Telephone Number (include area code)

_____ _____
Complete mailing address including postal code Fax Number (include area code)

Warrant

(Distress / Chattel Lease – Civil Enforcement Act)

Civil Enforcement Agency File Number

Previous P.P.R. Registration Number

Form 4.1
Civil Enforcement Regulation

TO: _____

Name of Civil Enforcement Agency

_____

Address of Civil Enforcement Agency

A chattel lease was entered into on _____ between

Date

_____ as lessee

Name of Lessee

_____

Address of Lessee

and

as the lessor.

_____

Name of Lessor

_____

Address of Lessor

This chattel lease is now in default and you are therefore instructed to seize the following personal property which is the subject matter of the chattel lease: (describe personal property to be seized)

The personal property is located at _____

Seizure is instructed to realize the sum of $ _____ owing under the chattel lease plus costs.

Retail Lease Payout

Dated at _____, Alberta, on _____.

Date

Instructing Creditor or Authorized Agent

_____ _____ _____

Signature | Print Name | Telephone Number (include area code)

_____ _____

Complete mailing address including postal code | Fax Number (include area code)

Notice of Seizure of Personal Property

Civil Enforcement Agency File Number

Form 5
Civil Enforcement Regulation

TO: _____
Name of Debtor

_____
Address of Debtor

Take notice that to satisfy a claim against you for the sum of $_____ plus costs and related Writs, if applicable,

_____
Name of Creditor

_____
Address of Creditor

has caused the following personal property, and personal property listed in the addendum, to be seized:

Addendum attached listing additional property? ☐ Yes ☐ No

Notice of Objection applicable to this seizure? ☐ Yes ☐ No

STRIKE OUT IF NOT APPLICABLE

If you object to the seizure, you must deliver the Notice of Objection to the Civil Enforcement Agency listed below within 15 days from the day that the seizure documents were served.

Dated at _____, Alberta, on _____.
Date

_____ _____
Signature of Bailiff Print Name

Civil Enforcement Agency

_____ _____
Name of Civil Enforcement Agency Phone Number (include area code)

_____ _____
E-mail Address Fax Number (include area code)

_____
Complete mailing address (including postal code)

NOTE: *If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency listed above. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff - Civil Enforcement at 780-422-2481.*

Addendum to Notice of Seizure of Personal Property

Civil Enforcement Agency File Number

Form 5.1
Civil Enforcement Regulation

List of Personal Property

Dated at _____ , Alberta, on _____ .
Date

Bailiff

_____
Signature of Bailiff

_____
Print Name

Notice of Objection to Seizure of Personal Property

Civil Enforcement Agency File Number

Form 6
Civil Enforcement Regulation

TO: _____
Name of Civil Enforcement Agency

_____
Address of Civil Enforcement Agency

_____ _____
E-Mail Address of Civil Enforcement Agency Fax Number (include area code)

This Notice of Objection to Seizure of Personal Property will not be accepted if a reason for the objection is not provided

I object to the seizure of the personal property mentioned in the Notice of Seizure of Personal Property for the following reason(s): (If filling out by hand and additional space is required, attach separate sheets)

If you object to the seizure of personal property, this notice must be delivered to the above noted Civil Enforcement Agency within 15 DAYS of the date on which the seizure documents were served.

If there is no valid reason for objecting to the seizure of the personal property, the sending of this notice may result in increased costs to you.

Dated at _____, Alberta, on _____.
Date

The following must be completed:

_____ _____ _____
Signature of Debtor Print Name Phone Number (include area code)

_____ _____
Complete mailing address including postal code Fax Number (include area code)

▸ Information for Debtor ◂

READ THIS DOCUMENT IMMEDIATELY

Your property has been seized under the Civil Enforcement Act either to satisfy a judgment against you or to satisfy a landlord's claim for unpaid rent ("landlord's distress"). This document sets out the exemptions to seizure to which you are entitled. Please note that, if the seizure is to satisfy another kind of claim, you may not be entitled to exemptions.

Caution:	**This document is not intended to provide legal advice. You should seek legal advice if you have any questions regarding your rights and obligations.**

CIRCUMSTANCES WHERE EXEMPTIONS DO NOT APPLY

The exemptions listed below do not apply in the following circumstances:

1. If you are not an individual (e.g. you are a corporation).
2. If the judgment against you is for the payment of maintenance or alimony.
3. If you have abandoned the seized property.
4. If the judgment arises out of an act for which you have been convicted of an offence under the Criminal Code.

EXEMPTIONS

Except where any one of the above circumstances apply, the following property is exempt from seizure:

		WRITS	LANDLORD DISTRESS
1.	Food required by you and your dependants during the next 12 months.		
2.	Clothing which is necessary for you and your dependants up to a value of	$4,000	$4,000
3.	Household furnishings and appliances up to a value of	$4,000	$1,000*
4.	One motor vehicle up to a value of	$5,000	Not exempt
5.	Medical and dental aids required by you or your dependants.		
6.	If your principal source of income is from farming, personal property necessary for the proper and efficient running of your farm for the next 12 months.		
7.	If item 6 does not apply to you, personal property required by you to earn income from your occupation up to a value of	$10,000	$10,000 - in the case of Residential Premises
8.	Money payable by the Agricultural Financial Services Corporation in respect of a claim for loss or damage to crops.		

* **FOR LANDLORD DISTRESS PURPOSES ONLY**

Household Furnishings and appliances means one washing machine and dryer; one kitchen suite; bedroom suites and bedding; kitchen appliances including one each of a stove, a microwave, a refrigerator and a freezer; kitchen utensils; and, carriages, strollers, cradles and cribs necessary for the use of the debtor's children.

NOTICE OF OBJECTION

- If you believe that there is a valid reason why the property that has been seized should not have been seized you must serve the Notice of Objection that has been provided to you on the Civil Enforcement Agency that made the seizure.
- The Civil Enforcement Agency must receive the Notice of Objection from you within 15 days of the day that the seizure documents were served on you or an adult member of your household. Your Notice of Objection will be void if the Civil Enforcement Agency receives it after the 15 day period has expired or if you do not give a reason for your objection.
- The address of the Civil Enforcement Agency to which you must deliver your Notice of Objection is indicated at the top of the Notice of Objection.

Warning:	**If your objection to seizure is not based on valid reasons you could be required to pay legal costs resulting from your objection.**

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency shown on the Notice of Seizure of Personal Property. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff – Civil Enforcement at (780) 422-2481.

Bailee's Undertaking

Civil Enforcement Agency File Number

Form 8
Civil Enforcement Regulation

In consideration of the seized personal property listed in the attached Notice of Seizure of Personal Property being left in my possession, I agree to act as Bailee for the Civil Enforcement Agency and keep the said personal property in good condition at:

_____

_____
Address or Land Location Where Personal Property Will Be Stored

and deliver it to the Civil Enforcement Agency whenever and wherever it may be required.

I understand that non-delivery or conversion of the personal property may result in a conviction under the Criminal Code for which a term of imprisonment may be imposed.

Dated at _____, Alberta, on _____.
Date

Bailee: _____
Signature of Bailee — Print Name

_____
Address of Bailee — City — Province

_____
Postal Code — Telephone Number — Fax Number

Witness:

_____
Signature of Witness — Print Name

_____
Address of Witness — City — Province

_____
Postal Code — Telephone Number — Fax Number

_____
Name of Civil Enforcement Agency

_____
Address of Civil Enforcement Agency — City

_____
Province — Postal Code — Email Address

_____
Telephone Number — Fax Number

NOTE: ATTACH TO EACH COPY OF THE NOTICE OF SEIZURE OF PERSONAL PROPERTY

Form 9
Civil Enforcement Regulation

Civil Enforcement Agency File Number

Bailiff's Report

CREDITOR _____

DEBTOR _____

I, _____, of the City/Town of _____, Alberta
Name of Bailiff

report as follows:

(Describe in detail the action taken, including dates, times, addresses, name(s), documents completed, persons served and with what documents, where personal property was removed to, storage location and cost, changes to the original instructions, and any other factual information that may be important to the instructing party or the civil enforcement agency.)

Is there an Addendum attached: ☐ Yes ☐ No

If yes, _____ Addendum paged attached. (Each page forms part of this Report.)
Number

I hereby certify that the information contained in this Report is true and complete. I understand that any false information may lead to charges under the *Criminal Code* (Canada) and could result in the suspension or cancellation of my appointment as a bailiff.

Dated at _____, Alberta, on _____, 20____.
City/Town Date

_____
Signature of Bailiff

_____
Print Name of Instructing Party

_____
Address

_____
City/Town Province Postal Code

_____
Print Name of Civil Enforcement Agency

_____
Address

_____
City/Town Province Postal Code

_____
Toll-Free Phone Number Toll-Free Fax Number

_____
E-mail Address

Civil Enforcement Agency File Number

Bailiff's Report - Addendum

Comments - continued

Signature of Bailiff

Form 10
Civil Enforcement Regulation

Financing Statement

Clerk's Stamp Filed & Issued

Writ of Enforcement

Civil Enforcement Act

Court Location _____
Court File Number _____

Type of Judgment Crown ☐ Employment Standards ☐ Other ☐

This writ authorizes enforcement proceedings in accordance with the *Civil Enforcement Act.* The particulars of the writ are as follows:

DEBTOR Individual ☐ __Male __Female Other ☐

Occupation _____
Date of Birth _____
yyyy/mm/dd

_____
Business Name or Last Name First Name Middle Name

_____
Address City Province Postal Code

CREDITOR Individual ☐ Other ☐ P.P.R. Party Code _____

_____
Business Name or Last Name First Name Middle Name

_____
Address City Province Postal Code

☐ Additional debtors and creditors and/or other information listed on attached addendum.

☐ If claiming priority based on an attachment order or partial assignment, indicate previous P.P.R. registration number: _____

Date of judgment (or date judgment effective, if different)_____
(date)

Amount of original judgment $_____
Post-judgment interest ..... $_____
Costs ..... $_____
Current Amount Owing..... $_____

SOLICITOR/AGENT/CREDITOR

P.P.R. Party Code _____

_____
Name in Full

_____
Address City Province Postal Code

_____
Area Code and Telephone Number Fax Number Call Box Number Your Reference Number

To register against Serial Number Goods at Personal Property Registry, complete the following:

Serial Number (only applicable to serial number goods, e.g. motor vehicles)	Year	Make and Model	Category

_____
Authorized Signature Print Name Control Number

Form 10.1
Civil Enforcement Regulation

Financing Statement

Writ of Enforcement Addendum

(If adding an alias, indicate Debtor's Block No. _____) Court File Number_____

DEBTOR Individual ☐ ____Male Other ☐
____Female Occupation _____
Date of Birth _____
yyyy/mm/dd

_____
Business Name or Last Name First Name Middle Name

_____
Address City Province Postal Code

(If adding an alias, indicate Debtor's Block No. _____)

DEBTOR Individual ☐ ____Male Other ☐
____Female Occupation _____
Date of Birth _____
yyyy/mm/dd

_____
Business Name or Last Name First Name Middle Name

_____
Address City Province Postal Code

CREDITOR Individual ☐ Other ☐ P.P.R. Party Code _____

_____
Business Name or Last Name First Name Middle Name

_____
Address City Province Postal Code

CREDITOR Individual ☐ Other ☐ P.P.R. Party Code _____

_____
Business Name or Last Name First Name Middle Name

_____
Address City Province Postal Code

☐ **ADDITIONAL INFORMATION**

Control Number _____

Form 11
Civil Enforcement Regulation

Clerk's Stamp Filed & Issued

KB Court File Number _____

Court of King's Bench of Alberta

Judicial Centre _____

CREDITOR

_____

Address and Postal Code of Creditor _____

Creditor's Telephone/Fax Numbers _____

DEBTOR

_____

Address and Postal Code of Debtor _____

Debtor's Telephone/Fax Numbers _____

GARNISHEE

_____

Address and Postal Code of Garnishee _____

Garnishee's Telephone/Fax Numbers _____

FILED BY

_____

Address and Postal Code of Filing Party _____

Filing Party's Telephone/Fax Numbers _____

Filing Party's File Number _____

Document **Garnishee Summons** ☐ before judgment ☐ after judgment

This Garnishee Summons is issued on (date) for $ (total amount)

(The Creditor may adjust the amount by serving a Notice on the Garnishee).

The creditor intends to garnish the debtor's

☐ employment earnings

☐ deposit accounts

☐ money owing from other sources

The judgment is for alimony or maintenance. ☐

When employment earnings are garnished for alimony or maintenance, *Maintenance Enforcement Act* employment exemptions apply. Refer to the *Maintenance Enforcement Regulation* (AR 2/86) for more information.

This summons expires
1. in the case of a deposit account, 60 days from the date it was issued, unless it is a joint account, in which case this is a one-time obligation, and
2. in all other cases, 2 years from the date it was issued, unless it has been renewed.

Supporting Affidavit

KB Court File Number _____

1. I am the Creditor or agent/lawyer for the Creditor.

2. According to the Judgment or Attachment Order, a Writ of Enforcement or Attachment Order has/has not been registered at the Personal Property Registry.

3. I believe that the proposed Garnishee owes the Debtor money now or will owe the Debtor money in the future.

4. The proposed Garnishee is in Alberta, or does business in Alberta notwithstanding that its payroll office is outside Alberta.

_____ _____
Signature of Creditor or Agent/Lawyer Printed Name of Creditor or Agent/Lawyer

_____
Occupation

Sworn/Affirmed in _____, Alberta
(Town or City)

on _____, 20__.
(Date)

_____
Commissioner for Oaths/Notary Public in and for the Province of Alberta

_____
Commissioner's Name and Commission's Expiry Date (please print)

To the Clerk

The Creditor has a Judgment/Attachment Order against the Debtor, and a Writ of Enforcement/Attachment Order has been registered at Personal Property Registry

as _____
(11–digit P.P.R. Registration Number)

The amount specified in the Writ of Enforcement/Attachment Order is $_____

of which the present balance owing is $_____

plus related writs (according to the attached search results) $_____

plus probable costs $_____

Total $_____

Certificate of Service on the Debtor/Joint Obligee

Garnishee _____
(print name of Garnishee)

I, _____
(print name of person who served the Garnishee Summons)

am the ☐ Garnishee/Agent for the Garnishee

☐ Creditor/Agent for the Creditor

I certify that on _____
(Date of service of Garnishee Summons)

I served _____
(Name of Debtor/Joint Obligee who was served)

☐ personally

☐ by ordinary mail

with a true copy of the Garnishee Summons according to the *Civil Enforcement Act*.

NOTE: Only the Garnishee may serve a Garnishee Summons on a Debtor/Joint Obligee by ordinary mail unless otherwise ordered by the Court.

Dated: _____, 20__.

_____
Signature of Person who served the summons

(If there is more than one Debtor/Joint Obilgee, please complete an additional Certificate of Service for each Debtor/Joint Obligee who was served.)

Instructions for Garnishee

These instructions will help you to comply with the Garnishee Summons. They are taken from the following pieces of legislation:

Civil Enforcement Act, RSA 2000 cC-15
Civil Enforcement Regulation (AR 276/95)

Make cheques payable to the President of Treasury Board and Minister of Finance and send, along with the required documents, to:

Future payments to the court clerk under this Garnishee Summons should be accompanied by a copy of the first page of this Garnishee Summons and an accounting.

Garnishee summons (which does not attach employment earnings)

Within 15 days of being served with the garnishee summons in triplicate with a $25 compensation fee, you must do the following:

1. Serve a copy of the garnishee summons on the debtor (personally or by ordinary mail).
2. Deliver to the court clerk a garnishee's response. See below for what this must contain.
3. Pay to the court clerk the lesser of
   (a) the amount indicated on the first page of the garnishee summons, or
   (b) the amount payable by you to the debtor according to your obligation to the debtor,

   minus $10 as a garnishee compensation.

   Where the garnishee summons seeks to affect a joint entitlement, you must pay to the court clerk, unless a court orders otherwise, an amount equal to the total amount of the fund divided equally amongst all the people with the joint entitlement. A garnishee summons that seeks to attach a joint deposit account only attaches a current obligation as defined in the *Civil Enforcement Act*.

Garnishee summons (which does not attach employment earnings)

continued

The garnishee's response must contain as much of the following as is applicable:

1. (a) a Certificate of Service on the Debtor (found on the second page of this document) stating that you have delivered a copy of the garnishee summons to the debtor,

   or

   (b) a statement setting out why you could not serve the garnishee summons on the debtor.

   NOTE: Send the original certificate of service to the court clerk.

2. The amount that you owe under your obligation to the debtor.

3. The amount that you are paying to the court clerk.

4. If you don't think that you have an obligation to pay the debtor that can be affected by the garnishee summons, please explain why.

5. If you believe that the obligation that the garnishee summons is trying to affect is (or may be) owed to someone other than the debtor, give the reasons for your belief and the name and address of that other person.

6. If you have already received another garnishee summons regarding the same obligation and that garnishee summons is still in effect, let the court clerk's office know in writing and give the court file number of the other garnishee summons. The court file number is on the front page of the garnishee summons.

7. Where the garnishee summons seeks to affect a joint entitlement, the garnishee's response must contain the name of each person who has the joint obligation with the debtor and either

   (a) the address of each person who has the joint obligation with the debtor, or

   (b) a completed certificate of service (found on the second page of this document) stating that you have served a copy of this garnishee summons on each person who has the joint obligation with the debtor.

   NOTE: If it is a joint account, it is a one-time obligation.

8. Where the garnishee summons has attached a future obligation, that is, there is an amount that you must pay the debtor in the future, the garnishee's response must contain the following, if known:

   (a) the date or dates on which the future obligation, or any part of it, is expected to become payable;

   (b) the amount expected to be payable on each date set out above;

   (c) any conditions that must be met before the future obligation will become payable.

   When the future obligation becomes payable, the garnishee's response must set out

   (a) the amount that is now payable, and

   (b) the amount that you are paying to the court clerk.

Garnishee summons (which attaches employment earnings)

Within 15 days of being served with the garnishee summons in triplicate with a $25 compensation fee, you must do the following:

1. Serve a copy of the garnishee summons on the debtor (personally or by ordinary mail).

2. Deliver to the court clerk a garnishee's response. See below for what this must contain.

3. Within 5 days after the end of the debtor's last pay period for months affected by the garnishee summons, pay to the court clerk the debtor's net pay less

   (a) the debtor's employment earnings exemption (see employment earnings exemptions listed below), and

   (b) $10 as a garnishee compensation.

Net pay means the debtor's total earnings minus any amounts you are required to deduct for income tax, Canada Pension Plan contributions and employment insurance premiums. Any other deductions are taken from the debtor's exemption.

The garnishee's response must contain as much of the following as applicable:

1. Whether or not you employ the debtor.

2. How often you pay the debtor.

3. Either

   (a) a certificate of service on the debtor (found on the second page of this document) stating that you have delivered a copy of the garnishee summons to the debtor,

   or

   (b) a statement setting out why you could not serve the garnishee summons on the debtor.

NOTE: Send the original certificate of service to the court clerk.

4. If you have already received another garnishee summons against the debtor's employment earnings and that garnishee summons is still in effect, let the court clerk's office know in writing and give the court file number of the other garnishee summons. The court file number is on the front page of the garnishee summons.

At the end of the debtor's last pay period for each month during which the garnishee summons is in effect, you must deliver to the court clerk a written statement setting out:

1. The debtor's total employment earnings for the pay periods that ended during the month.

2. The amounts deducted from the total earnings to calculate the debtor's net pay for the month.

3. The number of the debtor's dependants.

Employment earnings exemptions

Calculate the debtor's monthly employment earnings exemptions by adding together

(a) the debtor's minimum exemption, and

(b) half the amount by which the debtor's net pay exceeds this minimum exemption.

For a debtor with no dependants, the minimum employment earnings exemption is $800 and the maximum is $2400. The minimum and maximum employment earnings exemptions increase by $200 for each dependant.

A dependant is:

1. A person identified as a dependant by Court order.

2. The spouse or adult interdependent partner of the debtor.

3. Any child of the debtor under 18 years of age who lives with the debtor.

4. Any relative of the debtor (or of the debtor's spouse/adult interdependent partner) who lives with the debtor and, because of mental or physical infirmity, depends financially on the debtor.

You are entitled to rely on, and act in accordance with, the debtor's written statement of the number of dependants he or she has.

You can get a worksheet from the court clerk's office to help you calculate the debtor's employment earnings exemption.

When employment earnings are garnished for alimony or maintenance, employment exemptions under the *Maintenance Enforcement Act* apply. Refer to the *Maintenance Enforcement Regulation* (AR 2/86) for more information.

If you pay the debtor's salary/wage more often than monthly, you can pay the court clerk at the end of each pay period instead of at the end of each month. In this case, calculate the minimum and maximum employment exemptions for each pay period as follows:

1. Multiply the monthly exemption by the number of days in the pay period.

2. Divide this number by 30.

Form 12
Civil Enforcement Regulation

Clerk's Stamp Filed & Issued

KB Court File Number _____

Court of King's Bench of Alberta

Judicial Centre _____

CREDITOR

_____

Address and Postal Code of Creditor _____

Creditor's Telephone/Fax Numbers _____

DEBTOR

_____

Address and Postal Code of Debtor _____

Debtor's Telephone/Fax Numbers _____

GARNISHEE

_____

Address and Postal Code of Garnishee _____

Garnishee's Telephone/Fax Numbers _____

FILED BY

_____

Address and Postal Code of Filing Party _____

Filing Party's Telephone/Fax Numbers _____

Document **Garnishee Summons Renewal Statement**

TO THE ABOVE-NAMED GARNISHEE:

The Garnishee Summons in KB Court File number _____issued on _____ involving the above-noted parties expires on _____. An Attachment Order/Writ of Enforcement has been registered at the Personal Property Registry as Registration Number_____.

This Renewal Statement renews the Garnishee Summons for 2 years from the date the expiring Garnishee Summons expires. The updated amounts owing are as follows:

Balance owing is	**$**
Plus related writs in effect against the debtor (as per attached search results)	**$**
Plus probable costs	**$**
Total	**$**

Any subsequent monies paid into Court pursuant to this Garnishee Summons Renewal Statement should be accompanied by an accounting and a copy of the Garnishee Summons Renewal Statement.

Within 15 days of receiving this Garnishee Summons Renewal Statement, you must update the status of any contingency referred to in your response to the expiring Garnishee Summons.

Make cheques payable to **The President of Treasury Board and Minister of Finance** and send to the court clerk of the Court of King's Bench at:

Form 13
Statutory Declaration

Financial Statement of Debtor (Individual Debtor)

File Number

In accordance with section 35.10 of the *Civil Enforcement Regulation* (AR 276/95), you must, within 15 days of being served with this form, provide the completed form to the enforcement creditor.

A. Debtor Information *(Please Print)*

I, _____
Full Name Telephone Number

_____
Aliases, Nicknames or Previous Names

of _____,
Present Address: Street Address City Province Postal Code

solemnly declare that the contents of this document are true and accurate.

How long have you lived at this address? | | | | | | |

Day	Month	Year	
Birthdate			Social Insurance No.

B. Dependants

Present Marital Status

☐ Single

☐ Married

☐ Other

If Other, Specify

	Day	Month	Year
Name of Spouse or Adult Interdependent Partner	Birthdate of Spouse or Adult Interdependent Partner		

Do you have any children living with you who are legally dependent upon you for financial support? ☐ Yes ☐ No

If yes, provide the dependant's full name, age and relationship to you.

Full Name of Dependant	Age	Relationship to You

Do you have any other dependants who are dependent on your financial support?

☐ Yes ☐ No

If yes, provide the dependant's full name, address, age and relationship to you, and the reason for the dependant's dependency.

Full Name	Age	Relationship to You

Address	Reason for Dependency

Full Name	Age	Relationship to You

Address	Reason for Dependency

C. Employment

Full Name of Current Employer	Telephone No.	Fax No.

Present Address of Employer	City	Province	Postal Code

Nature of Business	Position Occupied

Place of Employment, if different from employer's address	How frequently are you paid?	If you are paid by the hour, what is your hourly wage?

If you are paid monthly, what is your gross monthly wage or salary?	What is your net monthly wage or salary?

What deductions are made from your salary? Provide complete listing.

Are you qualified as a tradesman, professional or otherwise?

☐ Yes ☐ No

If yes, state nature of qualifications or special training.

Do you receive bonuses from your employer?

☐ Yes ☐ No

If yes, when did you receive your last bonus?

On what basis are bonuses paid?

Do you expect to receive another bonus in the near future? ☐ Yes ☐ No

If yes, when and for how much?

Do you receive money in the form of commission? ☐ Yes ☐ No

If yes, state type of work, amount of income received and the most recent commission received.

Do you receive money from any part-time employment? ☐ Yes ☐ No

If yes, give employer's name, full address and telephone number and the amount of income.

Do you have any income-producing hobbies? ☐ Yes ☐ No

If yes, state type of hobby and amount of income received per year.

List all other income not set out above (e.g. dividends, rental income, annuities, pensions, etc.).

Have you received any income tax refunds in the past year? ☐ Yes ☐ No

Do you expect to receive any income tax refunds in the near future? ☐ Yes ☐ No

If yes, when and for how much?

Are you a veteran?

☐ ☐
Yes No

If yes, specify any veteran's benefits and allowances to which you are entitled.

What is the total income of your dependants from all sources?

D. Income from Business or Self-Employment

If you are self-employed or your business is a proprietorship or partnership, list the names, addresses and telephone numbers of any partners, principals or participants.

Name	Address	Telephone No.

Type of Business	Name of Business	Telephone No.
Business Location	Street Address	
City	Province	Postal Code

Is this business a ☐ proprietorship ☐ partnership ☐ corporation

What percentage of the business is owned by you? ☐ What is the net book value of the business? ☐

What is the estimated market value of the business? ☐

Itemize your yearly income: salary, business, dividends and other.

Salary	$
Bonuses	$
Dividends	$
Other (automobile allowances, expenses, etc. Provide details.)	$
	$
	$

Itemize other benefits: company car, house, loans, saving plans, share purchase options, etc.

	$
	$
	$
	$
	$
	$
	$

If business is a corporation, complete the following:

Are you an officer or director? ☐ Yes ☐ No Title

Total number of shares issued by the corporation and outstanding (describe type and class of share):

Total number of shares of each class held by you:

Class	Number	Net Book Value	Class	Number	Net Book Value

Total amount of all loans payable to you by the corporation:

Terms of repayment:

Amount	$	
Interest earned (if any)	$	

Attach a copy of most recent financial statement.

E. Monthly Expenses

List all of your monthly debt payments (loans, credit cards, personal debts, etc.), specifying the following:

Type of Debt	To Whom Payable	Amount Outstanding	Monthly Payment

List other personal liabilities (personal guarantees, encumbrances and debts specifically attached to personal property, etc.), specifying name and address of creditor, and amount of liability.

Name of Creditor	Address of Creditor	Amount

List and give details regarding any other debts.

F. Assets

Real Estate

List all real estate (homes, rental properties, cottages, condominiums, etc.) both within and outside the Province of Alberta in which you own an interest, including municipal address, legal description, purchase price, balance owing and current market value.

	Municipal Address	Legal Description	Purchase Price	Balance Owing	Current Market Value
1.					
2.					
3.					
4.					

List the name and address of any mortgagee for each property described above, as well as the date the mortgage was granted and the amount outstanding on the mortgage.

	Name of Mortgagee	Address of Mortgagee	Date of Mortgage Granted	Amount Outstanding on Mortgage
1.				
2.				
3.				
4.				

Motor Vehicles

List all motor vehicles, including cars, trucks, farm machinery, construction equipment, recreational vehicles, aircraft, etc. in which you own an interest.

	Type - Make - Model - Year	Serial No.	Purchase Price	Current Market Value
1.				
2.				

3.				
4.				

If any of the above vehicles are subject to any liens or encumbrances, specify:

	Holder of Lien or Encumbrance	Date of Lien/ Encumbrance	Balance Owing on Lien/Encumbrance
1.			
2.			
3.			
4.			

Bank Accounts, etc.

List all chequing and savings accounts, term deposits, RRSPs, annuities, etc., specifying the following:

	Type of Deposit	Name of Institution	Account No.	Branch Address	Amount
1.					
2.					
3.					
4.					

Also, specify whether there are any conditions attached to redemption of the accounts, and, if applicable, any expiry dates.

	Conditions Attached to Redemption	Expiry Date, if Applicable
1.		
2.		
3.		
4.		

Shares and Securities

If you have holdings in a corporation, complete the following:

List all shares, options, warrants, etc., and their current market value.

	Name of Corporation	Type	Number	Current Market Value	Dividends	Date Payable
1.						
2.						
3.						

List all bonds and debentures held and their current market value.

	Name of Issuer	Class or Series	Quantity Held	Total Market Value
1.				
2.				
3.				

List location of all certificates for all corporate holdings and the name(s) and address(es) of the respective broker(s).

	Location of Security Certificates or Other Evidence of Ownership of Securities	Name and Address of Broker(s)
1.		
2.		
3.		
4.		

Trust Properties

List all properties or interests held by a trustee on your behalf.

	Description of Assets Held	Location of Assets	Name and Address of Trustee
1.			
2.			
3.			
4.			

Other Assets

List all other assets, specifying kind, value and location, and whether solely or jointly owned.

Type of Asset	Description	Sole Owner		Location	Value
		Yes	No		
Interests in other businesses					
Promissory notes, judgment debts					
Loans and mortgages receivable					
Pension plans, registered pension plans, self-administered pension plans, life insurance policies (cash surrender value)					

List all other assets, specifying kind, value and location, and whether solely or jointly owned (e.g. art, jewellery, bullion, coins, cameras, household furniture and appliances, stereos, TVs, computers, crystal, dishwashers, etc.).

Description of Asset	Sole Owner		Location	Value
	Yes	No		

G. Transfer of Property

Have you given away, sold, assigned or otherwise transferred any property (land, buildings, vehicles, money, household furnishings, etc.) to anyone within the past year? Specify details below.

Description of Property	To Whom Transferred	Date of Transfer	How Much Money, if Any, Was Recovered by You?

H. Insurance

List all insurance policies in which you are a named beneficiary, including the insurance company granting the policy, the policy number, the amount, the person insured, the premium and its cash surrender value.

Insurance Company	Policy No.	Amount	Person Insured	Premium	Cash Surrender Value

I. Parties Who Owe You Money

List all parties who owe you money.

Name	Address	Reason for Debt	Amount Owing	Status of Court Action, if Any

J. Inheritances

List all estates in which you are the beneficiary of an inheritance.

Deceased's Name	Address	Value of Inheritance

K. Additional Income and Assets

List all income and assets not itemized above (e.g. legal action claims under insurance policies, etc.).

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at _____

Alberta, on _____, _____ _____

_____
A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

_____
Print Name and Expiry Date

Form 14
Statutory Declaration

Financial Statement of Debtor
(Corporate Debtor)

File Number

In accordance with section 35.10 of the *Civil Enforcement Regulation* (AR 276/95), the Corporation must, within 15 days of being served with this form, provide the completed form to the enforcement creditor.

A. Debtor Information *(Please Print)*

I, _____
Full Name of Deponent

of _____,
Address of Deponent — Telephone Number of Deponent

am the _____ of _____
Position with Corporate Debtor — Name of Corporate Debtor

of _____
Address of Corporate Debtor — Telephone Number of Corporate Debtor

and I solemnly declare that the contents of this document are true and accurate.

B. Assets

Real Estate

List all real estate (homes, rental properties, cottages, condominiums, etc.) both within and outside the Province of Alberta in which the corporation owns an interest, including municipal address, legal description, purchase price, balance owing and current market value.

	Municipal Address	Legal Description	Purchase Price	Balance Owing	Current Market Value
1.					
2.					
3.					

List the name and address of any mortgagee for each property described above, as well as the date the mortgage was granted and the amount outstanding on the mortgage.

	Name of Mortgagee	Address of Mortgagee	Date of Mortgage Granted	Amount Outstanding on Mortgage
1.				
2.				
3.				

Motor Vehicles

List all motor vehicles, including cars, trucks, farm machinery, construction equipment, recreational vehicles, aircraft, etc. in which the Corporation owns an interest.

	Type - Make - Model - Year	Serial No.	Purchase Price	Current Market Value
1.				
2.				
3.				

If any of the above vehicles are subject to any liens or encumbrance, specify.

	Holder of Lien or Encumbrance	Date of Lien or Encumbrance	Balance Owing on Lien or Encumbrance
1.			
2.			
3.			

List all fixtures, equipment and inventory.

	Type - Make - Model - Year	Serial Number, if Applicable	Purchase Price	Current Market Value
1.				
2.				
3.				

Bank Accounts

List all deposit accounts, term deposits, annuities, etc., specifying the following:

	Type of Deposit	Name of Institution	Account No.	Branch Address	Amount
1.					
2.					
3.					

Also, specify whether there are any conditions attached to redemption of the account, and, if applicable, any expiry dates.

	Conditions Attached to Redemption	Expiry Date, if Applicable
1.		
2.		
3.		

Receivables and Ongoing Contracts

List all receivables and ongoing contracts.

	Name	Address	Amount Owing
1.			
2.			
3.			

Shares and Securities

If the corporation has holdings in a corporation, complete the following:

List all shares, options, warrants, etc., and their current market value.

	Name of Corporation	Type	Number	Current Market Value	Dividends Payable (if any)	Date Payable
1.						
2.						
3.						

List all bonds and debentures held and their current market value.

	Name of Issuer	Class or Series	Quantity Held	Total Market Value
1.				
2.				
3.				

List location of all certificates for all corporate holdings and their respective name(s) and address(es).

	Location of Security Certificates or Other Evidence of Ownership of Securities	Name and Address of Broker(s)
1.		
2.		
3.		

Trust Properties

List all properties or interests held by a Trustee on the Corporation's behalf.

	Description of Assets Held	Location of Assets	Name and Address of Trustee
1.			
2.			
3.			

Other Assets

List all other assets, specifying kind, value and location, and whether solely or jointly owned.

Type of Asset	Description	Sole Owner		Location	Value
		Yes	No		
Interest in other businesses					
Promissory notes, judgment debts					
Loans and mortgages receivable					

List all other assets, specifying kind, value and location, and whether solely or jointly owned (e.g. art, jewellery, bullion).

Description of Asset	Sole Owner		Location	Value
	Yes	No		

C. Transfer of Property

Has the corporation given away, sold, assigned or otherwise transferred any property (land, buildings, vehicles, money, equipment, inventory, etc.) outside the ordinary course of business within the past year? Specify details below.

Description of Property	To Whom Transferred	Date of Transfer	How Much Money, if Any, Was Recovered By the Corporation?

D. Insurance

List all insurance policies in which the corporation is named beneficiary, including the insurance company granting the policy, the policy number, the amount, the person insured, the premium and its cash surrender value.

Insurance Company	Policy No.	Amount	Person Insured	Premium	Cash Surrender Value

---

E. Additional Income and Assets

List all income and assets not itemized above (legal action claims under insurance policies, etc.).

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at _____

Alberta, on _____, _____ _____

_____

A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

_____

Print Name and Expiry Date

Searches

Searches must be conducted at various stages of enforcement action including:

(a) Prior to seizure

(b) Prior to sale, and

(c) Prior to distribution

This manual addresses the standard search types. Consult your legal counsel for further direction regarding necessary searches.

Distribution Seizure Search

"DS" distribution seizure search allows for multiple names and aliases to be searched on one specific file only. Do not use for searching names on multiple files as the search results will not be accurate. This search will be conducted prior to effecting seizures, sales and distribution. It is an "historical search which, by using an "as at date" on the search screen, allows the Agency to determine what registrations were current at the time the receipt was eligible for distribution. The date entered in the "as at date" field on the search screen can date as far back as 21 days from the date you are conducting the search.

Types of registration included in this search are: Writs, Maintenance Orders, Court Orders, Bankruptcy Registrations, Stays, OPD Registrations, Security Agreements, Garage Keepers' Liens, WCB Charges, Land Charges, Crown Charges, Matrimonial Property Orders, and Railway Rolling Stock Registration. Complete information relating to seizure, seizure disposition, and sales distribution information will print on exact matches only (including debtor identifier, if any). The advantages of conducting a "DS" are as follows:

- the capability of including up to 21 days prior expired or discharged registrations
- multiple variations of the debtor name can be searched within one "DS" search
- search results are in registration date order, easier to consider priorities
- search is conducted by individual or business debtor name
- only exact writs are included in results

Serial Number Collateral ("SN") Search

"SN" serial number collateral search is recommended, in addition to "DS" or any other searches, at various stages of enforcement action when dealing with serial numbered goods as defined in the Personal Property Security Act.

Motor Vehicle ("MV") Search

A "MV" can be used to confirm the address of an enforcement debtor or to confirm the current registered owner of a vehicle. To conduct a "MV" the Civil Enforcement Agency must have a current AVMVIR Agreement.

Agencies must complete one of the following forms to request a "MV" for Vehicle and Property Seizures:

- CEA Motor Vehicle Information Statement – Motor Vehicle Seizures (Form 15.1 – Step 1)
- CEA Motor Vehicle Information Statement – Enforcement Debtor (Form 15.2)

(See example searches in this section)

For Vehicle & Property Seizures, the CEA must complete and provide to their Registry the following:

- A search request letter
- A copy of the instructing letter from the CEA's client requesting seizure
- CEA Motor Vehicle Information Statement – Motor Vehicle Seizures (Form 15.1 – Step 1)

OR

- CEA Motor Vehicle Information Statement – Enforcement Debtor (Form 15.2)

For VIN-Based Motor Vehicle Registration Searches, the Agency must complete the following form:

- CEA Motor Vehicle Information Statement – Motor Vehicle Seizures (Form 15.1 - Step 2)

VIN-Based Motor Vehicle Searches must be requested by fax from the Office of the Sheriff-Civil Enforcement. The Civil Enforcement Agency must include the following in their request:

- Form 15.1 CEA Motor Vehicle Information Statement – Motor Vehicle Seizure with step 2 completed
- All documents submitted to registry agent relating to Step 1 on 15.1 CEA Motor Vehicle Information Statement – Motor Vehicle Seizure
- All response documents received with respect to Step 1 noted above including Not Found Report (if applicable)
- Name of Bailiff and date of attempted seizure for requests made under part b of Step 2

All "MV" information released by the Registrar, must be kept confidential and cannot be shared except as permitted by the agencies AMVIR agreement and Section 7 and 13 of the Civil Enforcement Regulation. All search information must be retained/stored as per the agencies'' AMVIR agreement.

Bank of Canada

Searches may be conducted at the Bank of Canada to determine securities that may be registered pursuant to The Bank Act. For more information contact the Bank of Canada:

Bank of Canada
234 Wellington Street
Ottawa, ON K1A 0G9

Telephone: 1-800-303-1282
Fax: 613-752-7713
Website: https://www.bankofcanada.ca/

Superintendent of Bankruptcy

Searches may be made against the public records of the Superintendent of Bankruptcy to confirm the insolvency status of individuals or businesses. For more information or to request a search, visit the Office of the Superintendent of Bankruptcy Canada:

www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/h.br01852.html

Form 15.1
Civil Enforcement Agency Name and Address

CEA Motor Vehicle Information Statement – Motor Vehicle Seizure

I confirm on behalf of _____ (*Name of the CEA*) that we have been retained by _____ (*Name of the CEA client*) of _____ (*Address of the CEA client*) and instructed on _____ (*Date of instructing letter*) under the CEA File Number _____ (*CEA file number*) to seize the following motor vehicle: _____ (*Model, Year, Color*) identified by the VIN: _____ (*Vehicle Identification Number (VIN)*) on behalf of _____ (*Name of enforcement creditor*) of _____ (*Address of enforcement creditor*)
I confirm that the documents presented by the client show that the owner of the motor vehicle should be: _____ (*Name of the owner*) of _____ (*Last known address of the owner*)

I confirm that we have a valid agreement with the Registrar of Motor Vehicle Services ("Registrar") under AMVIR File # 000-_____ allowing us to request personal driving and motor vehicle information pursuant to s. 2(1)(c) of the Access to Motor Vehicle Information Regulation (AMVIR) and s. 8.1(1) of the Civil Enforcement Regulation for the purpose of carrying out the seizure of the motor vehicle from the current Registered Owner(s) (ROs) in accordance with the *Civil Enforcement Act*.
I confirm that I have reviewed the supporting documents presented by our client and I have established that our client has authority under the *Civil Enforcement Act* to request the seizure of the motor vehicle listed above. Consequently, I represent to the Registrar that we are authorized to request information under s. 8.1(1) of the Civil Enforcement Regulation for the purpose of conducting civil enforcement proceedings as defined in section 1(1)(g) of the *Civil Enforcement Act*.
I confirm that the required Vehicle Information Report (VIR) was ordered from the Registrar and will be provided to the registry agent attached to the Request Letter. A copy will be kept on file for auditing purposes. (This applies to vehicle searches under part 2 only)
I confirm that seizure documents have been prepared in compliance with the applicable legislation and policies and all required documents are preserved for auditing purposes.
To prepare for seizure, after reviewing the client's request and the documents supporting this request, I have established that we are authorized to request from the Registrar (check only the box(es) that apply below):

☐ 1) **Full Demographic Search Report (CL SR)** confirming the current physical address of the RO using as search criteria the full name and address of the owner provided by the client.

☐ 2) I confirm that: ☐ a) we have received a Not Found Report (NFR) from a search request made under item 1) immediately above (see attached) or ☐ b) we attempted to seize the vehicle using the demographic information released by the Registrar using a search request made under item 1) immediately above but the vehicle appears to have been transferred to another person. **However, I have established that we are still authorized to seize the vehicle and consequently we request under exception processing**:

   i. **VIN-based Vehicle Registration Search Report (VR-V SR)** confirming the current ROs of the vehicle using the VIN as unique search criterion **and**

   ii. **Full Demographic Search Report (CL SR)** confirming the current physical address of the RO or the contact person if the vehicle is registered to a joint file.

We agree that any information released can only be used for the purpose to prepare for a seizure under the CEA file indicated above and that any protected information obtained using information released by the Registrar must be kept confidential and cannot be shared except as permitted by our AMVIR Agreement and Section 7 and 13 of the Civil Enforcement Regulation.

_____ (*Name of the CEA Authorized Employee*) _____ (*Signature of the CEA Authorized Employee*) _____ (*Date of the Statement*)

Form 15.1
Civil Enforcement Agency Name and Address

CEA Motor Vehicle Information Statement – Enforcement Debtor

I confirm on behalf of _____ that we have been retained by
(Name of the CEA)
_____ of _____
(Name of the CEA client) *(Address of the CEA client)*
and instructed on _____ under the CEA File Number _____ to seize personal property from
(Date of instructing letter) *(CEA file number)*
_____ of _____
(Name of the enforcement debtor) *(Last known address of the enforcement debtor)*
on behalf of _____ of _____
(Name of enforcement creditor) *(Address of enforcement creditor)*

I confirm that we have a valid agreement with the Registrar of Motor Vehicle Services ("Registrar") under AMVIR File # 000-_____ allowing us to request personal driving and motor vehicle information pursuant to s. 2(1)(c) of the Access to Motor Vehicle Information Regulation (AMVIR) and s. 8.1(1) of the Civil Enforcement Regulation for the purpose of carrying out seizures under the *Civil Enforcement Act*.

I confirm that I have reviewed the supporting documents presented by our client and I have established that our client has authority under the *Civil Enforcement Act* to request seizure. Consequently, I represent to the Registrar that we are authorized to request information from the Registrar under s. 8.1(1) of the Civil Enforcement Regulation for the purpose of conducting civil enforcement proceedings as defined in section 1(1)(g) of the *Civil Enforcement Act*.
I confirm that seizure documents have been prepared in compliance with the applicable legislation and are preserved for auditing purposes.

After reviewing the client's request and the documents supporting this request I confirm that I have established that we are authorized to request the following motor vehicle information search reports about the enforcement debtor that are required to prepare for seizure (*check all reports that apply*):

- ☐ Enforcement Debtor's Limited Demographics;
- ☐ Enforcement Debtor's Locator Demographics;
- ☐ Enforcement Debtor's Full Demographics;
- ☐ Enforcement Debtor's Vehicle Index;
- ☐ Enforcement Debtor's Plate Index;

using the additional search criteria listed below:

Search criteria			**At date:**
	Debtor's date of birth		N/A
	Debtor's current Alberta address		N/A
	Debtor 's previous Alberta address		

(Check only one of the lines in the above table and provide the information requested in that line only)

We agree that any information released can only be used for the purpose to prepare for a seizure under the CEA file indicated above and that any protected information obtained using information released by the Registrar must be kept confidential and cannot be shared except as permitted by our AMVIR Agreement and Section 7 and 13 of the Civil Enforcement Regulation.

_____ _____ _____
(Name of the CEA Authorized Employee) *(Signature of the CEA Authorized Employee)* *(Date of the Statement*

Seizure

Seizure is the act of taking possession of personal property. Section 9(3) of the Civil Enforcement Act authorizes a Civil Enforcement Agency to effect seizure unless otherwise provided under another statute. Subsection (4) requires the Civil Enforcement Agency to use only Civil Enforcement Bailiffs for the purpose of carrying out seizures.

There are two basic categories of seizure: writ and distress.

Writ Seizure

Writ Seizure is a seizure of non-exempt personal property to enforce a money judgment pursuant to writ proceedings authorized by the Civil Enforcement Act.

Upon obtaining a judgment and entering it in the Court of King's Bench, a creditor may prepare and file a Writ of Enforcement with the Clerk of the Court of King's Bench in the Judicial Centre in which the judgment was issued. This writ authorizes enforcement proceedings and must be registered with Personal Property Registry before enforcement can be initiated.

A Writ of Enforcement authorizes enforcement proceedings by a Civil Enforcement Bailiff in accordance with the Civil Enforcement Act for the purpose of enforcing a money judgment.

Distress Seizure

Distress seizure is a seizure of personal property to enforce the payment of certain claims that do not form part of a judgment issued by the Court.

A Distress Warrant is the document by which a creditor requests an Agency to effect a seizure and is the authorization under which the Agency acts.
Section 1(1)(m) of the Civil Enforcement Act sets out the rights of distress. The following are the most common:

1. Contractual – PPSA	Seizure under the Personal Property Security Act arising from a default on a contractual agreement between two parties, i.e. security agreement
2. Landlord Distress	Seizure by a landlord for arrears in rent
3. Statutory Distress	Seizure under a specific statutory provision allowing for the enforcement of a claim that does not form part of a court ordered judgment. Some Acts specifically incorporate the provisions of the Civil Enforcement Act for this distress procedure. Other acts specifically exclude the provisions of the Civil Enforcement Act and the Civil Enforcement Agency must be careful in dealing with these to ensure that is follows the correct procedure

Unless otherwise ordered by the court, a seizure or eviction or a removal of seized property that is carried out at a residence in accordance with the Civil Enforcement Act shall be carried out only between the hours of 6:00 a.m. and 10:00 p.m.

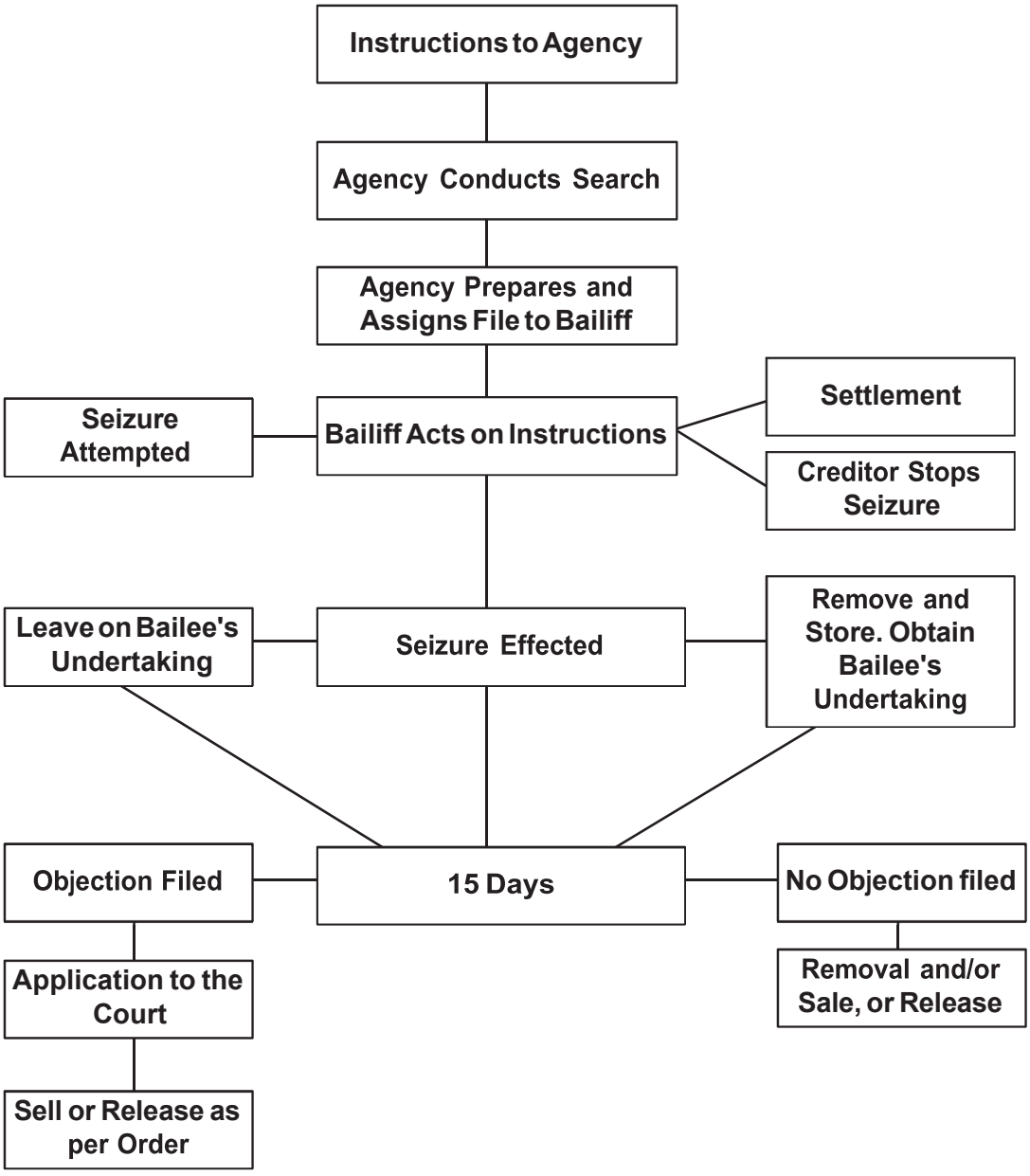
- Please note that the term "residence" in s. 8(1) of the Civil Enforcement Regulation is used to distinguish residential from business or commercial premises. Therefore, whether or not the property in question is actually on the residential premises, if it at the residential premises, if it is at the residential premises, for example on the street in front of the residential premises, it may not be seized between the hours specified, unless otherwise ordered by a court.

Costs

Keep in mind that the costs incurred by you in the performance of your duties will eventually be applied to the debt. Therefore, care must be taken to avoid all unnecessary costs. If you have reason to believe that excessive costs will be incurred in carrying out the instructions, advise the instructing party before proceeding.

Writ Seizure

Flow Chart



Writ of Enforcement Seizure Process

Pursuant to section 26 of the Civil Enforcement Act, a judgment creditor must register a Writ of Enforcement at Personal Property Registry before enforcement proceedings can be initiated.

Warrant

The warrant is the document which provides the direction and authority to commence enforcement proceedings against an enforcement debtor. It must be completed and signed by the instructing creditor or authorized agent with the exception of the "SEIZURE FEES AND COSTS" and the total at the bottom. This would be completed by the Bailiff if settlement is tendered. Sufficient copies are required to allow service on each debtor and return of the original to the Agency. (See example of form in this section.)

Upon receipt of the warrant, check:

1. That the warrant is directed to your Agency
2. Personal Property Registration number
3. Debtor's name and complete address
4. Amount owing as registered at Personal Property Registry
5. Name of creditor
6. Location of personal property if different from debtor's address
7. Municipality and date of warrant
8. Signature of instructing creditor or authorized agent
9. Name, address, telephone number and fax number of instructing creditor or authorized agent

Letter of Instructions

In addition to the warrant, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

1. Any urgency associated with the file
2. Any unusual circumstances which might be anticipated
3. Whether removal of the seized personal property is required
4. Form of indemnification as requested by the Agency
5. Whether the creditor is aware of any legal impediments to seizure such as stays or third party claims as applicable to the specific property

If removal is instructed, you may wish to consider and discuss with the instructing party the following issues with regard to the removal of seized personal property:

1. Pursuant to Section 46 of the Civil Enforcement Act, the debtor has 15 days in which to object to the seizure, additional costs would be incurred for removal and storage; the debtor may be deprived use of the seized property within the objection period
2. The location of the property to be seized, as removal may be costly in a remote area

3. The condition or value of the property to be seized, as the cost of seizure may outweigh the money which may be realized from a sale of the property or the money realized may not significantly reduce the debt
4. The type of property required to be removed including where and how to conduct the removal of unique or special items
5. Any stays that may be in existence. If there is a stay in effect, you may be liable for an improper seizure and for removal costs. A stay is in existence whether or not it has been registered at Personal Property Registry. Therefore, check out any information that may come to light at the time of seizure

Searches

Once the warrant and letter of instructions have been reviewed, the next step is to examine the distribution seizure ("DS") search from Personal Property Registry provided by the instructing party. The search should be recent. If the search is not provided, the Agency must conduct the search.

- The distribution seizure ("DS") search must be reviewed and, if necessary, discussed with the instructing creditor, prior to effecting seizure. It is extremely important to determine the existence of any prior interests such as Workers' Compensation Board, prior security interests, etc., and whether seizure is viable. The reasons for this are: firstly, the costs priority given under section 99(3) of the Civil Enforcement Act does not apply as against these interests; and, secondly, there is no right to sell the property unless there is equity existing after these priority interests are paid out.

  Examine the search to:

  1. Ensure that the instructing party's writ is included
  2. Determine the related writs and maintenance orders that should be included on the warrant
  3. Determine if there is equity subject to writ seizure
  4. Determine any proceedings which may stay enforcement
  5. Determine if there are any seizures against the same property of the debtor, and, if so, refer to sections 48.1 and 48.2 of the Civil Enforcement Act

- If applicable, consider whether a serial number collateral (“SN”) search should also be conducted prior to proceeding, as recommended in the search section of this manual.

  The following are proceedings that may stay enforcement action:

  ## 1. Court of Justice Civil Claim Appeal

  An appeal of a decision from the Civil Division of the Court of Justice operates as a stay of proceedings and no further enforcement action should proceed on the judgment until the appeal has been resolved

  The Civil Claim appeal relates only to that particular judgment on which the appeal was filed. All other creditors can proceed to enforcement

If the searches show a Civil Claim appeal with respect to the instructing party's writ, advise the instructing party that seizure cannot be effected

2. Bankruptcy

If a debtor is in bankruptcy, determine whether a stay of proceedings is in effect.
If the searches show that the debtor is in bankruptcy, contact the Trustee in Bankruptcy to determine if seizure can be effected for the instructing party. Advise the instructing party if unable to effect seizure OR proceed to seizure if the Trustee in Bankruptcy advises, in writing, to do so

The only way to determine conclusively whether a bankruptcy exists is to conduct a search of the records of the Superintendent of Bankruptcy. For information on these searches, refer to section 4 - Searches

3. Court Ordered Stays

This is an order granted by the Court to stay one or more matters until the time specified in the order

If the searches show that a court ordered stay affecting the instructing party's action has been registered, the seizure cannot be effected. Advise the instructing party and await further instructions

If you become aware that a stay has been granted by the Court affecting the instructing party's action, even if it is not registered at the Personal Property Registry, you should not proceed with seizure

4. Orderly Payment of Debts

Orderly Payment of Debts, commonly referred to as OPD is a program administered by Money Mentors, formerly Credit Counselling Services of Alberta, whereby a person in debt can obtain an order consolidating debts and specifying new terms of payment to the creditors participating in the order

If, in conducting a seizure, a Bailiff encounters a debtor who indicates they have entered into a Consolidation Order, the Agency may wish to confirm the status with Money Mentors at 1-888-294-0076, or obtain instructions from the instructing party as to whether to proceed with seizure. For more information on Money Mentors, visit their website at http://www.moneymentors.ca

Completion of Warrant

Once you have determined who the creditors and related writ holders are, complete the amount owing portion of the warrant.

Required Documents for Bailiff

In order to effect seizure, the Bailiff must be provided with a copy of the warrant, a copy of the letter of instructions and the following documents:

1. Notice of Seizure of Personal Property, sufficient copies to allow service of one on each debtor, one for each bailee and return of the original to the Agency
2. Notice of Objection to Seizure of Personal Property, sufficient copies to allow service of one on each debtor and return of the original to the Agency

3. Information for Debtor form, sufficient copies to allow for service of one on each debtor
4. Bailee's Undertaking, sufficient copies to provide a copy to each bailee and return original to the Agency
5. Bailiff's Report
6. Other documents as required.

Notice of Seizure of Personal Property

This form is used to describe in detail the items seized and to notify all affected parties of the seizure of personal property. Sufficient copies are required to allow service of one notice on each debtor, and return of the original to the Agency. (See example of form in this section)

The following must be completed by the Agency:

1. Agency file number
2. Name and address of debtor
3. Amount owing as registered at Personal Property Registry and shown on the warrant
4. Name and address of creditor
5. "YES" box completed for Notice of Objection to Seizure of Personal Property applicable to this seizure. The debtor is entitled to object in the case of a writ seizure
6. Agency's name, address, telephone number, fax number and email address

Notice of Objection to Seizure of Personal Property

This form is used by the debtor if he wishes to object to the seizure. The Bailiff must be provided with sufficient copies to serve one on each debtor. In the case of multiple debtors, each debtor is entitled to object. (See example of form in this section.)

The following must be completed by the Agency:

1. Agency file number
2. Agency's name, address, fax number and email address

Information for Debtor Form

This form explains to the debtor the exemptions to seizure to which the debtor is entitled, circumstances when exemptions do not apply and the objection provisions.

The Civil Enforcement Regulation requires that this form be served on each debtor once the Bailiff has effected seizure. (See example of form in this section.)

Bailee's Undertaking

This form is used when the Bailiff leaves the seized personal property with a responsible person who agrees to keep the seized property and is responsible for its safekeeping and delivery to the Civil Enforcement Agency when requested. Sufficient copies are required: one for the bailee, and return of the original to the Agency. (See example of form in this section.)

The following must be completed by the Agency:

1. Agency file number
2. Agency's name, address, telephone number, fax number and email address

Bailee by Default

As per Section 13(2)(j) of the Civil Enforcement Act;

> *13(2)(j) A debtor who has possession of or control over personal property that is under seizure and has been served with the seizure documents or the document authorizing the carrying out of the distress in respect of that property*
>
> *(i) holds that property as bailee for the bailiff and the agency, and*
>
> *(ii) must deliver up that personal property to the bailiff or the agency*
>
> *(A) when required to do so by the bailiff or the agency, and*
>
> *(B) at a location specified by the bailiff or the agency,*
>
> *whether or not the debtor has signed an undertaking referred to in clause*

Change of Bailee

If circumstances require a change of bailee, the new bailee must have the undertaking responsibilities explained. He must enter into the new Bailee's Undertaking by signing it and having it witnessed by an Agency employee or a Bailiff. Sufficient copies are required: one for the bailee, one for the creditor, and the original for the Agency. At the discretion of the Agency, the condition of the personal property may be verified.

The following must be completed by the Agency:

1. Prepare a new Bailee's Undertaking. Have the undertaking signed by the new bailee and witnessed. Attach the original to the original Notice of Seizure of Personal Property and give the new bailee a copy of the new Bailee's Undertaking with a copy of the Notice of Seizure of Personal Property attached
2. Advise the original bailee in writing of their release from the undertaking

Bailiff's Report

This form is the Bailiff's certification of the action he has taken. (See example of form in this section.)

Other Documents

Other documents that may be required would include relevant court orders, Addendum to Notice of Seizure of Personal Property and Seizure Stickers.

The Addendum to the Notice of Seizure of Personal Property may be required by the Bailiff if he runs out of space on the Notice of Seizure of Personal Property. It is suggested that the Bailiff keep a supply of these with them at all times.

Procedure for Effecting Seizure

The Bailiff should:

1. Carefully read the warrant and any other instructions received from the instructing party or the Civil Enforcement Agency

2. Review the file to see if there are any arrangements that should be made ahead of time which may assist in effecting seizure (e.g. attendance of a veterinarian, tow truck arrangements, etc.)
3. Proceed to the location given in the warrant or letter of instructions

   For street addresses, a good city / town map may be helpful if you are unfamiliar with the area. For locating property identified by legal land description, you should know how to read the section, township, range and meridian shown on a district map. Ensure that you have access to various district maps

Arrival at Location

1. Upon arriving at the location, identify yourself to the debtor. If the debtor is not present, advise the person present who you are and why you are there. Every attempt should be made to contact the debtor if their whereabouts are known
2. Ensure the warrant is available for inspection by the debtor, if requested
3. Entry by Force - Pursuant to section 13(2)(c)(iii) of the Civil Enforcement Act, do not enter by force into any residence without a court order. An attached garage is considered part of the residence.

   - If the doors of an attached garage are open and the goods to be seized are contained within the garage, a bailiff must not enter the garage without an adult, whom the bailiff believes to be living at the residence, in attendance. Bailiffs must adhere to all requirements under Section 13(2)(c)(iii) of the Civil Enforcement Act when obtaining access to attached garages.

     Forced Entry - At any location or premises belonging to the debtor, other than a residential premise, you have the authority to force entry using the services of a locksmith. Where you have to use force to gain entry, you must reasonably secure the premises before leaving

     If denied access to the premises belonging to someone other than the debtor, you have no authority to enter without a Court Order

     Before entering buildings equipped with an alarm system, notify the alarm company or the police providing full particulars on the nature of your call, location and time, etc.

Caution:
Upon arrival at the location, the Bailiff may be informed by the debtor that

1. They have filed for bankruptcy
2. They are registered under the Orderly Payment of Debt program
3. There is a stay under the Farm Debt Mediation Act
4. There is a stay ordered by the Court

In these situations, the Bailiff should contact the Civil Enforcement Agency for further instructions before proceeding.

Offer of Settlement

1. If the debtor offers settlement, the Bailiff should contact the Civil Enforcement Agency to confirm the exact amount of the outstanding debt and costs, and whether he is

authorized to accept payment. Unless the entire debt is collected or the instructing party instructs you to stop action, seizure should be effected If the debtor wishes to settle one claim only, he must make the arrangements directly with that creditor

2. Settlement should always be in the form of cash, certified cheque, bank draft or money order unless the instructing party agrees otherwise
3. If the debtor tenders cash, the Bailiff should issue a receipt to the debtor. If the bailiff is unable to submit the cash to the Agency, at the first opportunity he should obtain a money order payable to the Civil Enforcement Agency. The Bailiff should attach a copy of the money order to their receipt book. If there is a fee for purchasing the money order, it may be charged back as an expense
4. If the debtor tenders non-certified funds and the instructing party has not consented to this form of payment, seizure of personal property must still be effected
5. DO NOT accept postdated cheques unless instructed to do so by the instructing party

Negotiated Settlement

If the debtor and instructing party negotiate some other form of settlement, any directions to discontinue the seizure action must be received directly from the instructing party.

Seizure

If settlement is not made, proceed to seize the personal property in accordance with the warrant/ letter of instructions. The Bailiff must physically see and be able to lay their hands on the personal property being seized in order to effect a proper seizure.

Complete the Notice of Seizure of Personal Property

The bailiff should:

1. Describe the personal property seized on the Notice of Seizure of Personal Property and an Addendum, if necessary. The description should include the quantity, serial number, make, model, year and colour, if applicable, and any other information to help identify the property
2. Ensure the form indicates whether a Notice of Objection to Seizure of Personal Property was applicable to the seizure
3. Date and sign their name at the bottom before serving or attaching. (See example of form in this section)
4. If an addendum is used, indicate so by checking the box Addendum Attached and number the pages 1 of ___, 2 of ___, etc.
5. Ensure that the following are indicated on the addendums:

    a. Civil Enforcement Agency file number

    b. Date and signature.

    (See example of form in this section)

Seizure Stickers

To be attached to the personal property seized only when the property cannot be readily identified, e.g. because it has no serial number. (See example of form in this section).

Do not use the stickers on property obviously exempt or likely belonging to a third party. Careless or improper use of the stickers would defeat their purpose.

1. Write an identification number on the sticker
2. Write the Civil Enforcement Agency file number on the sticker
3. Ensure all blanks are properly completed
4. The Bailiff must sign the sticker
5. Note the following in the Bailiff report:
    a. the sticker identification number
    b. the personal property it was attached to
    c. where on the personal property it was attached

Other cases where stickers might be used are where:

1. No one is available to sign a Bailee's Undertaking and immediate removal is not possible
2. The debtor or person in charge refuses to sign a Bailee's Undertaking and immediate removal is not possible
3. The personal property is difficult to accurately describe
4. There is some suspicion that the seized personal property might later be substituted or removed, possibly by someone not aware of the seizure

Bailee's Undertaking

1. If a Bailee's Undertaking is used, the Bailiff must explain it to the bailee, ensuring that the following is included in the explanation:
    a. The bailee is responsible to the Civil Enforcement Agency for the personal property, preservation of its present condition and value until relieved of this responsibility by the Civil Enforcement Agency. The bailee agrees to keep seized property and is responsible for its safekeeping and delivery to the Agency when requested
    b. The bailee shall advise the Civil Enforcement Agency of a change in address or incidents involving the personal property that would change their value
    c. If the bailee is the debtor, he may use the personal property
    d. The bailee may request that the Civil Enforcement Agency relieve them of their responsibility in the event that they no longer wishes to be responsible for the personal property, e.g. if they are planning to move
2. Advise the bailee of the penalty for non-compliance with the Bailee's Undertaking
3. Complete the Bailee's Undertaking. (See example of form in this section)
4. Ensure that there is a correct address where the personal property is to be kept
5. The bailee must sign the undertaking and print their name and mailing address. If the bailee has any questions regarding non-compliance, explain the provisions to them. The

Bailiff may suggest that the bailee obtain legal advice if they are still concerned or has questions

6. The witness, normally the Bailiff, will date and sign the undertaking and print their name, as well as the name and address of the Agency
7. A copy of the Bailee's Undertaking along with a copy of the Notice of Seizure of Personal Property must be provided to the bailee
8. Include the details of the Bailee's Undertaking in the Bailiff's report

A bailee, as agent for the Civil Enforcement Agency, should be a responsible person who keeps seized personal property until it is required by the Agency.

The Bailee's Undertaking must be signed and witnessed.

If a responsible person is not available to sign the Bailee's Undertaking, the Bailiff should consider removal and storage of the seized property to ensure its safekeeping. If this is the case, the Bailiff may want to contact the Civil Enforcement Agency for further instructions.

Consideration should be given to obtaining a Bailee's Undertaking from the person making removal to protect the property in transit.

There are pros and cons to using a Bailee's Undertaking. A few have been listed for consideration when determining if a Bailee's Undertaking is appropriate.

Pros

A Bailee's Undertaking assigns responsibility for the care and control of seized property to a specific individual.

If the bailee is the debtor, storage costs are generally eliminated.

If it is the debtor who enters into the Bailee's Undertaking, he may continue to use the seized items. This is especially important when you are dealing with the debtor's livelihood, e.g. farmer.

Cons

There is a risk that the bailee, or other individual, will abscond with the property. Although the option of criminal or civil proceedings exists, the personal property may not be recovered.

Excerpts from the Criminal Code

Theft by Bailee of Things Under Seizure

324. Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or on demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.

Punishment for Theft

334. Except where otherwise provided by law, every one who commits theft

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years, where the property stolen is a testamentary instrument or where the value of what is stolen exceeds five thousand dollars; or

(b) is guilty

(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(ii) of an offence punishable on summary conviction,

where the value of what is stolen does not exceed five thousand dollars.

Removal

1. If the Bailiff cannot obtain a Bailee's Undertaking at the time of seizure, contact the Civil Enforcement Agency to determine if you should remove and store the property. Ensure that the person removing and storing the property signs a Bailee's Undertaking
2. If a party is claiming a possessory lien on seized property, do not remove the property. Leave the property with that party on a Bailee's Undertaking until the issue of the lien is dealt with by the instructing party
3. When removing a vehicle, the Bailiff should never drive or tow it away themselves. Always have removal done by a licensed and approved towing company
4. If the debtor or someone representing the debtor is not present at the time of removal of the seized property, the Bailiff should advise the local police agency that the property has been removed in the event the property is later reported stolen

Service of Seizure Documents

1. The Bailiff must serve a copy of the Warrant, Notice of Seizure of Personal Property, Information for Debtor form, and Notice of Objection to Seizure of Personal Property on each debtor, an adult occupant at the location of the seizure, or the person who has possession or control over the property
2. If a bailiff is unable to serve the debtor or other adult occupant, attach the Warrant, Notice of Seizure of Personal Property, Information for Debtor form and Notice of Objection to Seizure of Personal Property for each debtor in a conspicuous place at the seizure location or to the property seized. This meets the seizure requirements,

however it does not meet the service obligation. Ensure the fact service was not effected in indicated in the Bailiff's Report

- 3. Pursuant to Section 45(3) of the Civil Enforcement Act, if the Warrant, Notice of Seizure of Personal Property, Information for Debtor form, and Notice of Objection to Seizure of Personal Property were not served upon the debtor or an adult member of the debtor's household, the Agency to serve the seizure documents on the debtor as soon after effecting seizure as possible

Complete the Bailiff's Report

The Bailiff's Report should be clear, concise and factual. As this document may be used in court, it is extremely important that the Bailiff not speculate or offer opinions. Specific details should be included.

1. If seizure is effected, indicate how the Warrant, Notice of Seizure of Personal Property, Information for Debtor form, and Notice of Objection to Seizure of Personal Property were served. This is important because if these documents were not served, the Civil Enforcement Agency must serve them on each debtor as soon after effecting seizure as is practicable
2. If the Bailiff is unable to personally serve the Warrant, Notice of Seizure of Personal Property, Information for Debtor form, and Notice of Objection to Seizure of Personal Property, he may:

    a. Post the documents in a conspicuous place

    b. Attach the documents to the seized property

    c. Affix the seizure stickers to the seized property

    - **Note:** This meets the seizure requirements, however, it does not meet the service obligation. Ensure the fact that service was not effected is indicated in the Bailiff's Report.

3. If the seized property was removed, indicate

    a. Where it was removed to

    b. The name and address of the person with whom the personal property was left

    c. The name and address of the person who signed the Bailee's Undertaking

    Storage Expenses
    The Bailiff must ensure that he does not incur excessive storage costs in relation to the value of the personal property. Advise the storage company that the Civil Enforcement Agency must receive an invoice for storage at least monthly. Ensure that the storage details, including costs, are referred to in the Bailiff's Report.

4. Complete and sign the Report
5. If the Bailiff is unable to effect the seizure, he should complete the Report stating the reasons and any useful information about the debtor or the personal property. Complete and sign the Report

6. Return the completed documents to the Civil Enforcement Agency. This should be done promptly as the agency must register the details of the seizure within 3 days after the date of seizure

Review of Bailiff's Report

The Agency will review the completed Bailiff's Report and accompanying documents to determine if seizure and service were effected. Also, review the Report for any errors, omissions, or irregularities.

Seizure NOT Effected

If seizure was not effected, complete fee portion of the report, forward a copy of the Report to the instructing party and await further instructions.

Seizure Effected

If seizure was effected and if the Report and applicable documents are in order forward a copy of the Report to the instructing party along with a copy of the Notice of Seizure of Personal Property, and Bailee's Undertaking (if applicable).

Service of Seizure Documents

Pursuant to Section 45(3) of the Civil Enforcement Act, if the Warrant, Notice of Seizure of Personal Property, the Notice of Objection to Seizure of Personal Property, and Information for Debtor form were not served on the debtor or an adult member of the debtor's household, the Civil Enforcement Act requires that the Agency must serve the seizure documents on the debtor as soon after effecting seizure as is practicable.

Register Seizure

- Pursuant to section 13(1)(a) of the Civil Enforcement Regulations, the Agency must register details of all seized property and pertinent information such as the condition/location of the seized property at Personal Property Registry within 3 days of seizure being effected.

Discharge Seizure

In situations where the seized property has been disposed of, other then by sale under the Civil Enforcement Act, the seizure registration at PPR may be discharged. The discharge can only be carried out by the civil enforcement agency that registered the seizure.

Pursuant to Section 7(1) of the Civil Enforcement Act, agencies must serve notice, 30 days before the date on which the seizure is to be released or the garnishment is to be discontinued, on all enforcement creditors having related writs at the time the notice is given and on any person who have given notice to the agency under Section 48.1 of the Civil Enforcement Act.

Pursuant to Section 15(2) of the Civil Enforcement Regulations, where an agency releases a debtor property from seizure, the agency must notify the debtor that the property has been released as soon as practicable.

Notice of Objection to Seizure of Personal Property, Received After Seizure Effected

- Only the debtor or their agent has the right to object to seizure. Therefore, you must ensure that the party objecting to the seizure is the debtor or a person who has the right to act for the debtor.

- Pursuant to Section 46(3)9b) of the Civil Enforcement Act, a Notice of Objection is void and shall be disregarded if the Notice of Objection is not served on the Agency within 15 days from the date of service of the seizure documents.

- Upon receipt of a valid Notice of Objection to Seizure of Personal Property, the file must be flagged with a note pursuant to Section 46(2) of the Civil Enforcement Act that the agency shall not sell or otherwise dispose of the property without a court order.

  Send a copy of the Notice of Objection to Seizure of Personal Property to the instructing party.

  If the seized personal property is accruing storage costs pending the disposition of the objection, you may wish to discuss this with the instructing party.

Third Party Claims, Received After Seizure Effected

A third party is someone, other than the debtor or the creditor, who claims to be the owner of the seized property or who has some other interest in the personal property that would, without the consent of the third party, preclude sale of the seized property. (See example on following page of a letter which would be a third party claim.)

- Pursuant to Section 6.62 of the Alberta Rules of Court, a third party claim must be in writing and contain an address for service for the third party.

- Pursuant to Section 6.63(i) of the Alberta Rules of Court, upon the third party serving a claim on the Agency, proceed as follows:
  1. Serve written notice of the third party's claim on the instructing party and on all other holders of related writs. (See example letter in this section)

  2. Diarize the file for 20 days plus 7 days if served by recorded mail

After 20 Days or 27 Days Where Applicable

If the Agency has not been served with written notice disputing the third party claim, the Agency may release the seizure and return the property to the person from whom the property was seized.

A third party dispute may result in the commencement of interpleader proceedings. This is a complex area of law; you should contact your legal advisor for direction. Depending on arrangements made with the creditor, it may be the creditor’s lawyer who commences interpleader proceedings.

If the instructing party disputes the claim, the seizure shall continue, subject to the appropriate fees and conditions imposed by the Agency. If the instructing party does not dispute the claim, but another related writ holder does, that writ holder may instruct the Agency to continue the seizure. On receiving such instructions, the Agency shall continue the seizure if the other person

pays the appropriate fees, if any, and meets any other conditions that may be imposed by an Agency on an instructing party, e.g. indemnification.

The Agency must accept a third party claim up to the time proceeds are distributed. Therefore, if a sale has been set up you must cancel it with respect to those items referred to in the third party claim. If the items have been sold, the third party may be entitled to the proceeds of the sale. Consult your legal counsel for direction.

Third Party Claim

7777 - 11 Avenue
Edmonton, Alberta
T6K 1Z1

January 16, 1996

We Seize Ltd.
406 Replevin Road
Edmonton, Alberta
T5J 2N5

To Whom It May Concern:

Yesterday someone from your office went to my brother's place and seized my Red Camaro. My brother borrowed it from me. My brother's name is Joe Debtor. The location of the seizure was13 Badluck Road, Edmonton, Alberta. The car was removed and I want it returned to me.

I am enclosing the bill of sale proving that the car was purchased by me and a copy of the statement from the car dealership showing that the final payment on the car was made on June 16, 1994. I have not at any time sold or transferred ownership to any other person, particularly my brother. Besides, he would never have enough money to buy it.

I need the car back so I can get to work. If I don't get it back within a week, I will have to rent a car and forward the bill to you.

Yours truly,

Sam J. Debtor

Enclosure

SJD:sjd

Letter to Instructing Party about Third Party Claim

WE SEIZE LTD.
406 Replevin Road
Edmonton, Alberta T5J 2N5

OUR FILE: EW 09766
YOUR FILE: 9-11,586

January 25, 1996

REGISTERED

Lawyers Incorporated
Barristers and Solicitors
1 Legal Square
Edmonton, Alberta
T2N OXO

Dear Sir:

RE: IMA CREDITOR v. JOE DEBTOR

Enclosed is a copy of a third party claim completed by Sam J. Debtor which is self-explanatory.

In view of the information contained therein, I would refer you to the Alberta Rules of Court that require you to inform me within 20 days of being served with the notice whether you dispute the claim.

If you do not respond within 20 days of being served with this notice, we shall release the seizure and return the property to the person from whom it was seized.

Yours truly,

Manager
We Seize Ltd.

Enclosure

Form 1
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Warrant
(Writ of Enforcement)

TO: We Seize Ltd.

406 Replevin Road, Edmonton, Alberta T5J 2N5
Name and Address of Civil Enforcement Agency

A Writ of Enforcement has been registered at Personal Property Registry as Registration Number 950804
You are hereby instructed to seize the personal property of

Joe Debtor

13 Main Street, Edmonton, Alberta
Name and Address of Debtor

in order to realize the sum of $ 4,694.00 owing to Ima Creditor and
Amount Owing as Registered at P.P.R. Name of Creditor
the total amount of all related writs plus costs

Location of personal property if different from the debtor's address

Dated at Edmonton, Alberta, on January 12, 2003

Ima Creditor
Signature of Instructing Creditor or Authorized Agent

Ima Creditor
Print Name of Instructing Creditor or Authorized Agent

6942 Broad Valley		Edmonton	
Address of Instructing Creditor or Authorized Agent		City	
Alberta	T5K 1L3	444-4444	444-5555
Province	Postal Code	Telephone	Fax Number

RELATED WRITS- SEE REVERSE OR ATTACHED SEARCH RESULTS.

TOTAL AMOUNT OWING UNDER THIS WRIT.....	$4694	00
PLUS TOTAL OF Related Writs	$7000	00
PLUS Seizure Fees and Costs	$	
TOTAL	$	

Oct 5/04

CREDITOR / INSTRUCTING PARTY MAY COMPLETE. RELATED WRITS:

NAME(S) AND ADDRESS(ES) OF CREDITOR(S)

Trans Canada Credit – 999 – St. SW Somewhere Alberta T5K 0X0	**$3,000**	00
New Wave Cosmetics – 1111 – 22nd Ave, Anywhere, Alberta T5L 0W0	**$1,000**	00
Wester's Encyclopedia Internet Ave, Learner's Point, Saskatchewan S7L 1L1	**$2,000**	00
Jack Spratt – Eat No Fat Road, Lean Comings, Albeta T0M 8U6	**$1,000**	00
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TOTAL	**$7,000**	**00**

Form 5
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Notice of Seizure of Personal Property

TO: Joe Debtor

13 Main Street, Edmonton Alberta
Name and Address of Debtor

Take notice that to satisfy a claim against you for the sum $4694.00 plus costs and related Writs, if

Ima Creditor

6942 Broad Valley, Edmonton, Alberta TSK 1L3
Name and Address of Creditor

has caused the following personal property and personal property listed in the addendum to be seized:

	1979 Camaro, Red S/N 1GM54C761MOG59
	Kenwood Stereo Receiver S/N 11879, attached Sticker Number 0001 to the Receiver

Addendum attached listing additional property. ☐ Yes ☐ No

Notice of Objection applicable to this seizure. ☐ Yes ☐ No

STRIKE OUT IF NOT APPLICABLE: **If you object to the seizure, you must deliver the Notice of Objection to the Civil Enforcement Agency listed below within 15 days from the day that the seizure documents were served.**

Dated at Edmonton, Alberta, on January 15, 1996

P. Bailiff
Bailiff's Signature

P. Bailiff
Print Name

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road — Edmonton
Address of Civil Enforcement Agency — City

Province	Postal Code	Telephone Number	Fax Number
Alberta	TSJ 2NS	422-2696	422-7777

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency listed above. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff - Civil Enforcement at (780)422-2481.

Jun 8/05

Page 1 of _____

Form 5.1
Civil Enforcement Regulation

Civil Enforcement Agency File Number

Addendum to Notice of Seizure of Personal Property

Dated at _____ · Alberta, on _____

Bailiff's Signature Print Name

Oct. 01/95

Page _____ of _____

Form 5.1 Addendum to Notice of Seizure of Personal Property

Form 6
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Notice of Objection to Seizure of Personal Property

TO: We Seize Ltd. 406 Replevin Road, Edmonton, Alberta T5J 2N5 FAX: 422-7777

Name, Address and Fax Number of Civil Enforcement Agency

This Notice of Objection to Seizure of Personal Property will not be accepted if a reason for the objection is not provided.

I object to the seizure of the personal property mentioned in the Notice of Seizure of Personal Property for the following reason(s):

The stereo that was seized belongs to my girlfriend; besides, Ima Creditor told me it was okay if I missed the last two rent payments because I was short of cash. I want my stuff back.

(IF ADDITIONAL SPACE REQUIRED, PLEASE WRITE ON REVERSE.)

IF YOU OBJECT TO THE SEIZURE OF PERSONAL PROPERTY, THIS NOTICE MUST BE DELIVERED TO THE ABOVE NOTED CIVIL ENFORCEMENT AGENCY WITHIN 15 DAYS OF THE DATE ON WHICH THE SEIZURE DOCUMENTS WERE SERVED.

If there is no valid reason for objecting to the seizure of the personal property, the sending of this notice may result in increased costs to you.

Dated at Edmonton, Alberta on January 20, 1996

THE FOLLOWING MUST BE COMPLETED:

Joe Debtor	Joe Debtor
Signature of Debtor	Print Name
13 Main Street	Edmonton
Mailing Address of Debtor	City
Alberta / T5B 4L5	423-6789 / N/A
Province / Postal Code	Telephone Number / Fax Number

Oct. 01/95

Form 7
Civil Enforcement Regulation

Information for Debtor

READ THIS DOCUMENT IMMEDIATELY

Your property has been seized under the Civil Enforcement Act either to satisfy a judgment against you or to satisfy a landlord's claim for unpaid rent ("landlord's distress"). This document sets out the exemptions to seizure to which you are entitled. Please note that, if the seizure is to satisfy another kind of claim, you may not be entitled to exemptions.

Caution:	**This document is not intended to provide legal advice. You should seek legal advice if you have any questions regarding your rights and obligations.**

CIRCUMSTANCES WHERE EXEMPTIONS DO NOT APPLY

The exemptions listed below do not apply in the following circumstances:

1. If you are not an individual (e.g. you are a corporation).
2. If the judgment against you is for the payment of maintenance or alimony.
3. If you have abandoned the seized property.
4. If the judgment arises out of an act for which you have been convicted of an offence under the Criminal Code.

EXEMPTIONS

Except where anyone of the above circumstances apply, the following property is exempt from seizure:	WRITS	LANDLORD DISTRESS
1. Food required by you and your dependants during the next 12 months.		
2. Clothing which is necessary for you and your dependants up to a value of	$4,000	$4,000
3. Household furnishings and appliances up to a value of	$4,000	$1,000*
4. One motor vehicle up to a value of	$5,000	Not exempt
5. Medical and dental aids required by you or your dependants.		
6. If your principal source of income is from farming, personal property necessary for the proper and efficient running of your farm for the next 12 months.		
7. If item 6 does not apply to you, personal property required by you to earn income from your occupation up to a value of	$10,000	$10,000 - in the case of Residential Premises
8. Money payable by the Argiruclural Financial Services Corporation in respect of a claim for loss or damage to crops.		

***FOR LANDLORD DISTRESS PURPOSES ONLY**

Household Furnishings and appliances means one washing machine and dryer; one kitchen suite; bedroom suites and bedding; kitchen appliances including one each of a stove, a microwave, a refrigerator and a freezer; kitchen utensils; and, carriages, strollers, cradles and cribs necessary for the use of the debtor's children.

NOTICE OF OBJECTION

- If you believe that there is a valid reason why the property that has been seized should not have been seized you must serve the Notice of Objection that has been provided to you on the Civil Enforcement Agency that made the seizure.
- The Civil Enforcement Agency must receive the Notice of Objection from you within 15 days of the day that the seizure documents were served on you or an adult member of your household. Your Notice of Objection will be void if the Civil Enforcement Agency receives it after the 15 day period has expired or if you do not give a reason for your objection.
- The address of the Civil Enforcement Agency to which you must deliver your Notice of Objection is indicated at the top of the Notice of Objection.

Warning:	**If your objection to seizure is not based on valid reasons you could be required to pay legal costs resulting from your objection.**

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency shown on the Notice of Seizure of Personal Property. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff - Civil Enforcement at (780) 422-2481.

Jun 8/05

Form 7 - Information for Debtor

Form 8
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Bailee's Undertaking

In consideration of the seized personal property listed in the attached Notice of Seizure of Personal Property being left in my possession, I agree to act as Bailee for the Civil Enforcement Agency and keep the said personal property in good condition at:

13 Main Street
Edmonton , Alberta
Address or Land Location Where Personal Property Will Be Stored.

and deliver it to the Civil Enforcement Agency whenever and wherever it may be required.

I understand that non-delivery or conversion of the personal property may result in a conviction under the Criminal Code for which a term of imprisonment may be imposed.

Dated at Edmonton , Alberta , on January 15 1996

Bailee: Joe Debtor — Joe Debtor
Signature of Bailee | Print Name

13 Main Street	Edmonton	Alberta
Address of Bailee	City	Province
T5B 4L4	423-6789	N/A
Postal Code	Telephone Number	Fax Number

Witness: P. Bailiff — P. Bailiff
Signature of Witness | Print Name

406 Replevin Road	Edmonton	Alberta
Address of Witness	City	Province
T5J 2N5	422-2699	422-7777
Postal Code	Telephone Number	Fax Number

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road		Edmonton	
Address of Civil Enforcement Agency		City	
Alberta	T5J 2N5	422-2696	422-7777
Province	Postal Code	Telephone Number	Fax Number

NOTE: ATTACH TO EACH COPY OF THE NOTICE OF SEIZURE OF PERSONAL PROPERTY.

Oct.01/95

Form 9 - Bailiff's Report

Form 9
Civil Enforcement Regulation

_____
Civil Enforcement Agency File Number

Bailiff's Report

CREDITOR _____

DEBTOR _____

I, _____ (Name of Bailiff), of the City/Town of _____, Alberta

report as follows:

(Describe in detail the action taken, including dates, times, addresses, name(s), documents completed, persons served and with what documents, where personal property was removed to, storage location and cost, changes to the original instructions, and any other factual information that may be important to the instructing party or the civil enforcement agency.)

Is there an Addendum attached? Yes ☐ No ☐

If yes, _____ (Number) Addendum pages attached. (Each page forms part of this Report.)

I hereby certify that the information contained in this Report is true and complete. I understand that any false information may lead to charges under the *Criminal Code* (Canada) and could result in the suspension or cancellation of my appointment as a bailiff.

Dated at _____ (City/Town), Alberta, on _____ (Date), 20___.

_____
Signature of Bailiff

_____
Print Name of Instructing Party

_____
Address

_____ _____ _____
City/Town Province Postal Code

_____
Print Name of Civil Enforcement Agency

_____
Address

_____ _____ _____
City/Town Province Postal Code

_____ _____
Toll-Free Telephone Number Toll-Free Fax Number

Seizure Sticker

IDENTIFICATION NO.	CIVIL ENFORCEMENT AGENCY FILE NO.
0001	**00-00000**

UNDER SEIZURE

THIS ITEM IS UNDER SEIZURE BY

We Seize Ltd.

Name of Civil Enforcement Agency

406 ***Replevin Road, Edmonton*** *422-2696*

Address Telephone No.

422-7777 **January 15, 1996**

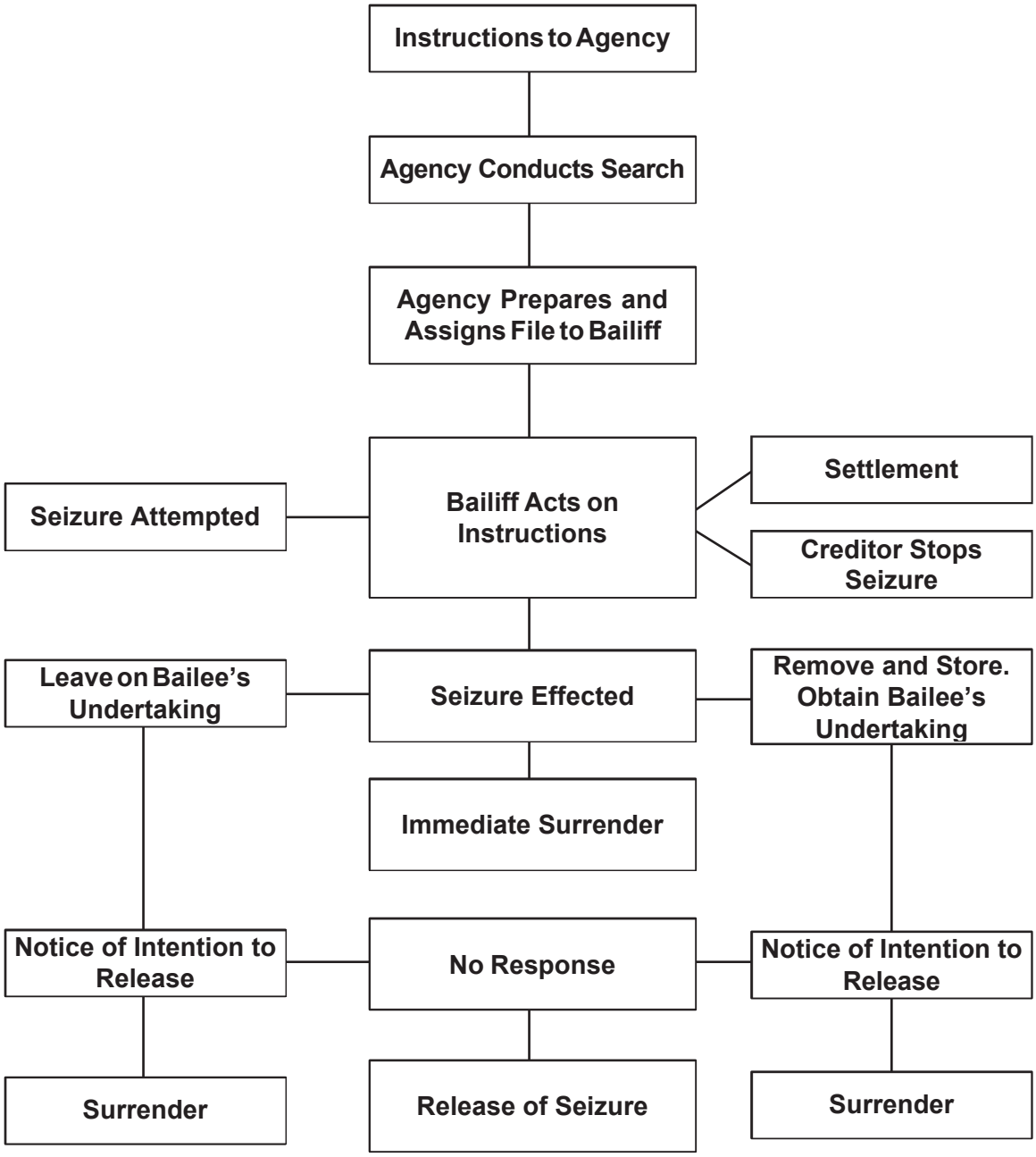
Fax No Date

P. Bailiff ***P. Bailiff***

Bailifts Signature Print

Contractual – Personal Property Security Act (P.P.S.A.) Seizure

Flow Chart



Personal Property Security Act Seizure Process

The enforcement rights of a secured party are established pursuant to the Personal Property Security Act. Seizure must be conducted through a Civil Enforcement Agency in accordance with the Civil Enforcement Act. The Security Agreement should be registered at Personal Property Registry before seizure proceedings can be initiated.

Warrant

The warrant is the document which provides the direction and authority to seize the personal property of the debtor identified in the security agreement. It must be completed and signed by the instructing creditor or authorized agent (see example of form in this section).

Upon receipt of the warrant, check:

1. Personal Property Registration number
2. Ensure that the warrant is pursuant to the Personal Property Security Act
3. That the warrant is directed to your Agency
4. Date of Security Agreement
5. Debtor's name and complete address
6. Name and complete address of secured party
7. Description of personal property to be seized, must match the description in the security agreement or the verification statement. This description may include a clause about all present and after acquired property
8. Location of personal property
9. Amount outstanding
10. Municipality and date of warrant
11. Signature of instructing creditor or authorized agent
12. Name, address, telephone number and fax number of instructing creditor or authorized agent.

A repossession of property under a chattel lease is not governed by Part 5 of the Personal Property Security Act so the above form of warrant is not applicable. Instead use form 4.1 as shown at the back of this section.

The debtor may voluntarily give up possession of property to the creditor or its agent, in which case, it is not necessary to seize a debtor's vehicle or other property (if applicable), after it has been voluntarily surrendered to the creditor or its agent. Such act does not constitute a seizure in law, since a creditor cannot legally seize an item that is already in their possession.

Letter of Instructions

In addition to the warrant, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

1. Any urgency associated with the file
2. Any unusual circumstances which might be anticipated
3. Whether removal of the seized personal property is required

   AND / OR
4. Whether surrender is requested and if so the name of a designated agent to whom the property is to be surrendered
5. If the debtor is believed to be a farmer or in a farming operation, confirmation that the provisions of section 22 of the Farm Debt Mediation Act have been followed
6. Form of indemnification as requested by the Agency.

If removal is instructed, you may wish to consider and discuss with the instructing party the following issues with regard to the removal of seized personal property:

1. The location of the property to be seized, as removal may be costly in a remote area
2. The condition or value of the property to be seized, as the cost of seizure may outweigh the money which may be realized from sale of the property
3. The type of property required to be removed including where and how to conduct removal of unique or special items
4. Any stays that may be in existence. If there is a stay in effect, you may be liable for an improper seizure and for removal costs. A stay is in existence whether it has been registered at Personal Property Registry. Therefore, check out any information that may come to light at the time of seizure
5. The removal may put the debtor out of business or cause severe hardship and if there is a responsible person available, you should consider leaving the property with that person (often the debtor) under a Bailee's Undertaking.

Searches

A distribution seizure ("DS") search must be conducted at Personal Property Registry to determine if there are any seizures against the same property of the debtor that is identified in the security agreement. If there is a seizure against the property, refer to sections 48.1 and 48.2 of the Civil Enforcement Act.

The distribution seizure search should be reviewed and discussed with the instructing creditor for further instructions, prior to effecting seizure to determine other priority registrations and if the seizure will be viable.

If applicable, consider whether a serial number collateral (“SN”) search should also be conducted prior to proceeding, as recommended in the search section of this manual.

Examine the search(es) to determine any proceedings which may stay enforcement. The following are proceedings that may stay enforcement action:

1. Bankruptcy

If a debtor is in bankruptcy, determine whether a stay of proceedings is in effect.

If the searches show that the debtor is in bankruptcy, contact the Trustee in Bankruptcy to determine if seizure can be effected for the instructing party. Advise the instructing party if unable to effect seizure OR proceed to seizure if the Trustee in Bankruptcy advises, in writing, to do so.

The only way to determine conclusively whether a bankruptcy exists is to conduct a search of the records of the Superintendent of Bankruptcy. For information on these searches refer to section 4 – Searches.

2. Court Ordered Stays

This is an order granted by the Court to stay one or more matters until the time specified in the order.

If the searches show that a court ordered stay affecting the instructing party’s action has been registered, the seizure cannot be effected. Advise the instructing party and await further instructions.

If you become aware that a stay has been granted by the court that affects the instructing party’s action, even if it is not registered at the Personal Property Registry, you should not proceed with seizure.

Required Documents for Bailiff

In order to effect seizure, the Bailiff must be provided with a copy of the warrant, copy of the letter of instructions, and the following documents:

1. Notice of Seizure of Personal Property – sufficient copies to allow service of one on each debtor, one for each bailee, and return of the original to the agency
2. Notice of Surrender, if applicable – sufficient copies to allow service of one on each creditor and/or designated agent and return original to the agency
3. Bailee’s Undertaking – sufficient copies to provide a copy to each bailee and return original to the agency
4. Bailiff’s Report
5. Other documents as required.

Notice of Seizure of Personal Property

This form is used to describe in detail the items seized and to notify all affected parties of the seizure of personal property. Sufficient copies are required to allow service of one notice on each debtor, and return of the original to the Agency (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number
2. Name and address of debtor
3. Amount owing; this is the amount shown on the warrant
4. Name and address of creditor
5. "NO" box completed for Notice of Objection to Seizure of Personal Property applicable to this seizure; strike out applicable section on this form; there are no provisions for an objection under the Personal Property Security Act
6. Agency's name, address, telephone number, fax number and email address.

Pursuant to section 17 of the Personal Property Security Act, the agency shall use reasonable care in the custody and preservation of the collateral in his possession.

Notice of Surrender

A seizure conducted under the Personal Property Security Act is different from all other seizures because pursuant to the provisions of the Personal Property Security Act it allows the Bailiff to surrender possession or the right of possession of the seized property to the creditor or an agent designated by the creditor. Once the seized property has been surrendered, there is no further liability for loss or damage to the property and this concludes the file. The instructions will tell you whether to surrender the seized property and the name of the agent to whom to surrender it (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number
2. Name of creditor
3. Name of debtor
4. Agency's name, address, telephone number, fax number and email address.

Bailee's Undertaking

This form is used when the Bailiff leaves the seized personal property with a responsible person who agrees to keep the seized property and is responsible for its safekeeping and delivery to the Civil Enforcement Agency when requested. Sufficient copies are required: one for the bailee, and return of the original to the Agency (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number
2. Agency's name, address, telephone number, fax number and email address.

A bailee's undertaking is not required if the property is surrendered to a designated agent.

Bailee by Default

As per section 13(2)(j) of the Civil Enforcement Act:

> *13(2)(j) a debtor who has possession of or control over personal property that is under seizure and has been served with the seizure documents or the documents authorizing the carrying out of the distress in respect of that property*
>
> *(i) holds that property as bailee for the bailiff and the agency, and*
>
> *(ii) must deliver up that personal property to the bailiff or the agency*
>
> *(A) when required to do so by the bailiff or the agency, and*
>
> *(B) at a location specified by the bailiff or the agency,*
>
> *whether or not the debtor has signed an undertaking referred to in clause (i);*

Change of Bailee

If circumstances require a change of bailee, the new bailee must have the undertaking responsibilities explained. He must enter into the new Bailee's Undertaking by signing it and having it witnessed by an Agency employee or a Bailiff. Sufficient copies are required: one for the bailee, one for the creditor and the original for the Agency. At the discretion of the Agency, the condition of the personal property may be verified.

The following must be completed by the Agency:

1. Prepare a new Bailee's Undertaking. Have the undertaking signed by the new bailee and witnessed. Attach the original to the original Notice of Seizure of Personal Property and give the new bailee a copy of the new Bailee's Undertaking with a copy of the Notice of Seizure of Personal Property attached.
2. Advise the original bailee in writing of his release from the undertaking.

Bailiff's Report

This form is the Bailiff's certification of the action he has taken (see example of form in this section).

Other Documents

Other documents that may be required would include relevant court orders, Addendum to Notice of Seizure of Personal Property and Seizure Stickers.

A copy of the Security Agreement to verify the description of the property as set out in the Warrant.

A copy of the Personal Property Registry search may be required as proof that the Security Agreement was registered at Personal Property Registry.

The Addendum to the Notice of Seizure of Personal Property may be required by the Bailiff if he runs out of space on the Notice of Seizure of Personal Property. It is suggested that the Bailiff keep a supply of these with him at all times.

Procedure for Effecting Seizure

The Bailiff should:

1. Carefully read the warrant and any other instructions received from the instructing party or the Civil Enforcement Agency

2. Review the file to see if there are any arrangements that should be made ahead of time which may assist in effecting seizure (e.g. attendance of a veterinarian, tow truck arrangements, etc.)

3. Proceed to the location given in the warrant or letter of instructions.

   For street addresses, a good city / town map may be helpful if you are unfamiliar with the area. For locating property identified by legal land description, you should know how to read the section, township, range and meridian shown on a district map. Ensure that you have access to various district maps.

- Pursuant to section 8(1) of the Civil Enforcement Regulation, seizures, evictions or removal of seized property to be conducted in a residential area (including from the street in a residential area) cannot be carried out or attempted to be carried out between the hours of 10:00 p.m. and the following 6:00 a.m. unless ordered by a court.

Arrival at Location

1. Upon arriving at the location, identify yourself to the debtor. If the debtor is not present, advise the person present who you are and why you are there. Every attempt should be made to contact the debtor if his whereabouts are known.

2. Ensure the warrant is available for inspection by the debtor, if requested.

3. Entry by Force – Pursuant to section 13(2)(c)(iii) of the Civil Enforcement Act, do not enter by force into any residence without a court order. An attached garage is considered part of the residence.

   - If the doors of an attached garage are open and the goods to be seized are contained within the garage, a bailiff must not enter the garage without an adult, whom the bailiff believes to be living at the residence, in attendance. Bailiffs must adhere to all requirements under section 13(2)(c)(iii) of the Civil Enforcement Act when obtaining access to attached garages.

     Forced Entry – At any location or premises belonging to the debtor, other than a residential premise, you have the authority to force entry using the services of a locksmith. Where you have to use force to gain entry, you must reasonably secure the premises before leaving.

If denied access to the premises belonging to someone other than the debtor, you have no authority to enter without a court order.

Before entering buildings equipped with an alarm system, notify the alarm company or the police providing full particulars on the nature of your call, location and time, etc.

Caution:
Upon arrival at the location, the Bailiff may be informed by the debtor that:

1. They have filed for bankruptcy
2. They are registered under the Orderly Payment of Debt program
3. There is a stay under the Farm Debt Mediation Act, or
4. There is a stay ordered by the Court.

In these situations, the Bailiff should contact the Civil Enforcement Agency for further instructions before proceeding.

Offer of Settlement

1. If the debtor offers settlement, the Bailiff should contact the Civil Enforcement Agency to confirm the exact amount of the outstanding debt and costs, and whether he is authorized to accept payment.

   Unless the entire debt is collected or the instructing party instructs you to stop action, seizure should be effected.

2. Settlement should always be in the form of cash, certified cheque, bank draft or money order unless the instructing party agrees otherwise.

3. If the debtor tenders cash, the bailiff should issue a receipt to the debtor. If the bailiff is unable to submit the cash to the Agency, at the first opportunity he should obtain a money order payable to the Civil Enforcement Agency. The bailiff should attach a copy of the money order to his receipt book. If there is a fee for purchasing the money order, it may be charged back as an expense.

4. If the debtor tenders non-certified funds and the instructing party has not consented to this form of payment, seizure of personal property must still be effected.

5. DO NOT accept postdated cheques unless instructed to do so by the instructing party.

Negotiated Settlement

If the debtor and instructing party negotiate some other form of settlement, any directions to discontinue the seizure action must be received directly from the instructing party.

Surrender

A debtor may voluntarily give up possession of property (normally a vehicle) to a creditor or a creditor's agent, in which case the creditor is not legally required to utilize the services of a civil enforcement agency and bailiff. A person who holds a bailiff appointment may act *"as agent"* for

the creditor and may receive property pursuant to a voluntary surrender. If, at any time prior to the completion of the surrender, the debtor changes their mind, meaning that the property must now be seized, the bailiff who is attendance as "agent" for the creditor may complete the seizure on behalf of the agency, only if they have the proper seizure documents.

Seizure

If settlement is not made, proceed to seize the personal property in accordance with the warrant/ letter of instructions. The Bailiff must physically see and be able to lay his hands on the personal property being seized in order to effect a proper seizure.

Complete the Notice of Seizure of Personal Property

The Bailiff should:

1. Describe the personal property seized on the Notice of Seizure of Personal Property and an Addendum, if necessary – the description should include the quantity, serial number, make, model, year and colour, if applicable, and any other information to help identify the property

2. Date and sign his name at the bottom before serving or attaching (see example of form in this section)

3. If an addendum is used, indicate so by checking the box Addendum Attached and number the pages 1 of 3, 2 of 3, etc. (page numbers as applicable)

4. Ensure that the following are indicated on the addendums:

   a. Civil Enforcement Agency file number, and

   b. Date and signature

   (see example of form in this section).

Pursuant to section 17 of the Personal Property Security Act, the agency shall use reasonable care in the custody and preservation of the collateral in his possession.

Complete the Notice of Surrender (If Applicable)

1. Once the property is seized, surrender to the agent by completing the Notice of Surrender (see example of form in this section).

2. If surrender is not possible, leave on a Bailee's Undertaking or remove and store.

Seizure Stickers

To be attached to the personal property seized only when the property cannot be readily identified, e.g. because it has no serial number (see example of form in this section).

Do not use the stickers on property obviously exempt or likely belonging to a third party. Careless or improper use of the stickers would defeat their purpose.

1. Write an identification number on the sticker

2. Write the Civil Enforcement Agency file number on the sticker

3. Ensure all blanks are properly completed
4. The bailiff must sign the sticker
5. Note the following in the bailiff report:
    a. The sticker identification number
    b. The personal property it was attached to
    c. Where on the personal property it was attached.

Other cases where stickers might be used are where:

1. No one is available to sign a Bailee's Undertaking and immediate removal is not possible
2. The debtor or person in charge refuses to sign a Bailee's Undertaking and immediate removal is not possible
3. The personal property is difficult to accurately describe
4. There is some suspicion that the seized personal property might later be substituted or removed, possibly by someone not aware of the seizure.

Bailee's Undertaking

1. If a Bailee's Undertaking is used, the bailiff must explain it to the bailee, ensuring that the following is included in the explanation:
    a. The bailee is responsible to the Civil Enforcement Agency for the personal property, preservation of its present condition and value until relieved of this responsibility by the Civil Enforcement Agency. The bailee agrees to keep seized property and is responsible for its safekeeping and delivery to the Agency when requested
    b. The bailee shall advise the Civil Enforcement Agency of a change in address or incidents involving the personal property that would change their value
    c. If the bailee is the debtor, he may use the personal property
    d. The bailee may request that the Civil Enforcement Agency relieve him of his responsibility in the event that he no longer wishes to be responsible for the personal property, e.g. if he is planning to move.
2. Advise the bailee of the penalty for non-compliance with the Bailee's Undertaking.
3. Complete the Bailee's Undertaking (see example of form in this section).
4. Ensure that there is a correct address where the personal property is to be kept.
5. The bailee must sign the undertaking and print his name and mailing address. If the bailee has any questions regarding non-compliance, explain the provisions to him. The bailiff may suggest that the bailee obtain legal advice if he is still concerned or has questions.
6. The witness, normally the Bailiff, will date and sign the undertaking and print his name, as well as the name and address of the Agency.

7. A copy of the Bailee's Undertaking along with a copy of the Notice of Seizure of Personal Property must be provided to the bailee.

8. Include the details of the Bailee's Undertaking in the Bailiff's Report.

A bailee, as agent for the Civil Enforcement Agency, should be a responsible person who keeps seized personal property until it is required by the Agency.

The Bailee's Undertaking must be signed and witnessed.

If a responsible person is not available to sign the Bailee's Undertaking, the Bailiff should consider removal and storage of the seized property to ensure its safekeeping. If this is the case, the Bailiff may want to contact the Civil Enforcement Agency for further instructions.

Consideration should be given to obtaining a Bailee's Undertaking from the person making removal to protect the property in transit.

There are pros and cons to using a Bailee's Undertaking. A few have been listed for consideration when determining if a Bailee's Undertaking is appropriate.

Pros

A Bailee's Undertaking assigns responsibility for the care and control of seized property to a specific individual.

If the bailee is the debtor, storage costs are generally eliminated.

If it is the debtor who enters into the Bailee's Undertaking, he may continue to use the seized items. This is especially important when you are dealing with the debtor's livelihood, e.g. farmer.

Cons

There is a risk that the bailee, or other individual, will abscond with the property. Although the option of criminal or civil proceedings exists, the personal property may not be recovered.

Excerpts from the Criminal Code

Theft by bailee of things under seizure

324 *Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or on demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.*

Punishment for theft

334 *Except where otherwise provided by law, every one who commits theft*

(a) if the property stolen is a testamentary instrument or the value of what is stolen is more than $5,000, is guilty of

(i) an indictable offence and liable to imprisonment for a term of not more than 10 years, or

(ii) an offence punishable on summary conviction; or

(b) if the value of what is stolen is not more than $5,000, is guilty

(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(ii) of an offence punishable on summary conviction.

Removal

1. If the Bailiff does not surrender the seized personal property and if unable to obtain a Bailee's Undertaking at the time of seizure, contact your Civil Enforcement Agency to determine if you should remove and store the property. Ensure that the person removing and storing the property signs a Bailee's Undertaking.

2. If a party is claiming a possessory lien on seized property, do not remove the property. Leave the property with that party on a Bailee's Undertaking until the issue of the lien is dealt with by the instructing party.

3. When removing a vehicle, the Bailiff should never drive or tow it away himself. Always have removal done by a licensed and approved towing company.

4. If the debtor or someone representing the debtor is not present at the time of removal of the seized property, the bailiff should advise the local police agency that the property has been removed in the event the property is later reported stolen.

Service of Seizure Documents

1. The Bailiff should give a copy of the Notice of Seizure of Personal Property to each debtor, an adult occupant at the location of the seizure, or the person who has possession of the property.

2. If a bailiff is unable to serve the debtor or other adult occupant, attach the Warrant, Notice of Seizure of Personal Property for each debtor in a conspicuous place at the seizure location or to the property seized. Ensure the fact service was not effected in indicated in the Bailiff's Report.

3. It is recommended that the agency arrange to serve the enforcement debtor(s) a copy of the Notice of Seizure of Personal Property and the Addendum to the Notice of the Seizure of Personal Property (if applicable) as soon after effecting seizure as possible.

Complete the Bailiff's Report

The Bailiff's Report should be clear, concise and factual. As this document may be used in court, it is extremely important that you not speculate or offer opinions.

Specific details should be included:

1. If seizure is effected, indicate in what manner the Notice of Seizure of Personal Property was given.

2. If the seized property was surrendered, indicate:

a. The date and time of surrender

b. The name of the person to whom the property was surrendered.

3. If the seized property was removed, indicate:

   a. Where it was removed to

   b. The name and address of the person with whom the personal property was left

   c. The name and address of the person who signed the Bailee's Undertaking.

   Storage Expenses

   The Bailiff must ensure that he does not incur excessive storage costs in relation to the value of the personal property. Advise the storage company that the Civil Enforcement Agency must receive an invoice for storage at least monthly. Ensure that the storage details, including costs, are referred to in the Bailiff's Report.

4. Complete and sign the Report.

5. If the Bailiff is unable to effect the seizure he should complete the Report, stating the reasons and any useful information about the debtor or the personal property. Complete and sign the Report.

6. Return the completed documents to the Civil Enforcement Agency. This should be done promptly as the Agency must register the details of the seizure within 3 days after the date of seizure.

Review of Bailiff's Report

The Agency will review the completed Bailiff's Report and accompanying documents to determine if seizure was effected. Also review the Report for any errors, omissions, or irregularities.

Seizure NOT Effected

If seizure was not effected, complete fee portion of the Report, forward a copy of the Report to the instructing party and await further instructions.

Seizure Effected

If seizure was effected and if the Report and applicable documents are in order, forward a copy of the Report to the instructing party along with a copy of the Notice of Seizure of Personal Property, Bailee's Undertaking (if applicable), and Notice of Surrender (if applicable).

Surrender Effected

If a Notice of Surrender was used, ensure this document was completed by both the Bailiff and the surrender agent. Forward a copy of this form to the instructing party; you may close your file after registering the seizure information at Personal Property Registry.

Voluntary Surrenders

A debtor may choose to voluntarily surrender their vehicle/personal property to an enforcement creditor by verbally surrendering it, abandoning it, or leaving it with an agent or representative of the creditor. The Creditor may then instruct an agency or bailiff to take possession of the

personal property on their behalf. If a debtor has *not signed* a voluntary surrender, agencies and bailiff cannot take possession of the personal property, unless appropriate seizure documents have been received in accordance with the Personal Property Security Act and this manual.

Register Seizure / Surrender

- Pursuant to section 13(1)(a) of the Civil Enforcement Regulation, the Agency must register details of all seized property and pertinent information such as the condition/location of the seized property at Personal Property Registry within 3 days of seizure being effected. If the property was surrendered, the surrender information should be entered in the additional information portion of the seizure registration screen.

Discharge Seizure

In situations where the seized property has dealt with In accordance with the provisions of the Personal Property Security Act, or disposed of in a manner other then by sale under the Civil Enforcement Act, the seizure registration at PPR may be discharged. The discharge can only be carried out by the civil enforcement agency that registered the seizure, subject to complying with any legislation governing notice to all interested parties, and providing that the discharge is not likely to adversely affect the right of any other creditors or interested parties.

Pursuant to section 15(2) of the Civil Enforcement Regulation, where an agency releases a debtor property from seizure, the agency must notify the debtor that the property has been released as soon as practicable.

Notice of Objection to Seizure of Personal Property

The Notice of Objection process under the Civil Enforcement Act is not applicable in this type of seizure. If the debtor is objecting to the seizure and is unable to resolve the matter with the instructing creditor then the debtor may apply to the Court pursuant to section 64 of the Personal Property Security Act to deal with the objection.

Third Party Claims, Received After Seizure Effected

The third-party claim process set out in the Alberta Rules of Court is *not applicable* in this type of seizure. A third party making a claim to the property seized should contact the instructing creditor, and, if unable to resolve the matter with the instructing creditor, then the third party may apply to the Court pursuant to section 64 of the Personal Property Security Act to deal with the claim.

Form 4 (Personal Property Security Act)

Form 4
Civil Enforcement Regulation

950307-000000
Previous P.P.R. Registration Number

00-00000
Civil Enforcement Agency File Number

Warrant

(Personal Property Security Act)

TO: We Seize Ltd.

406 Replevin Road, Edmonton, Alberta T5J 2N5
Name and Address of Civil Enforcement Agency

A security agreement was entered into on March 5, 1995 between
Date (M/D/Y)

Joe Debtor

13 Badluck Road, Edmonton, Alberta as debtor, and
Name and Address of Debtor

Ima Creditor

6942 Broad Valley, Edmonton, Alberta as the secured party.
Name and Address of Secured Party

This security agreement is now in default and you are therefore instructed to seize the following personal property which is the subject-matter of the agreement:

Describe Personal Property to be seized. 1979 Camaro, Red S/N1GM54C761M0G59

The personal property is located at 13 Badluck Road
Edmonton, Alberta

Seizure is instructed to realize the sum of $1,010.00 owing under the security agreement plus costs.

Dated at Edmonton, Alberta, on January 12, 1996

Ima Creditor
Signature of Instructing Creditor or Authorized Agent

Ima Creditor
Print Name of Instructing Creditor or Authorized Agent

6942 Broad Valley — Edmonton
Address of Instructing Creditor or Authorized Agent — City

Alberta — T5K 1L3 — 444-4444 — 444-5555
Province — Postal Code — Telephone Number — Fax Number

Oct 5/04

Form 5 - Notice of Seizure of Personal Property

Form 5
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Notice of Seizure of Personal Property

TO: Joe Debtor

13 Bacluck Road, Edmonton Alberta
Name and Address of Debtor

Take notice that to satisfy a claim against you for the sum $1010.00 plus costs and related Writs, if applicable

Ima Creditor

6942 Broad Valley, Edmonton, Alberta T5K 1L3
Name and Address of Creditor

has caused the following personal property and personal property listed in the addendum to be seized:

1	1979 Camaro, Red S/N 1GM54C761M0G59

Addendum attached listing additional property. [ ] Yes [X] No

Notice of Objection applicable to this seizure. [ ] Yes [X] No

STRIKE OUT IF NOT APPLICABLE ~~If you object to the seizure, you must deliver the attached Notice of Objection within 15 days from the date of seizure to the Civil Enforcement Agency listed below.~~

Dated at Edmonton, Alberta, on January 15, 1996,

P. Bailiff
Bailiff's Signature

P. Bailiff
Print Name

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road
Address of Civil Enforcement Agency

Edmonton
City

Alberta
Province

T5J 2N5
Postal Code

422-2696
Telephone Number

422-7777
Fax Number

Page 1 of 1

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agancy listed above. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff - Civil Enforcement at (780)422-2481.

Jan 1/03

Form 5.1
Civil Enforcement Regulation

Civil Enforcement Agency File Number

Addendum to Notice of Seizure of Personal Property

Dated at _____, Alberta, on _____, _____.

Bailiff's Signature Print Name

Oct. 01/95 Page _____ of _____

Form 5.1 - Addendum to Notice of Seizure of Personal Property

Notice of Surrender

00-00000
Civil Enforcement Agency File No.

Ima Creditor — Creditor

vs.

Joe Debtor — Debtor

Notice of Surrender

TAKE NOTICE THAT pursuant to Section 58(5) of the Personal Property Security Act, I hereby surrender possession or the right of possession of the property seized as described in the attached *Notice of Seizure of Personal Property* dated the 15 day of January, 1996 to Edward Driver, Ed's Towing Company, 3142 - 7 Ave. Edmonton Alberta

Dated at Edmonton, Alberta, on January 15 1996, ,

at 2:15 A.M./P.M.

P. Bailiff
Bailiff's Signature

P. Bailiff
Print Name

Ed Driver
Signature of Creditor/Designated Agent to Whom Property is Surrendered

Edward Driver
Print Name

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road — Address of Civil Enforcement Agency
Edmonton — City
Alberta — Province
T5J 2N5 — Postal Code
422-2696 — Telephone No.
422-7777 — Fax. No.

Oct. 01/95

Form 8
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Bailee's Undertaking

In consideration of the seized personal property listed in the attached Notice of Seizure of Personal Property being left in my possession, I agree to act as Bailee for the Civil Enforcement Agency and keep the said personal property in good condition at:

13 Badluck Road
Edmonton, Alberta

Address or Land Location Where Personal Property Will Be Stored.

and deliver it to the Civil Enforcement Agency whenever and wherever it may be required.

I understand that non-delivery or conversion of the personal property may result in a conviction under the Criminal Code for which a term of imprisonment may be imposed.

Dated at Edmonton, Alberta, on January 15 1996.

Bailee:

Joe Debtor	Joe Debtor	
Signature of Bailee	Print Name	
13 Badluck Road	Edmonton	Alberta
Address of Bailee	City	Province
T5B 4L4	423-6789	N/A
Postal Code	Telephone Number	Fax Number

Witness:

P. Bailiff	P. Bailiff	
Signature of Witness	Print Name	
406 Replevin Road	Edmonton	Alberta
Address of Witness	City	Province
T5J 2N5	422-2699	422-7777
Postal Code	Telephone Number	Fax Number

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road		Edmonton	
Address of Civil Enforcement Agency		City	
Alberta	T5J 2N5	422-2696	422-7777
Province	Postal Code	Telephone Number	Fax Number

NOTE: ATTACH TO EACH COPY OF THE NOTICE OF SEIZURE OF PERSONAL PROPERTY.

Oct.01/95

Form 6 - Bailee's Undertaking

Form 9 - Bailiff's Report

Form 9
Civil Enforcement Regulation

_____
Civil Enforcement Agency File Number

Bailiff's Report

CREDITOR _____

DEBTOR _____

I, _____ (Name of Bailiff), of the City/Town of _____, Alberta

report as follows:

(Describe in detail the action taken, including dates, times, addresses, name(s), documents completed, persons served and with what documents, where personal property was removed to, storage location and cost, changes to the original instructions, and any other factual information that may be important to the instructing party or the civil enforcement agency.)

Is there an Addendum attached? Yes ☐ No ☐
If yes, _____ (Number) Addendum pages attached. (Each page forms part of this Report.)

I hereby certify that the information contained in this Report is true and complete. I understand that any false information may lead to charges under the *Criminal Code* (Canada) and could result in the suspension or cancellation of my appointment as a bailiff.

Dated at _____ (City/Town), Alberta, on _____ (Date), 20___.

_____
Signature of Bailiff

_____
Print Name of Instructing Party

_____
Address

_____ _____ _____
City/Town Province Postal Code

_____
Print Name of Civil Enforcement Agency

_____
Address

_____ _____ _____
City/Town Province Postal Code

*

_____ _____
Toll-Free Telephone Number Toll-Free Fax Number

Seizure Sticker

IDENTIFICATION NO.	CIVIL ENFORCEMENT AGENCY FILE NO.
0001	00-00000

UNDER SEIZURE

THIS ITEM IS UNDER SEIZURE BY

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road, Edmonton 422-2696
Address Telephone No.

422-7777 January 15, 2003
Fax No. Date

P. Bailiff P. Bailiff
Bailiff's Signature Print Name

Oct. 01/95

*

Form 4.1 - Warrant (Distress/Chattel Lease)

Form 4.1
Civil Enforcement Regulation

Previous P.P.R. Registration Number

Civil Enforcement Agency File Number

Warrant

(Distress / Chattel Lease - Civil Enforcement Act)

TO: _____

Name and Address of Civil Enforcement Agency

A chattel lease was entered into on _____ between
Date (M/D/Y)

_____

_____ as lessee, and
Name and Address of Lessee

_____

_____ as the lessor.
Name and Address of Lessor

This chattel lease is now in default and you are therefore instructed to seize the following personal property which is the subject matter of the chattel lease:

Describe Personal Property to be seized. _____

_____

_____

_____

The personal property is located at _____

_____

Seizure is instructed to realize the sum of $_____ owing under the chattel lease plus costs.
(Retail Lease Payout)

Dated at _____, Alberta, on _____.

_____
Signature of Instructing Creditor or Authorized Agent

_____
Print Name of Instructing Creditor or Authorized Agent

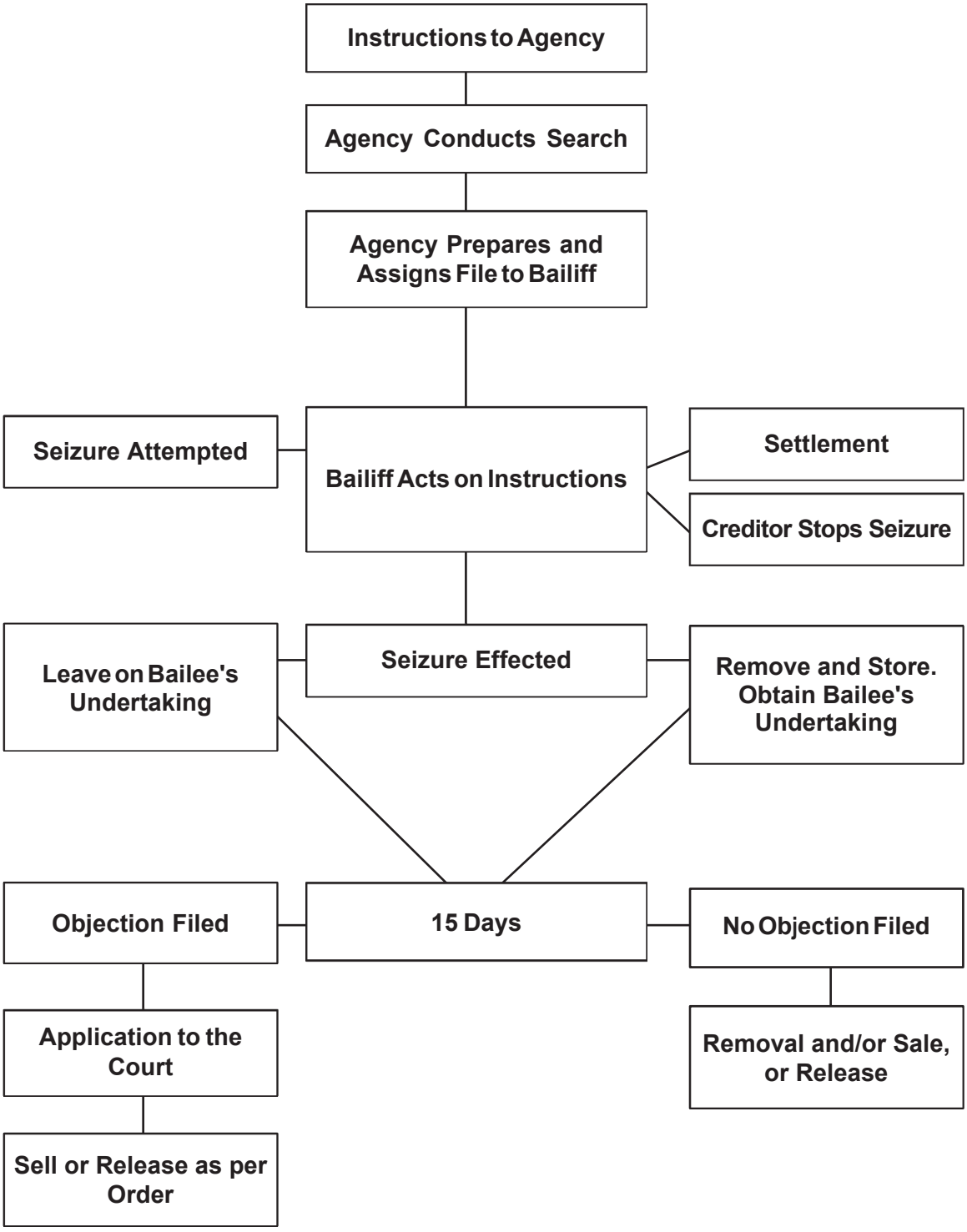
_____
Address of Instructing Creditor or Authorized Agent City

_____
Province Postal Code Telephone Number Fax Number

Jan 1/03

Landlord's Distress Seizure

Flow Chart



Distress by Landlord Seizure Process

Common law allows a landlord the right to seize under distress for unpaid rent. If the rental agreement allows, you may seize for accelerated rent. Taxes, or other charges can be added if the rental agreement states they are collectable as rent. Rent must be in arrears before a landlord can seize.

Section 104 of the Civil Enforcement Act states that a landlord cannot seize personal property belonging to any person other than the tenant or person liable for the rent, with exceptions as indicated in that section.

The personal property to be seized must be on the rented premises. Pursuant to old English Statute, if the tenant removes property from the rented premises to avoid seizure, the property can be followed for 30 days. In this case the landlord must show by sworn affidavit (Affidavit of Clandestine) that the debtor's property was removed specifically to avoid seizure.

Note: In order to seize a vehicle belonging to a tenant, that vehicle must be located on the rented premises. Where a landlord claims to have greater rights than are indicated above, you should seek legal advice prior to making any seizure.

Warrant

The warrant is the document which provides the direction and authority to seize against a debtor for unpaid rent. It must be completed and signed by the instructing creditor or authorized agent. Sufficient copies are required to allow service on each debtor and return of the original to the Agency (see example of form in this section).

Upon receipt of the warrant, check:

1. Type of distress and ensure appropriate code is completed
2. That the warrant is directed to your Agency
3. Debtor's name and complete address
4. Amount owing
5. Name of creditor
6. Location of personal property if different from debtor's address
7. Municipality and date of warrant
8. Signature of instructing creditor or authorized agent
9. Name, address, telephone number and fax number of instructing creditor or authorized agent.

Letter of Instructions

In addition to the warrant, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

1. Any urgency associated with the file
2. Any unusual circumstances which might be anticipated
3. Whether removal of the seized personal property is required
4. Form of indemnification as requested by the Agency
5. Whether the creditor is aware of any legal impediments to seizure such as stays or third-party claims as applicable to the specific property.

If removal is instructed, you may wish to consider and discuss with the instructing party the following issues with regard to the removal of seized personal property:

1. Pursuant to section 46 of the Civil Enforcement Act, as the debtor has 15 days in which to object to the seizure, additional costs would be incurred for removal and storage; the debtor may be deprived use of the seized property within the objection period
2. The location of the property to be seized, as removal may be costly in a remote area
3. The condition or value of the property to be seized, as the cost of seizure may outweigh the money which may be realized from a sale of the property or the money realized may not significantly reduce the debt
4. The type of property required to be removed including where and how to conduct the removal of unique or special items
5. Any stays that may be in existence. If there is a stay in effect, you may be liable for an improper seizure and for removal costs. A stay is in existence whether or not it has been registered at Personal Property Registry. Therefore, check out any information that may come to light at the time of seizure.
6. The removal may put the debtor out of business or cause severe hardship, and if there is a responsible person available, you should consider leaving the property with that person (often the debtor) under a Bailee's Undertaking.

Searches

Once the warrant and letter of instructions have been reviewed, the next step is to examine the distribution seizure ("DS") search from Personal Property Registry provided by the instructing party. The search should be recent. If the search is not provided, the Agency must conduct the search.

The distribution seizure ("DS") search must be reviewed and, if necessary, discussed with the instructing creditor, prior to effecting seizure. It is extremely important to determine the existence of any prior interests such as Workers' Compensation Board, prior security interests, etc., and whether seizure is viable. The reasons for this are: firstly, the costs priority given under section 99(3) of the Civil Enforcement Act does not apply as against these interests; and,

secondly, there is no right to sell the property unless there is equity existing after these priority interests are paid out. If the property to be is already under seizure, refer to section 48.1 and 48.2 of the Civil Enforcement Act. Also, under section 104 of the Civil Enforcement Act, there is no right to exercise a landlord's distress against property that is subject to a purchase money security interest (PMSI). So if the search shows a security agreement registration, you should check it out to see if it is a PMSI prior to effecting seizure.

- If applicable, consider whether a serial number collateral ("SN") search should also be conducted prior to proceeding, as recommended in the search section of this manual.

As well, examine the search to determine any proceedings which may stay enforcement. The following are proceedings that may stay enforcement action:

1. Bankruptcy

If a debtor is in bankruptcy, determine whether a stay of proceedings is in effect.

If the searches show that the debtor is in bankruptcy, contact the Trustee in Bankruptcy to determine if seizure can be effected for the instructing party. Advise the instructing party if unable to effect seizure OR proceed to seizure if the Trustee in Bankruptcy advises, in writing, to do so.

The only way to determine conclusively whether a bankruptcy exists is to conduct a search of the records of the Superintendent of Bankruptcy. For information on these searches, refer to section 4 – Searches.

2. Court Ordered Stays

This is an order granted by the Court to stay one or more matters until the time specified in the order.

If the searches show that a court ordered stay affecting the instructing party's action has been registered, the seizure cannot be effected. Advise the instructing party and await further instructions.

If you become aware that a stay has been granted by the Court affecting the instructing party's action, even if it is not registered at the Personal Property Registry, you should not proceed with seizure.

Required Documents for Bailiff

In order to effect seizure, the Bailiff must be provided with a copy of the warrant, a copy of the letter of instructions and the following documents:

1. Notice of Seizure of Personal Property, sufficient copies to allow service of one on each debtor, one for each bailee and return of the original to the Agency

2. Notice of Objection to Seizure of Personal Property, sufficient copies to allow service of one on each debtor and return of the original to the Agency

3. Information for Debtor form, sufficient copies to allow for service of one on each debtor

4. Bailee's Undertaking, sufficient copies to provide a copy to each bailee and return original to the Agency

5. Bailiff's Report

6. Other documents as required.

Notice of Seizure of Personal Property

This form is used to describe in detail the items seized and to notify all affected parties of the seizure of personal property. Sufficient copies are required to allow service of one notice on each debtor, and return of the original to the Agency (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number

2. Name and address of debtor

3. Amount owing as shown on the warrant

4. Name and address of creditor

5. "YES" box completed for Notice of Objection to Seizure of Personal Property applicable to this seizure; the debtor is entitled to object in the case of a Landlord Distress

6. Agency's name, address, telephone number, fax number and email address.

Notice of Objection to Seizure of Personal Property

This form is used by the debtor if he wishes to object to the seizure. The Bailiff must be provided with sufficient copies to serve one on each debtor. In the case of multiple debtors, each debtor is entitled to object (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number

2. Agency's name, address, telephone number, fax number and email address.

Information for Debtor Form

This form explains to the debtor the exemptions to seizure to which the debtor is entitled, circumstances when exemptions do not apply and the objection provisions.

The Civil Enforcement Regulation requires that this form be served on each debtor once the Bailiff has effected seizure (see example of form in this section).

Bailee's Undertaking

This form is used when the Bailiff leaves the seized personal property with a responsible person who agrees to keep the seized property and is responsible for its safekeeping and delivery to the Civil Enforcement Agency when requested. Sufficient copies are required: one for the bailee, and return of the original to the Agency (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number

2. Agency's name, address, telephone number, fax number and email address.

Bailee by Default

As per section 13(2)(j) of the Civil Enforcement Act:

> *13(2)(j) a debtor who has possession of or control over personal property that is under seizure and has been served with the seizure documents or the documents authorizing the carrying out of the distress in respect of that property*
>
> *(i) holds that property as bailee for the bailiff and the agency, and*
>
> *(ii) must deliver up that personal property to the bailiff or the agency*
>
> *(A) when required to do so by the bailiff or the agency, and*
>
> *(B) at a location specified by the bailiff or the agency,*
>
> *whether or not the debtor has signed an undertaking referred to in clause (i);*

Change of Bailee

If circumstances require a change of bailee, the new bailee must have the undertaking responsibilities explained. He must enter into the new Bailee's Undertaking by signing it and having it witnessed by an Agency employee or a Bailiff. Sufficient copies are required: one for the bailee, one for the creditor, and the original for the Agency. At the discretion of the Agency, the condition of the personal property may be verified.

The following must be completed by the Agency:

1. Prepare a new Bailee's Undertaking. Have the undertaking signed by the new bailee and witnessed. Attach the original to the original Notice of Seizure of Personal Property and give the new bailee a copy of the new Bailee's Undertaking with a copy of the Notice of Seizure of Personal Property attached.

2. Advise the original bailee in writing of his release from the undertaking.

Bailiff's Report

This form is the Bailiff's certification of the action he has taken (see example of form in this section).

Other Documents

Other documents that may be required would include a copy of the leaves/rental agreement, Notice of Seizure of Personal Property and Seizure Stickers.

The Addendum to the Notice of Seizure of Personal Property may be required by the Bailiff if they run out of space on the Notice of Seizure of Personal Property. It is suggested that the Bailiff keep a supply of these with them at all times.

Procedure for Effecting Seizure

The Bailiff should:

1. Carefully read the warrant and any other instructions received from the instructing party or the Civil Enforcement Agency

2. Review the file to see if there are any arrangements that should be made ahead of time which may assist in effecting seizure (e.g. contacting the landlord to determine a suitable time when the tenants may be home or in the case of a business, whether the landlord will assist with entry into the locked premises)

3. Proceed to the location given in the warrant or letter of instructions.

   For street addresses, a good city / town map may be helpful if you are unfamiliar with the area. For locating property identified by legal land description, you should know how to read the section, township, range and meridian shown on a district map. Ensure that you have access to various district maps.

- Pursuant to section 8(1) of the Civil Enforcement Regulation, seizures, evictions or removal of seized property to be conducted in a residential area (including from the street in a residential area) cannot be carried out or attempted to be carried out between the hours of 10:00 p.m. and the following 6:00 a.m. unless ordered by a court.

Arrival at Location

- 1. Upon arriving at the location, identify yourself to the debtor. If the debtor is not present, advise the person present who you are and why you are there. Every attempt should be made to contact the debtor if their whereabouts are known.

2. Ensure the warrant is available for inspection by the debtor, if requested.

3. Entry by Force – Pursuant to section 13(2)(c)(iii) of the Civil Enforcement Act, do not enter by force into any residence without a court order. You may not enter a residential rented premises except in the presence of a person who you believe is an adult living there, or if entry has been refused, or use of force to gain entry. However, if the landlord knows that the tenant(s) have abandoned the premises, he can let the bailiff enter the rented premises. An attached garage is considered part of the residence.

   - If the doors of an attached garage are open and the goods to be seized are contained within the garage, a bailiff must not enter the garage without an adult, whom the bailiff believes to be living at the residence, in attendance. Bailiffs must adhere to all requirements under section 13(2)(c)(iii) of the Civil Enforcement Act when obtaining access to attached garages.

     Forced Entry – At any location or premises belonging to the debtor, other than a residential premise, you have the authority to force entry using the services of a locksmith. Where you have to use force to gain entry, you must reasonably secure the premises before leaving.

If denied access to the premises belonging to someone other than the debtor, you have no authority to enter without a court order.

Before entering buildings equipped with an alarm system, notify the alarm company or the police providing full particulars on the nature of your call, location and time, etc.

Caution:
Upon arrival at the location, the Bailiff may be informed by the debtor that:

1. They have filed for bankruptcy
2. They are registered under the Orderly Payment of Debt program
3. There is a stay under the Farm Debt Mediation Act, or
4. There is a stay ordered by the Court.

In these situations, the Bailiff should contact the Civil Enforcement Agency for further instructions before proceeding.

Also, if a subtenant is claiming ownership of property to be seized, contact the Civil Enforcement Agency, who should consult with its own legal counsel for advice.

Offer of Settlement

1. If the debtor offers settlement, the Bailiff should contact the Civil Enforcement Agency to confirm the exact amount of the outstanding debt and costs, and whether he is authorized to accept payment.

   Unless the entire debt is collected or the instructing party instructs you to stop action, seizure should be effected.

2. Settlement should always be in the form of cash, certified cheque, bank draft or money order unless the instructing party agrees otherwise.

3. If the debtor tenders cash, the Bailiff should issue a receipt to the debtor. If the bailiff is unable to submit the cash to the Agency, at the first opportunity he should obtain a money order payable to the Civil Enforcement Agency. The Bailiff should attach a copy of the money order to their receipt book. If there is a fee for purchasing the money order, it may be charged back as an expense.

4. If the debtor tenders non-certified funds and the instructing party has not consented to this form of payment, seizure of personal property must still be effected.

5. DO NOT accept postdated cheques unless instructed to do so by the instructing party.

Negotiated Settlement

If the debtor and instructing party negotiate some other form of settlement, any directions to discontinue the seizure action must be received directly from the instructing party.

Seizure

If settlement is not made, proceed to seize the personal property in accordance with the warrant/ letter of instructions. The Bailiff must physically see and be able to lay their hands on the personal property being seized in order to effect a proper seizure.

Seizure must be made on the personal property situated on the rented premises and only to a value sufficient to cover the arrears of rent and costs. There is an old common law right which still exists giving a landlord the right to follow personal property of the tenant for a period of 30 days after its removal. This must be in the form of a sworn Affidavit of Clandestine provided to the Agency by the instructing party.

Note: In order to seize a vehicle belonging to ta tenant, that vehicle must be located on the rented premises.

Under section 104 of the Civil Enforcement Act, you may seize:

1. Property on the premises which was given or sold by the tenant to someone other than the tenant
2. Property that is subject to writ proceedings against the tenant
3. Property claimed by a relative of the tenant if such relative lives on the premises as a member of the tenant's family
4. Property identified on the Information for Debtor form that is not exempt from distress proceedings.

Complete the Notice of Seizure of Personal Property

The Bailiff should:

1. Describe the personal property seized on the Notice of Seizure of Personal Property and an Addendum, if necessary – the description should include the quantity, serial number, make, model, year and colour, if applicable, and any other information to help identify the property
2. Ensure the form indicates whether a Notice of Objection to Seizure of Personal Property was applicable to the seizure
3. Date and sign their name at the bottom before serving or attaching (see example of form in this section)
4. If an addendum is used, indicate so by checking the box Addendum Attached and number the pages 1 of ___, 2 of ___, etc.
5. Ensure that the following are indicated on the addendums:
   a. Civil Enforcement Agency file number
   b. Date and signature

   (see example of form in this section).

Seizure Stickers

To be attached to the personal property seized only when the property cannot be readily identified, e.g. because it has no serial number (see example of form in this section).

Do not use the stickers on property obviously exempt or likely belonging to a third party. Careless or improper use of the stickers would defeat their purpose.

1. Write an identification number on the sticker
2. Write the Civil Enforcement Agency file number on the sticker
3. Ensure all blanks are properly completed
4. The Bailiff must sign the sticker
5. Note the following in the Bailiff report:
    a. The sticker identification number
    b. The personal property it was attached to
    c. Where on the personal property it was attached.

Other cases where stickers might be used are where:

1. No one is available to sign a Bailee's Undertaking and immediate removal is not possible
2. The debtor or person in charge refuses to sign a Bailee's Undertaking and immediate removal is not possible
3. The personal property is difficult to accurately describe
4. There is some suspicion that the seized personal property might later be substituted or removed, possibly by someone not aware of the seizure.

Bailee's Undertaking

1. If a Bailee's Undertaking is used, the Bailiff must explain it to the bailee, ensuring that the following is included in the explanation:
    a. The bailee is responsible to the Civil Enforcement Agency for the personal property, preservation of its present condition and value until relieved of this responsibility by the Civil Enforcement Agency. The bailee agrees to keep seized property and is responsible for its safekeeping and delivery to the Agency when requested
    b. The bailee shall advise the Civil Enforcement Agency of a change in address or incidents involving the personal property that would change their value
    c. If the bailee is the debtor, he may use the personal property
    d. The bailee may request that the Civil Enforcement Agency relieve them of their responsibilities in the event that they no longer wishes to be responsible for the personal property, e.g. if they are planning to move.

2. Advise the bailee of the penalty for non-compliance with the Bailee's Undertaking.

3. Complete the Bailee's Undertaking (see example of form in this section).

4. Ensure that there is a correct address where the personal property is to be kept.

5. The bailee must sign the undertaking and print their name and mailing address. If the bailee has any questions regarding non-compliance, explain the provisions to them. The Bailiff may suggest that the bailee obtain legal advice if they are still concerned or have questions.

6. The witness, normally the Bailiff, will date and sign the undertaking and print their name, as well as the name and address of the Agency.

7. A copy of the Bailee's Undertaking along with a copy of the Notice of Seizure of Personal Property must be provided to the bailee.

8. Include the details of the Bailee's Undertaking in the Bailiff's Report.

A bailee, as agent for the Civil Enforcement Agency, should be a responsible person who keeps seized personal property until it is required by the Agency.

The Bailee's Undertaking must be signed and witnessed.

If a responsible person is not available to sign the Bailee's Undertaking, the Bailiff should consider removal and storage of the seized property to ensure its safekeeping. If this is the case, the Bailiff may want to contact the Civil Enforcement Agency for further instructions.

Consideration should be given to obtaining a Bailee's Undertaking from the person making removal to protect the property in transit.

There are pros and cons to using a Bailee's Undertaking. A few have been listed for consideration when determining if a Bailee's Undertaking is appropriate.

Pros

A Bailee's Undertaking assigns responsibility for the care and control of seized property to a specific individual.

If the bailee is the debtor, storage costs are generally eliminated.

If it is the debtor who enters into the Bailee's Undertaking, he may continue to use the seized items. This is especially important when you are dealing with the debtor's livelihood, e.g. farmer.

Cons

There is a risk that the bailee, or other individual, will abscond with the property. Although the option of criminal or civil proceedings exists, the personal property may not be recovered.

Excerpts from the Criminal Code

Theft by bailee of things under seizure

324 *Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or on demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.*

Punishment for theft

334 *Except where otherwise provided by law, every one who commits theft*

(a) if the property stolen is a testamentary instrument or the value of what is stolen is more than $5,000, is guilty of

(i) an indictable offence and liable to imprisonment for a term of not more than 10 years, or

(ii) an offence punishable on summary conviction; or

(b) if the value of what is stolen is not more than $5,000, is guilty

(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(ii) of an offence punishable on summary conviction.

Removal

1. If the Bailiff cannot obtain a Bailee's Undertaking at the time of seizure, contact the Civil Enforcement Agency to determine if you should remove and store the property. Ensure that the person removing and storing the property signs a Bailee's Undertaking.

2. If a party is claiming a possessory lien on seized property, do not remove the property. Leave the property with that party on a Bailee's Undertaking until the issue of the lien is dealt with by the instructing party.

☼ 3. When removing a vehicle, the Bailiff should never drive or tow it away himself. Always have removal done by a licensed and approved towing company.

4. If the debtor or someone representing the debtor is not present at the time of removal of the seized property, the Bailiff should advise the local police agency that the property has been removed in the event the property is later reported stolen.

Service of Seizure Documents

1. The Bailiff must serve a copy of the Warrant, Notice of Seizure of Personal Property, Information for Debtor form, and Notice of Objection to Seizure of Personal Property on each debtor, an adult occupant at the location of the seizure, or the person who has possession or control over the property.

2. If a bailiff is unable to serve the debtor or other adult occupant, attach the Warrant, Notice of Seizure of Personal Property, Information for Debtor form and Notice of Objection to Seizure of Personal Property for each debtor in a conspicuous place at the seizure location or to the property seized. This meets the seizure requirements, however it does not meet the service obligation. Ensure the fact service was not effected in indicated in the Bailiff's Report.

3. Pursuant to section 45(3) of the Civil Enforcement Act, if the Warrant, Notice of Seizure of Personal Property, Information for Debtor form, and Notice of Objection to Seizure of Personal Property *were not served* upon the debtor or an adult member of the debtor's household, the Agency to serve the seizure documents on the debtor as soon after effecting seizure as possible.

Complete the Bailiff's Report

The Bailiff's Report should be clear, concise and factual. As this document may be used in court, it is extremely important that the Bailiff not speculate or offer opinions.

Specific details should be included:

1. If seizure is effected, indicate how the Warrant, Notice of Seizure of Personal Property, Information for Debtor form, and Notice of Objection to Seizure of Personal Property were served. This is important because if these documents were not served, the Civil Enforcement Agency must serve them on each debtor as soon after effecting seizure as is practicable.

2. If the Bailiff is unable to personally serve the Warrant, Notice of Seizure of Personal Property, Information for Debtor form, and Notice of Objection to Seizure of Personal Property, he may:

   a. Post the documents in a conspicuous place

   b. Attach the documents to the seized property, or

   c. Affix the seizure stickers to the seized property.

   Note: This meets the seizure requirements; however, it does not meet the service obligation. Ensure the fact that service was not effected is indicated in the Bailiff's Report.

3. If the seized property was removed, indicate:

   a. Where it was removed to

   b. The name and address of the person with whom the personal property was left

   c. The name and address of the person who signed the Bailee's Undertaking.

   Storage Expenses

   The Bailiff must ensure that he does not incur excessive storage costs in relation to the value of the personal property. Advise the storage company that the Civil Enforcement Agency must receive an invoice for storage at least monthly. Ensure that the storage details, including costs, are referred to in the Bailiff's Report.

4. Complete and sign the Report.

5. If the Bailiff is unable to effect the seizure, he should complete the Report stating the reasons and any useful information about the debtor or the personal property. Complete and sign the Report.

6. Return the completed documents to the Civil Enforcement Agency. This should be done promptly as the agency must register the details of the seizure within 3 days after the date of seizure.

Review of Bailiff's Report

The Agency will review the completed Bailiff's Report and accompanying documents to determine if seizure and service were effected. Also, review the Report for any errors, omissions, or irregularities.

Seizure NOT Effected

If seizure was not effected, complete fee portion of the report, forward a copy of the Report to the instructing party and await further instructions.

Seizure Effected

If seizure was effected and if the Report and applicable documents are in order forward a copy of the Report to the instructing party along with a copy of the Notice of Seizure of Personal Property, and Bailee's Undertaking (if applicable).

Service of Seizure Documents

Pursuant to section 45(3) of the Civil Enforcement Act, if the Warrant, Notice of Seizure of Personal Property, the Notice of Objection to Seizure of Personal Property, and Information for Debtor form were not served on the debtor or an adult member of the debtor's household, the Civil Enforcement Act requires that the Agency must serve the seizure documents on the debtor as soon after effecting seizure as is practicable.

Register Seizure

Pursuant to section 13(1)(a) of the Civil Enforcement Regulation, the Agency must register details of all seized property and pertinent information such as the condition/location of the seized property at Personal Property Registry within 3 days of seizure being effected.

Discharge Seizure

In situations where the seized property has been disposed of, other then by sale under the Civil Enforcement Act, the seizure registration at PPR may be discharged. The discharge can only be carried out by the civil enforcement agency that registered the seizure.

Pursuant to section 15(2) of the Civil Enforcement Regulation, where an agency releases a debtor property from seizure, the agency must notify the debtor that the property has been released as soon as practicable.

Notice of Objection to Seizure of Personal Property, Received After Seizure Effected

Only the debtor or their agent has the right to object to seizure. Therefore, you must ensure that the party objecting to the seizure is the debtor or a person who has the right to act for the debtor.

- Pursuant to section 46(3)(b) of the Civil Enforcement Act, a Notice of Objection is void and shall be disregarded if the Notice of Objection is not served on the Agency within 15 days from the date of service of the seizure documents.

- Upon receipt of a valid Notice of Objection to Seizure of Personal Property, the file must be flagged with a note pursuant to section 46(2) of the Civil Enforcement Act that the agency shall not sell or otherwise dispose of the property without a court order.

  Send a copy of the Notice of Objection to Seizure of Personal Property to the instructing party.

  If the seized personal property is accruing storage costs pending the disposition of the objection, you may wish to discuss this with the instructing party.

Third Party Claims, Received After Seizure Effected

A third party is someone, other than the debtor or the creditor, who claims to be the owner of the seized property or who has some other interest in the personal property that would, without the consent of the third party, preclude sale of the seized property. (See example on following page of a letter which would be a third-party claim.)

- Pursuant to Rule 6.62 of the Alberta Rules of Court, a third-party claim must be in writing and contain an address for service for the third party.

- Pursuant to Rule 6.63(1) of the Alberta Rules of Court, upon the third party serving a claim on the Agency, proceed as follows:

  1. Serve written notice of the third party's claim on the instructing party (see example letter in this section)

  2. Diarize the file for 20 days plus 7 days if served by recorded mail.

After 20 Days, or 27 Days Where Applicable

If the Agency has not been served with written notice disputing the third-party claim, the Agency may release the seizure and return the property to the person from whom the property was seized.

A third-party dispute may result in the commencement of interpleader proceedings. This is a complex area of law; you should contact your legal advisor for direction. Depending on arrangements made with the creditor, it may be the creditor's lawyer who commences interpleader proceedings.

If the instructing party disputes the claim, the seizure shall continue, subject to the appropriate fees and conditions imposed by the Agency.

The Agency must accept a third-party claim up to the time proceeds are distributed. Therefore, if a sale has been set up you must cancel it with respect to those items referred to in the third-party claim. If the items have been sold, the third party may be entitled to the proceeds of the sale. Consult your legal counsel for direction.

Third Party Claim

7777 - 11 Avenue
Edmonton, Alberta
T6K 1Z1

January 16, 1996

We Seize Ltd.
406 Replevin Road
Edmonton, Alberta
T5J 2N5

To Whom It May Concern:

Yesterday someone from your office went to my brother's place and seized my Red Camaro. My brother borrowed it from me. My brother's name is Joe Debtor. The location of the seizure was 13 Badluck Road, Edmonton, Alberta. The car was removed and I want it returned to me.

I am enclosing the bill of sale proving that the car was purchased by me and a copy of the statement from the car dealership showing that the final payment on the car was made on June 16, 1994. I have not at any time sold or transferred ownership to any other person, particularly my brother. Besides, he would never have enough money to buy it.

I need the car back so I can get to work. If I don't get it back within a week, I will have to rent a car and forward the bill to you.

Yours truly,

Sam J. Debtor

Enclosure
SJD:sjd

WE SEIZE LTD.
406 Replevin Road

Letter to Instructing Party about Third Party Claim

Edmonton, Alberta T5J 2N5

OUR FILE: EW09766
YOUR FILE: 9-11,586

January 25, 1996

REGISTERED

Lawyers Incorporated
Barristers and Solicitors
1 Legal Square
Edmonton, Alberta
T2N OXO

Dear Sir:

RE: IMA CREDITOR v. JOE DEBTOR

Enclosed is a copy of a third party claim completed by Sam J. Debtor which is self-explanatory.

* In view of the information contained therein, I would refer you to the Alberta Rules of Court that require you to inform me within 20 days of being served with the notice whether you dispute the claim.

* If you do not respond within 20 days of being served with this notice, we shall release the seizure and return the property to the person from whom it was seized.

Yours truly,

Manager
We Seize Ltd.

Enclosure

Form 2 - Warrant (Distress)

Form 2
Civil Enforcement Regulation

Previous P.P.R. Registration Number **(W.C.B. only)**

00-00000
Civil Enforcement Agency File Number

Warrant
(DISTRESS)

Landlord
Type

LRO
Code

(Select Code from table on reverse.)

TO: We Seize Ltd.
406 Replevin Road, Edmonton Alberta T5J 2N5
Name and Address of Civil Enforcement Agency

You are hereby instructed to seize the personal property of

Joe Debtor
13 Badluck Road, Edmonton Alberta
Name and Address of Debtor

in order to satisfy an outstanding debt in the amount of $ 375.00

owing to Ima Creditor plus costs.
Name of Creditor

Location of personal property if different from the debtor's address

Dated at Edmonton, Alberta, on January 12, 1996.

Ima Creditor
Signature of Instructing Creditor or Authorized Agent

Ima Creditor
Print Name of Instructing Creditor or Authorized Agent

6042 Broad Valley — Edmonton
Address of Instructing Creditor or Authorized Agent — City

Edmonton — T5K 1L3 — 444-4444
Province — Postal Code — Telephone Number — Fax Number

Jan 1/03

Form 2 - Warrant (Distress)

TABLE OF SEIZURES

DESCRIPTION	TYPE
Agriculture Financial Services Act	AFS
Bank Act	BAN
Landlord Distress	LRO
Municipal Government Act	MGA
Woodmen's Lien Act	WLA
Workers' Compensation Act	WCB
Other	OTH

Form 5
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Notice of Seizure of Personal Property

TO: Joe Debtor

13 Badluck Road, Edmonton, Alberta
Name and Address of Debtor

Take notice that to satisfy a claim against you for the sum of $ 4,694.00 plus costs and related Writs, if applicable.

Ima Creditor

6942 Broad Valley, Edmonton, Alberta T5K 1L3
Name and Address of Creditor

has caused the following personal property and personal property listed in the addendum to be seized:

1	1979 Camaro, Red S/N 1GM54C761M0G59
1	Kenwood Stereo Receiver S/N 11879, attached Sticker Number 0001 to the Receiver

Addendum attached listing additional property. [ ] Yes [X] No

Notice of Objection applicable to this seizure. [X] Yes [ ] No

STRIKE OUT IF NOT APPLICABLE

If you object to the seizure, you must deliver the Notice of Objection to the Civil Enforcement Agency listed below, within 15 days from the day that the seizure documents were served.

Dated at Edmonton, Alberta, on January 15, 1996

P. Bailiff
Bailiff's Signature

P. Bailiff
Print Name

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road
Address of Civil Enforcement Agency

Edmonton
City

Alberta
Province

T5J 2N5
Postal Code

422-2696
Telephone Number

422-7777
Fax Number

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency listed above. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff – Civil Enforcement at (780) 422-2481.

Page 1 of 1

Jun 8/05

Form 5 - Notice of Seizure of Personal Property *

*

Addendum to Notice of Seizure of Personal Property

Civil Enforcement Agency File Number

Addendum to Notice of Seizure of Personal Property

Dated at _____, Alberta, on _____, _____.

_____

Bailiff's Signature Print Name

Oct. 01/95 Page _____ of _____

Form 6
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Notice of Objection to Seizure of Personal Property

TO: We Seize Ltd.

406 Replevin Road, Edmonton, Alberta T5J 2N5 FAX: 422-7777
Name, Address and Fax Number of Civil Enforcement Agency

This Notice of Objection to Seizure of Personal Property will not be accepted if a reason for the objection is not provided.

I object to the seizure of the personal property mentioned in the Notice of Seizure of Personal Property for the following reason(s):

The stereo that was seized belongs to my girlfriend; besides, Ima Creditor told me it was okay if I missed the last two rent payments because I was short of cash. I want my stuff back.

(IF ADDITIONAL SPACE REQUIRED, PLEASE WRITE ON REVERSE.)

IF YOU OBJECT TO THE SEIZURE OF PERSONAL PROPERTY, THIS NOTICE MUST BE DELIVERED TO THE ABOVE NOTED CIVIL ENFORCEMENT AGENCY WITHIN 15 DAYS OF THE DATE ON WHICH THE SEIZURE DOCUMENTS WERE SERVED.

If there is no valid reason for objecting to the seizure of the personal property, the sending of this notice may result in increased costs to you.

Dated at Edmonton, **Alberta on**
Dated January 20, 1996, **Alberta.**

THE FOLLOWING MUST BE COMPLETED:

Joe Debtor
Signature of Debtor

Joe Debtor
Print Name

13 Badluck Road
Mailing Address of Debtor

Edmonton
City

Alberta
Province

T5B 4L8
Postal Code

423-6789
Telephone Number

N/A
Fax Number

Oct. 01/95

Form 6 - Notice of Objection to Seizure of Personal Property

Form 7
Civil Enforcement Regulation

Information for Debtor

READ THIS DOCUMENT IMMEDIATELY

Your property has been seized under the Civil Enforcement Act either to satisfy a judgment against you or to satisfy a landlord's claim for unpaid rent ("landlord's distress"). This document sets out the exemptions to seizure to which you are entitled. Please note that, if the seizure is to satisfy another kind of claim, you may not be entitled to exemptions.

Caution:	**This document is not intended to provide legal advice. You should seek legal advice if you have any questions regarding your rights and obligations.**

CIRCUMSTANCES WHERE EXEMPTIONS DO NOT APPLY

The exemptions listed below do not apply in the following circumstances:

1. If you are not an individual (e.g. you are a corporation).
2. If the judgment against you is for the payment of maintenance or alimony.
3. If you have abandoned the seized property.
4. If the judgment arises out of an act for which you have been convicted of an offence under the Criminal Code.

EXEMPTIONS

Except where anyone of the above circumstances apply, the following property is exempt from seizure:	WRITS	LANDLORD DISTRESS
1. Food required by you and your dependants during the next 12 months.		
2. Clothing which is necessary for you and your dependants up to a value of	$4,000	$4,000
3. Household furnishings and appliances up to a value of	$4,000	$1,000*
4. One motor vehicle up to a value of	$5,000	Not exempt
5. Medical and dental aids required by you or your dependants.		
6. If your principal source of income is from farming, personal property necessary for the proper and efficient running of your farm for the next 12 months.		
7. If item 6 does not apply to you, personal property required by you to earn income from your occupation up to a value of	$10,000	$10,000 - in the case of Residential Premises
8. Money payable by the Argiruclture Financial Services Corporation in respect of a claim for loss or damage to crops.		

***FOR LANDLORD DISTRESS PURPOSES ONLY**

Household Furnishings and appliances means one washing machine and dryer; one kitchen suite; bedroom suites and bedding; kitchen appliances including one each of a stove, a microwave, a refrigerator and a freezer; kitchen utensils; and, carriages, strollers, cradles and cribs necessary for the use of the debtor's children.

NOTICE OF OBJECTION

- If you believe that there is a valid reason why the property that has been seized should not have been seized you must serve the Notice of Objection that has been provided to you on the Civil Enforcement Agency that made the seizure.
- The Civil Enforcement Agency must receive the Notice of Objection from you within 15 days of the day that the seizure documents were served on you or an adult member of your household. Your Notice of Objection will be void if the Civil Enforcement Agency receives it after the 15 day period has expired or if you do not give a reason for your objection.
- The address of the Civil Enforcement Agency to which you must deliver your Notice of Objection is indicated at the top of the Notice of Objection.

Warning:	**If your objection to seizure is not based on valid reasons you could be required to pay legal costs resulting from your objection.**

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency shown on the Notice of Seizure of Personal Property. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff - Civil Enforcement at (780) 422-2481.

* Jun 8/05

Form 8
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Bailee's Undertaking

In consideration of the seized personal property listed in the attached Notice of Seizure of Personal Property being left in my possession, I agree to act as Bailee for the Civil Enforcement Agency and keep the said personal property in good condition at:

13 Badluck Road

Edmonton, Alberta
Address or Land Location Where Personal Property Will Be Stored.

and deliver it to the Civil Enforcement Agency whenever and wherever it may be required.

I understand that non-delivery or conversion of the personal property may result in a conviction under the Criminal Code for which a term of imprisonment may be imposed.

Dated at Edmonton, Alberta, on January 15, 1996

Bailee:

Joe Debtor Signature of Bailee	Joe Debtor Print Name	
13 Badluck Road Address of Bailee	Edmonton City	Alberta Province
T5B 4L4 Postal Code	423-6789 Telephone Number	N/A Fax Number

P. Bailiff Signature of Witness	P. Bailiff Print Name	
406 Replevin Road Address of Witness	Edmonton City	Alberta Province
T5J 2N5 Postal Code	422-2696 Telephone Number	422-7777 Fax Number

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road Address of Civil Enforcement Agency		Edmonton City	
Alberta Province	T5J 2N5 Postal Code	422-2696 Telephone Number	422-7777 Fax Number

NOTE: ATTACH TO EACH COPY OF THE NOTICE OF SEIZURE OF PERSONAL PROPERTY.

Oct.01/95

Form 8 - Bailee's Undertaking

Form 9 - Bailiff's Report

Form 9
Civil Enforcement Regulation

_____
Civil Enforcement Agency File Number

Bailiff's Report

CREDITOR _____

DEBTOR _____

I, _____ (Name of Bailiff), of the City/Town of _____, Alberta

report as follows:

(Describe in detail the action taken, including dates, times, addresses, name(s), documents completed, persons served and with what documents, where personal property was removed to, storage location and cost, changes to the original instructions, and any other factual information that may be important to the instructing party or the civil enforcement agency.)

Is there an Addendum attached? Yes ☐ No ☐
If yes, _____ (Number) Addendum pages attached. (Each page forms part of this Report.)

I hereby certify that the information contained in this Report is true and complete. I understand that any false information may lead to charges under the *Criminal Code* (Canada) and could result in the suspension or cancellation of my appointment as a bailiff.

Dated at _____ (City/Town), Alberta, on _____ (Date), 20___.

_____
Signature of Bailiff

_____
Print Name of Instructing Party

_____
Address

_____ _____ _____
City/Town Province Postal Code

_____
Print Name of Civil Enforcement Agency

_____
Address

_____ _____ _____
City/Town Province Postal Code

_____ _____
Toll-Free Telephone Number Toll-Free Fax Number

*

Seizure Sticker

IDENTIFICATION NO.	CIVIL ENFORCEMENT AGENCY FILE NO.
0001	*00-00000*

UNDER SEIZURE

THIS ITEM IS UNDER SEIZURE BY

We Seize Ltd.

Name of Civil Enforcement Agency

406 Replevin Road, Edmonton *422-2696*

Address Telephone No.

422-7777 *January 15, 1996*

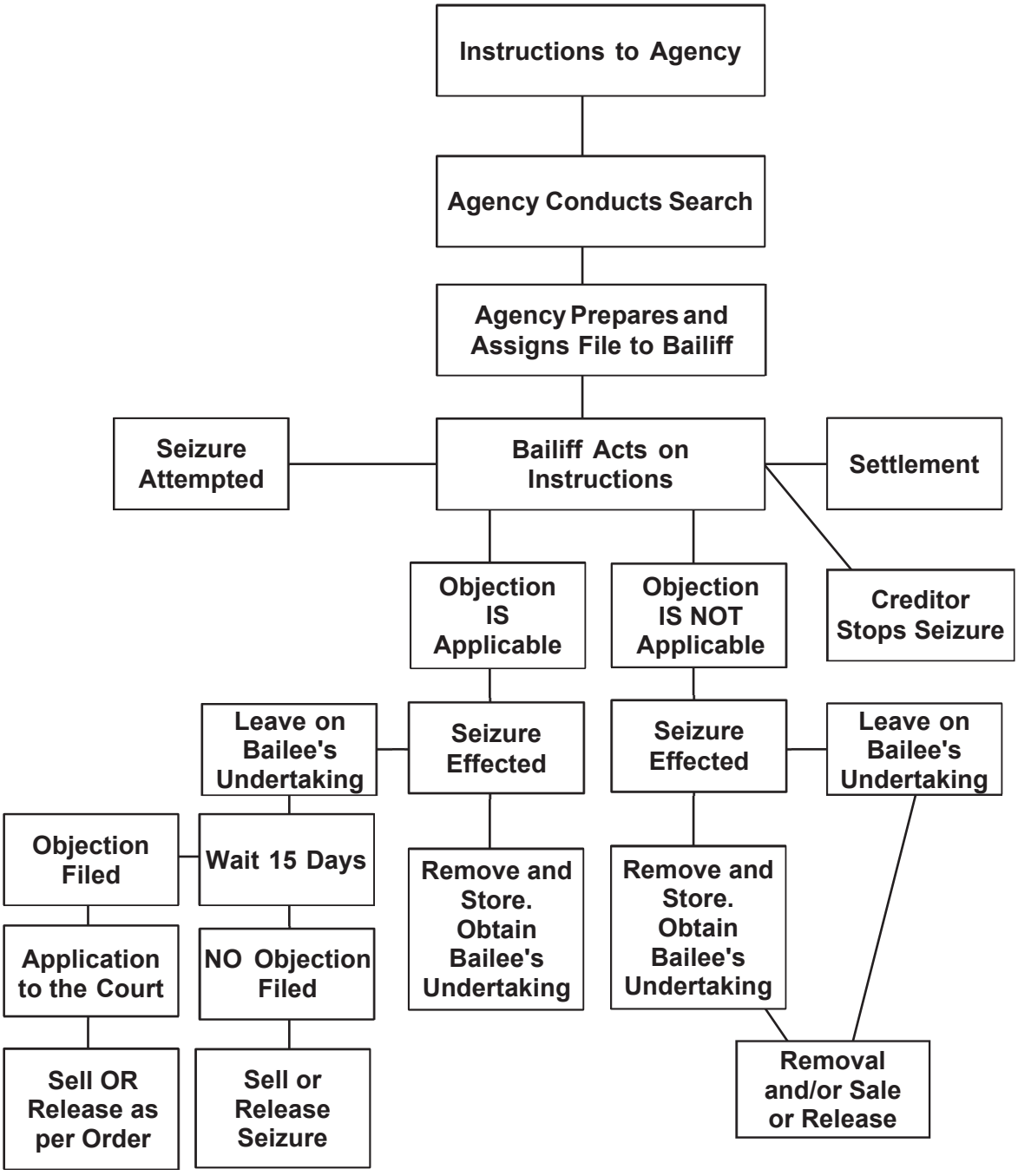
Fax No. Date

P. Bailiff *P. Bailiff*

Bailiff's Signature Print Name

Statutory Distress Seizure

Flow Chart



Statutory Distress Seizure

There are several statutes which specifically provide for the right of distress. The most frequently encountered include the following:

Agriculture Financial Services Act

The Agriculture Financial Services Act allows for enforcement for unpaid premiums payable to the Agriculture Financial Services Corporation.

The Notice of Objection to Seizure of Personal Property IS NOT applicable to these seizures.

Bank Act

The Bank Act (federal) authorizes the Bank through its employees or agents to seize the personal property identified in the Bank Act security document.

The Notice of Objection to Seizure of Personal Property IS NOT applicable to these seizures.

If the Agency is contracted by the Bank to conduct a seizure, the Agency is acting as an agent of the Bank and must comply with Part 2 of the Civil Enforcement Act.

Garage Keepers' Lien Act

- Motor/farm vehicles, airplanes, (as defined in section 1 of the Garage Keepers' Lien Act) and accessories can be seized under this Act. Seizure cannot be made for fuel and oil.

  The garage keeper must either have possession of the vehicle OR an acknowledgment of indebtedness and a lien must be registered at the Personal Property Registry before seizure may be made.

- You should check the invoice to ensure that the Acknowledgment of Indebtedness is signed by the debtor. A seizure cannot be done without a signed acknowledgement of indebtedness unless the garage keeper has retained possession of the vehicle, or if otherwise provided in a court order.

- As per section 3(1) of the Garage Keepers' Lien Act, the Garage Keeper's lien terminates on the 21st day after the date on which possession of a vehicle is surrendered to the owner UNLESS the garage keeper registers a Garage Keeper's Lien Financing Statement with Personal Property Registry within that 21-day period.

- As per section 6 of the Garage Keepers' Lien Act, a Garage Keeper's Lien expires 6 months after it has been registered at the Personal Property Registry. Seizure must be made within this period. The court may grant an order extending the time for a further 6 months and that order must be registered at the Personal Property Registry.

  The Notice of Objection to Seizure of Personal Property IS applicable to these seizures.

Municipal Government Act

The Municipal Government Act authorizes distress of personal property of a person owing a business tax to the municipality. "Tax" is described in section 437(c) of the Act:

437(c) "tax" means

(i) a business tax,

(ii) a well drilling equipment tax,

(ii.1) a community aggregate payment levy, or

(iii) a property tax or community revitalization levy imposed in respect of property referred to in section 304(1)(c), (f), (g), (h), (i), (j)(i), (k) or (l);

The municipal officer does not have to utilize the services of an Agency. However, if the Agency is contracted by the municipality to conduct a seizure under this Act, the Agency is acting as an agent of the municipality and must comply with Part 2 of the Civil Enforcement Act.

The Notice of Objection to Seizure of Personal Property IS NOT applicable to these seizures.

Workers' Compensation Act

The Workers' Compensation Act authorizes seizure by distress of personal property in respect of unpaid workers' compensation premiums.

Seizures made on behalf of the Workers' Compensation Board may only be released on the instructions of the Workers' Compensation Board.

The Notice of Objection to Seizure of Personal Property IS NOT applicable to these seizures.

If the Agency is contracted by the WCB to conduct a seizure under the Civil Enforcement Act, the Agency is acting as an agent of the Workers' Compensation Board and must comply with Part 2 of the Civil Enforcement Act.

Statutory Distress Seizure Process

Warrant

The warrant is the document which provides the direction and authority to seize the personal property of the debtor. It must be completed and signed by the instructing creditor or authorized agent (see example of form in this section).

Upon receipt of the warrant, with the exception of a Garage Keeper's Lien, check:

1. Personal Property Registration number (applies to WCB only)
2. Type of distress and ensure appropriate code is completed
3. That the warrant is directed to your Agency
4. Debtor's name and complete address
5. Amount owing
6. Name of creditor
7. Location of personal property if different from debtor's address
8. Municipality and date of warrant

9. Signature of instructing creditor or authorized agent

10. Name, address, telephone number and fax number of instructing creditor or authorized agent.

Warrant – Garage Keeper's Lien

Pursuant to the Garage Keepers' Lien Act, the lien must be registered at Personal Property Registry before seizure can be effected.

The Warrant is the document that provides the direction and authority to seize. It must be completed and signed by the instructing creditor or authorized agent.

Sufficient copies are required to allow service on each debtor and return of the original to the Agency (see example of form in this section).

Upon receipt of the warrant, check:

1. That the warrant is directed to your Agency

2. For proper identification of the vehicle to be seized, ensuring it matches the description on the work order

3. Name and address of owner

4. Name and address of party in possession of the vehicle

5. Date of registration at Personal Property Registry and Personal Property Registration number

6. Amount owing

7. Name of creditor

8. Description of the service provided that caused the debt

9. Date possession of the vehicle was surrendered, if applicable

10. Date repairs were provided, if applicable

11. Date accessories or parts were furnished, if applicable

12. Municipality and date of warrant

13. Signature of instructing creditor or authorized agent

14. Name, address, telephone number and fax number of instructing creditor or authorized agent.

Letter of Instructions

In addition to the warrant, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

1. Any urgency associated with the file

2. Any unusual circumstances which might be anticipated

3. Whether removal of the seized personal property is required

4. Form of indemnification as requested by the Agency

5. Whether the creditor is aware of any legal impediments to seizure such as stays or third-party claims as applicable to the specific property.

If removal is instructed, you may wish to consider and discuss with the instructing party the following issues with regard to the removal of seized personal property:

1. Pursuant to section 46 of the Civil Enforcement Act, as the debtor has 15 days in which to object to the seizure (if applicable), additional costs would be incurred for removal and storage; the debtor may be deprived use of the seized property within the objection period

2. The location of the property to be seized, as removal may be costly in a remote area

3. The condition or value of the property to be seized, as the cost of seizure may outweigh the money which may be realized from a sale of the property or the money realized may not significantly reduce the debt

4. The type of property required to be removed including where and how to conduct the removal of unique or special items

5. Any stays that may be in existence. If there is a stay in effect, you may be liable for an improper seizure and for removal costs. A stay is in existence whether or not it has been registered at Personal Property Registry. Therefore, check out any information that may come to light at the time of seizure.

6. If the removal may put the debtor out of business or cause severe hardship and if there is a responsible person available, you should consider leaving the property with that person (often the debtor) under a Bailee's Undertaking.

Searches

- A distribution seizure ("DS") search must be conducted at Personal Property Registry.

- The distribution seizure search must be reviewed and discussed with the instructing creditor for further instructions, prior to effecting seizure to determine other priority registrations and if the seizure will be viable. Also, if the property to be seized is already under seizure refer to sections 48.1 and 48.2 of the Civil Enforcement Act.

Examine the search to determine any proceeding which may stay enforcement. The following are proceedings that may stay enforcement action:

1. Bankruptcy

If a debtor is in bankruptcy, determine whether a stay of proceedings is in effect.

If the searches show that the debtor is in bankruptcy, contact the Trustee in Bankruptcy to determine if seizure can be effected for the instructing party. Advise the instructing

party if unable to effect seizure OR proceed to seizure if the Trustee in Bankruptcy advises, in writing, to do so.

The only way to determine conclusively whether a bankruptcy exists is to conduct a search of the records of the Superintendent of Bankruptcy. For more information on how to request these searches, refer to section 4 – Searches.

2. Court Ordered Stays

This is an order granted by the Court to stay one or more matters until the time specified in the order.

If the searches show that a court ordered stay that affects the instructing party's action has been registered, the seizure cannot be effected. Advise the instructing party and await further instructions.

If you become aware that a stay has been granted by the court affecting the instructing party's action, even if it is not registered at the Personal Property Registry, you should not proceed with seizure.

If applicable, consider whether a serial number collateral ("SN") search should also be conducted prior to proceeding, as recommended on page 4.1.

Required Documents for Bailiff

In order to effect seizure, the Bailiff must be provided with a copy of the warrant, a copy of the letter of instructions, and the following documents:

1. Notice of Seizure of Personal Property – sufficient copies to allow service of one on each debtor, one for each bailee and return of the original to Agency

2. Notice of Objection to Seizure of Personal Property (only when it is specified as a requirement pursuant to the Act that authorizes the seizure, e.g. Garage Keepers' Lien Act) – sufficient copies to allow for service of one on each debtor, and return of original to Agency

3. Bailee's Undertaking – sufficient copies to provide a copy to each bailee and return original to the Agency

4. Bailiff's Report

5. Other documents as required.

Notice of Seizure of Personal Property

This form is used to describe in detail the items seized and to notify all affected parties of the seizure of personal property. Sufficient copies are required to allow service of one notice on each debtor, and return of the original to the Agency (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number

2. Name and address of debtor

3. Amount owing as shown on the warrant

4. Name and address of creditor

5. "NO" box completed for Notice of Objection to Seizure of Personal Property applicable to this seizure, with the exception of seizures where a Notice of Objection is specified as a requirement pursuant to the Act that authorizes the seizure – strike out applicable section on the form

6. Agency's name, address, telephone number, fax number and email address.

Notice of Objection to Seizure of Personal Property

If you are requested to conduct a seizure under any statute other than the Civil Enforcement Act, review the appropriate legislation or consult your legal advisor to determine if a Notice of Objection is applicable.

In situations where a Notice of Objection is applicable, this form is used by the debtor if he wishes to object to the seizure. The Bailiff must be provided with sufficient copies to serve one on each debtor. In the case of multiple debtors, each debtor is entitled to object (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number

2. Agency's name, address, telephone number, fax number and email address.

Bailee's Undertaking

This form is used when the Bailiff leaves the seized personal property with a responsible person who agrees to keep the seized property and is responsible for its safekeeping and delivery to the Civil Enforcement Agency when requested.

Sufficient copies are required: one for the bailee, and return of the original to the Agency (see example of form in this section).

The following must be completed by the Agency:

1. Agency file number

2. Agency's name, address, telephone number, fax number and email address.

Change of Bailee

If circumstances require a change of bailee, the new bailee must have the undertaking responsibilities explained. He must enter into the new Bailee's Undertaking by signing it and having it witnessed by an Agency employee or a Bailiff. Sufficient copies are required: one for the bailee, one for the creditor and the original for the Agency. At the discretion of the Agency, the condition of the personal property may be verified.

The following must be completed by the Agency:

1. Prepare a new Bailee's Undertaking. Have the undertaking signed by the new bailee and witnessed. Attach the original to the original of the Notice of Seizure of Personal Property and give the new Bailee a copy of the new Bailee's Undertaking with a copy of the Notice of Seizure of Personal Property attached.

2. Advise the original bailee in writing of his release from the undertaking.

Bailiff's Report

This form is the Bailiff's certification of the action he has taken (see example of form in this section).

Other Documents

Other documents that may be required would include relevant court orders, Addendum to Notice of Seizure of Personal Property and Seizure Stickers.

The Addendum to Notice of Seizure of Personal Property may be required by the Bailiff if he runs out of space on the Notice of Seizure of Personal Property. It is suggested that the Bailiff keep a supply of these with him at all times.

For seizures pursuant to the Garage Keepers' Lien Act, you will also require information such as:

1. Proof that the Garage Keeper's Lien is registered at Personal Property Registry. This could be in the form of a verification statement or search result from the Personal Property Registry.

2. Copy of invoice with an Acknowledgement of Indebtedness signed by the debtor. The signed indebtedness may not be necessary if the garage keeper is still in possession of the vehicle.

Procedure for Effecting Seizure

The Bailiff should:

1. Carefully read the warrant and any other instructions received from the instructing party or the Civil Enforcement Agency

2. Review the file to see if there are any arrangements that should be made ahead of time, which may assist in effecting seizure (e.g. attendance of a veterinarian, tow truck arrangements, etc.)

3. Proceed to the location given in the warrant or letter of instructions.

   For street addresses, a good city / town map may be helpful if you are unfamiliar with the area. For locating property identified by legal land description, you should know how to read the section, township, range and meridian shown on a district map. Ensure that you have access to various district maps.

- Pursuant to section 8(1) of the Civil Enforcement Regulation, seizures, evictions or removal of seized property to be conducted in a residential area (including from the street in a residential area) cannot be carried out or attempted to be carried out between the hours of 10:00 p.m. and the following 6:00 a.m. unless ordered by a court.

Arrival at Location

1. Upon arriving at the location, identify yourself to the debtor. If the debtor is not present, advise the person present who you are and why you are there. Every attempt should be made to contact the debtor if his whereabouts are known.

2. Ensure the warrant is available for inspection by the debtor, if requested.

3. Entry by Force – Pursuant to section 13(2)(c)(iii) of the Civil Enforcement Act, do not enter by force into any residence without a court order. An attached garage is considered part of the residence.

   - If the doors of an attached garage are open and the goods to be seized are contained within the garage, a bailiff must not enter the garage without an adult, whom the bailiff believes to be living at the residence, in attendance. Bailiffs must adhere to all requirements under section 13(2)(c)(iii) of the Civil Enforcement Act when obtaining access to attached garages.

     Forced Entry – At any location or premises belonging to the debtor, other than a residential premises, you have the authority to force entry using the services of a locksmith. Where you have to use force to gain entry, you must reasonably secure the premises before leaving.

     If denied access to the premises belonging to someone other than the debtor, you have no authority to enter without a court order.

     Before entering buildings equipped with an alarm system, notify the alarm company or the police providing full particulars on the nature of your call, location and time, etc.

Caution:

Upon arrival at the location, the Bailiff may be informed by the debtor that:

1. They have filed for bankruptcy

2. There is a stay under the Farm Debt Mediation Act, or

3. There is a stay ordered by the Court.

In these situations, the Bailiff should contact the Civil Enforcement Agency for further instructions before proceeding.

Offer of Settlement

1. If the debtor offers settlement, the Bailiff should contact the Civil Enforcement Agency to confirm the exact amount of the outstanding debt and costs, and whether he is authorized to accept payment.

   Unless the entire debt is collected or the instructing party instructs you to stop action, seizure should be effected.

2. Settlement should always be in the form of cash, certified cheque, bank draft or money order unless the instructing party agrees otherwise.

3. If the debtor tenders cash, the bailiff should issue a receipt to the debtor. If the bailiff is unable to submit the cash to the Agency, at the first opportunity he should obtain a money order payable to the Civil Enforcement Agency. The bailiff should attach a copy of the money order to his receipt book. If there is a fee for purchasing the money order, it may be charged back as an expense.

4. If the debtor tenders non-certified funds and the instructing party has not consented to this form of payment, seizure of personal property must still be effected.

5. DO NOT accept postdated cheques unless instructed to do so by the instructing party.

Negotiated Settlement

If the debtor and instructing party negotiate some other form of settlement, any directions to discontinue the seizure action must be received directly from the instructing party.

Seizure

If settlement is not made, proceed to seize the personal property in accordance with the warrant/letter of instructions. The Bailiff must physically see and be able to lay his hands on the personal property being seized in order to effect a proper seizure.

Complete the Notice of Seizure of Personal Property

The Bailiff should:

1. Describe the personal property seized on the Notice of Seizure of Personal Property and an Addendum, if necessary – the description should include the quantity, serial number, make, model, year and colour, if applicable, and any other information to help identify the property

2. Ensure the form indicates whether a Notice of Objection to Seizure of Personal Property was applicable to the seizure

3. Date and sign his name at the bottom before serving or attaching (see example of form in this section)

4. If an addendum is used, indicate so by checking the box Addendum Attached and number the pages 1 of ___, 2 of ___, etc.

5. Ensure that the following are indicated on the addendums:

   a. Civil Enforcement Agency file number, and

   b. Date and signature

   (see example of form in this section).

Seizure Stickers

To be attached to the personal property seized only when the property cannot be readily identified, e.g. because it has no serial number (see example of form in this section).

Do not use the stickers on property obviously exempt or likely belonging to a third party. Careless or improper use of the stickers would defeat their purpose.

1. Write an identification number on the sticker
2. Write the Civil Enforcement Agency file number on the sticker
3. Ensure all blanks are properly completed
4. The Bailiff MUST sign the sticker
5. Note the following in the Bailiff report:
    a. The sticker identification number
    b. The personal property it was attached to
    c. Where on the personal property it was attached.

Other cases where stickers might be used are where:

1. No one is available to sign a Bailee's Undertaking and immediate removal is not possible
2. The debtor or person in charge refuses to sign a Bailee's Undertaking and immediate removal is not possible
3. The personal property is difficult to accurately describe
4. There is some suspicion that the seized personal property might later be substituted or removed, possibly by someone not aware of the seizure.

Bailee's Undertaking

1. If a Bailee's Undertaking is used, the bailiff must explain it to the bailee, ensuring that the following is included in the explanation:
    a. The bailee is responsible to the Civil Enforcement Agency for the personal property, preservation of its present condition and value until relieved of this responsibility by the Civil Enforcement Agency. The bailee agrees to keep seized property and is responsible for its safekeeping and delivery to the Agency when requested
    b. The bailee shall advise the Civil Enforcement Agency of a change in address or incidents involving the personal property that would change their value
    c. If the bailee is the debtor, he may use the personal property
    d. The bailee may request that the Civil Enforcement Agency relieve him of his responsibility in the event that he no longer wishes to be responsible for the personal property, e.g. if he is planning to move.
2. Advise the bailee of the penalty for non-compliance with the Bailee's Undertaking.
3. Complete the Bailee's Undertaking.
4. Ensure that there is a correct address where the personal property is to be kept.
5. The bailee must sign the undertaking and print his name and mailing address. If the bailee has any questions regarding non-compliance, explain the provisions to him. The

Bailiff may suggest that the Bailee obtain legal advice if he is still concerned or has questions.

6. The witness, normally the Bailiff, will date and sign the undertaking and print his name, as well as the name and address of the Agency.

7. A copy of the Bailee's Undertaking along with a copy of the Notice of Seizure of Personal Property must be provided to the bailee.

8. Include the details of the Bailee's Undertaking in the Bailiff's Report.

A bailee, as agent for the Civil Enforcement Agency, should be a responsible person who keeps seized personal property until it is required by the Agency.

The Bailee's Undertaking must be signed and witnessed.

If a responsible person is not available to sign the Bailee's Undertaking, the Bailiff should consider removal and storage of the seized property to ensure its safekeeping. If this is the case, the Bailiff may want to contact the Civil Enforcement Agency for further instructions.

Consideration should be given to obtaining a Bailee's Undertaking from the person making removal to protect the property in transit.

There are pros and cons to using a Bailee's Undertaking. A few have been listed for consideration when determining if a Bailee's Undertaking is appropriate.

Pros

A Bailee's Undertaking assigns responsibility for the care and control of seized property to a specific individual.

If the bailee is the debtor, storage costs are generally eliminated.

If it is the debtor who enters into the Bailee's Undertaking, he may continue to use the seized items. This is especially important when you are dealing with the debtor's livelihood, e.g. farmer.

Cons

There is a risk that the bailee, or other individual, will abscond with the property. Although the option of criminal or civil proceedings exists, the personal property may not be recovered.

Excerpts from the Criminal Code

Theft by bailee of things under seizure

324 *Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or on demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.*

Punishment for theft

334 *Except where otherwise provided by law, every one who commits theft*

(a) if the property stolen is a testamentary instrument or the value of what is stolen is more than $5,000, is guilty of

(i) an indictable offence and liable to imprisonment for a term of not more than 10 years, or

(ii) an offence punishable on summary conviction; or

(b) if the value of what is stolen is not more than $5,000, is guilty

(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(ii) of an offence punishable on summary conviction.

Removal

1. If the bailiff cannot obtain a Bailee's Undertaking at the time of seizure, contact the Civil Enforcement Agency to determine if you should remove and store the property. Ensure that the person removing and storing the property signs a Bailee's Undertaking.

2. If a party is claiming a possessory lien on seized property, do not remove the property. Leave the property with that party on a Bailee's Undertaking until the issue of the lien is dealt with by the instructing party.

3. When removing a vehicle, the Bailiff should never drive or tow it away himself. Always have removal done by a licensed and approved towing company.

4. If the debtor or someone representing the debtor is not present at the time of removal of the seized property, the bailiff should advise the local police agency that the property has been removed in the event the property is later reported stolen.

Service of Seizure Documents

1. Serve a copy of the Warrant, Notice of Seizure of Personal Property, and, if applicable, Notice of Objection to Seizure of Personal Property on each debtor, an adult occupant at the location of the seizure, or the person who has possession or control over the property.

2. For Garage Keeper's Lien seizures only, if the bailiff is unable to serve the debtor or other adult occupant, attach the Warrant, Notice of Seizure of Personal Property and Notice of Objection to Seizure of Personal Property for each debtor in a conspicuous place at the seizure location or to the property seized. This meets the seizure requirements; however, it does not meet the service obligation. Ensure that the fact service was not effected is indicated in the Bailiff's Report.

Complete the Bailiff's Report

The Bailiff's Report should be clear, concise and factual. As this document may be used in court, it is extremely important that the bailiff not speculate or offer opinions.

Specific details should be included:

1. If seizure is effected, indicate how the Warrant, Notice of Seizure of Personal Property and, if applicable, Notice of Objection to Seizure of Personal Property were served. This is important because, in Garage Keeper's Lien seizures only, if these documents were not served, the Civil Enforcement Agency must serve them on each debtor as soon after effecting seizure as is practicable.

2. If the bailiff is unable to personally serve the Warrant, Notice of Seizure of Personal Property and, if applicable, Notice of Objection to Seizure of Personal Property, he may:

   a. Post the documents in a conspicuous place

   b. Attach the documents to the seized property, or

   c. Affix the seizure stickers to the seized property.

   For Garage Keeper's Lien seizures only, this meets the seizure requirements; however, it does not meet the service obligation. Ensure that the fact service was not effected is indicated in the Bailiff's Report.

3. If the seized property was removed, indicate:

   a. Where it was removed to

   b. The name and address of the person with whom the personal property was left

   c. The name and address of the person who signed the Bailee's Undertaking.

   Storage Expenses

   The bailiff must ensure that he does not incur excessive storage costs in relation to the value of the personal property. Advise the storage company that the Civil Enforcement Agency must receive an invoice for storage at least monthly. Ensure that the storage details, including costs, are referred to in the comments section of the Bailiff's Report.

4. Complete and sign the Report.

5. If the Bailiff is unable to effect the seizure, he should complete the Report stating the reasons and any useful information about the debtor or the personal property. Complete and sign the Report.

6. Return the completed documents to the Civil Enforcement Agency. This should be done promptly as the agency must register the details of the seizure within 3 days after the date of seizure.

Review of Bailiff's Report

The Agency will review the completed Bailiff's Report and accompanying documents to determine if seizure was effected. Also, review the Report for any errors, omissions, or irregularities.

Seizure NOT Effected

If seizure was not effected, forward a copy of the Report to the instructing party and await further instructions.

Seizure Effected

If seizure was effected and if the Report and applicable documents are in order, forward a copy of the Report to the instructing party along with a copy of the Notice of Seizure of Personal Property, and Bailee's Undertaking (if applicable).

Service of Seizure Documents – Garage Keeper's Lien

- Pursuant to section 45(3) of the Civil Enforcement Act, if the Warrant, Notice of Seizure of Personal Property and the Notice of Objection to Seizure of Personal Property were not served on the debtor or an adult member of the debtor's household, the Civil Enforcement Act requires that the Agency must serve the seizure documents on the debtor as soon after effecting seizure as is practicable.

Service of Seizure Documents – Other

Check the Act under which the seizure was effected as requirements for service of seizure documents may vary from statute to statute.

Register Seizure

- Pursuant to section 13(1)(a) of the Civil Enforcement Regulation, the Agency must register details of all seized property and pertinent information such as the condition/location of the seized property at Personal Property Registry within 3 days of seizure being effected.

Discharge Seizure

In situations where the seized property has been disposed of, other then by sale under the Civil Enforcement Act, the seizure registration at PPR may be discharged. The discharge can only be carried out by the civil enforcement agency that registered the seizure.

Pursuant to section 15(2) of the Civil Enforcement Regulation, where an agency releases a debtor property from seizure, the agency must notify the debtor that the property has been released as soon as practicable.

Notice of Objection to Seizure of Personal Property, Received After Seizure Effected (If Applicable)

Only the debtor or his agent has the right to object to seizure. Therefore, you must ensure that the party objecting to the seizure is the debtor or a person who has the right to act for a debtor.

- Pursuant to section 46(3)(b) of the Civil Enforcement Act, a Notice of Objection is void and shall be disregarded if the Notice of Objection is not served on the Agency within 15 days from the date of service of the seizure documents.

- Pursuant to section 46(2) of the Civil Enforcement Act, upon receipt of a valid Notice of Objection to Seizure of Personal Property the file must be flagged with a note that a sale of the property cannot proceed without a court order.

Send a copy of the Notice of Objection to Seizure of Personal Property to the instructing party.

If the seized personal property is accruing storage costs pending the disposition of the objection, you may wish to discuss this with the instructing party.

Third Party Claims, Received After Seizure Effected

A third party is someone, other than the debtor or the creditor, who claims to be the owner of the seized property or who has some other interest in the personal property that would, without the consent of the third party, preclude sale of the seized property (see example on following page of a letter which would be a third-party claim).

A third-party claim must be in writing and contain an address for service for the third party.

Upon the third party serving a claim on the Agency, proceed as follows:

1. Serve written notice of the third party's claim on the instructing party and on all other holders of related writs (see example of letter in this section)

2. Diarize the file for 20 days plus 7 days if served by recorded mail.

After 20 Days, or 27 Days Where Applicable

If the Agency has not been served with written notice disputing the third-party claim, the Agency may release the seizure and return the property to the person from whom the property was seized.

A third-party dispute may result in the commencement of interpleader proceedings. This is a complex area of law; you should contact your legal advisor for direction. Depending on arrangements made with the creditor, it may be the creditor's lawyer who commences interpleader proceedings.

If the instructing party disputes the claim, the seizure shall continue, subject to the appropriate fees and conditions imposed by the Agency. If the instructing party does not dispute the claim, but another related writ holder does, that writ holder may instruct the Agency to continue the seizure. On receiving such instructions, the Agency shall continue the seizure if the other person pays the appropriate fees, if any, and meets any other conditions that may be imposed by an Agency on an instructing party, e.g. indemnification.

You must accept a third party claim up to the time proceeds are distributed. Therefore, if a sale has been set up you must cancel it with respect to those items referred to in the third-party claim. If the items have been sold, the third party may be entitled to the proceeds of the sale. Consult your legal counsel for direction.

7777 - 11 Avenue
Edmonton, Alberta
T6K 1Z1

January 16, 1996

We Seize Ltd.
406 Replevin Road
Edmonton, Alberta
T5J 2N5

To Whom It May Concern:

Yesterday someone from your office went to my brother's place and seized my Red Camaro. My brother borrowed it from me. My brother's name is Joe Debtor. The location of the seizure was 13 Badluck Road, Edmonton, Alberta. The car was removed and I want it returned to me.

I am enclosing the bill of sale proving that the car was purchased by me and a copy of the statement from the car dealership showing that the final payment on the car was made on June 16, 1994. I have not at any time sold or transferred ownership to any other person, particularly my brother. Besides, he would never have enough money to buy it.

I need the car back so I can get to work. If I don't get it back within a week, I will have to rent a car and forward the bill to you.

Yours truly,

Sam J. Debtor

Enclosure

Letter to Instructing Party about Third Party Claim

WE SEIZE LTD.
406 Replevin Road
Edmonton, Alberta T5J 2N5

OUR FILE: EW 09766
YOUR FILE: 9-11,586

January 25, 1996

REGISTERED

Lawyers Incorporated
Barristers and Solicitors
1 Legal Square
Edmonton, Alberta
T2N OXO

Dear Sir:

RE: IMA CREDITOR v. JOE DEBTOR

Enclosed is a copy of a third party claim completed by Sam J. Debtor which is self-explanatory.

In view of the information contained therein, I would refer you to the Alberta Rules
* of Court that require you to inform me within 20 days of being served with the notice whether you dispute the claim.

* If you do not respond within 20 days of being served with this notice, we shall release the seizure and return the property to the person from whom it was seized.

Yours truly,

Manager
We Seize Ltd.

Enclosure

Form 2
Civil Enforcement Regulation

Previous P.P.R. Registration Number **(W.C.B. only)**

00-00000
Civil Enforcement Agency File Number

Warrant
(DISTRESS)

Municipal Government Act
Type

MGA
Code

(Select Code from table on reverse.)

TO: We Seize Ltd.
406 Replevin Road, Edmonton Alberta T5J 2N5
Name and Address of Civil Enforcement Agency

You are hereby instructed to seize the personal property of

Joe Debtor
13 Badluck Road, Edmonton Alberta
Name and Address of Debtor

in order to satisfy an outstanding debt in the amount of $375.00

owing to City of Edmonton plus costs.
Name of Creditor

Location of personal property if different from the debtor's address

Dated at Edmonton, Alberta, on January 12, 1996.

J.B. Anne Officer
Signature of Instructing Creditor or Authorized Agent

I.B. Anne Officer
Print Name of Instructing Creditor or Authorized Agent

City Hall — Edmonton
Address of Instructing Creditor or Authorized Agent — City

Edmonton — T5J 1R1 — 426-4444 — 426-5555
Province — Postal Code — Telephone Number — Fax Number

Jan 1/03

Form 2 - Warrant (Distress)

Form 2 - Warrant (Distress), page 2

TABLE OF SEIZURES

DESCRIPTION	TYPE
Agriculture Financial Services Act	AFS
Bank Act	BAN
Landlord Distress	LRO
Municipal Government Act	MGA
Woodmen's Lien Act	WLA
Workers' Compensation Act	WCB
Other	OTH

Form 3
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Warrant
(Garage Keepers' Lien Act)

TO: We Seize Ltd.

406 Replevin Road, Edmonton, Alberta
Name and Address of Civil Enforcement Agency

You are hereby instructed to seize the following vehicle:

Make 1979 Model Camero, Red

Serial Number 1GM54C761M0G59 Licence Number BLJ 327

the property of Joe Debtor

13 Badluck Road, Edmonton, Alberta
Name and Address of Owner

now in the possession of Pete's Auto Repair

11473 - 67 Street, Edmonton, Alberta
Name and Address of Party in Possession

This vehicle is subject to a garage keeper's lien registered in the Personal Property Registry on the 5 day of August, 1995 as Registration Number 950805-000011 Seizure is instructed to realize

the sum of $ 295.85 plus costs claimed by Pete's Auto Repair for
Name of Creditor

(Please indicate with an X the reason for the claim.)

- [ ] storage of motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle
- [X] repair of a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle
- [ ] maintenance of a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle
- [ ] price of accessories or parts furnished for a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle
- [ ] Possession of the motor vehicle or farm vehicle was surrendered to the owner or owner's agent on _____. *
- [ ] Repairs were completed to the motor vehicle, farm vehicle or part of a motor vehicle or a farm vehicle where the vehicle was not at the time of repair in the possession of the garage keeper on _____.
- [ ] Accessories or parts were furnished to the motor vehicle or farm vehicle on _____.

Dated at Edmonton Alberta, on January 12 1996

Pete Mechanic
Signature of Instructing Creditor or Authorized Agent

Pete Mechanic, Pete's Auto Repair
Print Name of Instructing Creditor or Authorized Agent

11473 - 67 Street	Edmonton		
Address of Instructing Creditor or Authorized Agent	**City**		
Alberta	T5M 2P4	423-3333	424-6666
Province	**Postal Code**	**Telephone Number**	**Fax Number**

Oct 5/04 *

Form 3 - Warrant (Garage Keepers' Lien Act) *

Form 5 - Notice of Seizure of Personal Property

Form 5
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Notice of Seizure of Personal Property

TO: Joe Debtor

13 Badluck Road, Edmonton Alberta
Name and Address of Debtor

Take notice that to satisfy a claim against you for the sum $279.85 plus costs and related Writs, if applicable

Pete's Auto Repair

11473 - 67 Street, Edmonton, Alberta
Name and Address of Creditor

has caused the following personal property and personal property listed in the addendum to be seized:

1	1979 Camaro, Red S/N 1GM54C761M0G59

Addendum attached listing additional property. [ ] Yes [X] No

Notice of Objection applicable to this seizure. [X] Yes [ ] No

* STRIKE OUT IF NOT APPLICABLE: **If you object to the seizure, you must deliver the Notice of Objection to the Civil Enforcement Agency listed below within 15 days from the days that the seizure documents were served.**

Dated at Edmonton, Alberta, on January 15, 1996

P. Bailiff
Bailiff's Signature

P. Bailiff
Print Name

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road
Address of Civil Enforcement Agency

Edmonton
City

Alberta | T5J 2N5 | 422-2696 | 422-7777
Province | Postal Code | Telephone Number | Fax Number

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agancy listed above. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff - Civil Enforcement at (780) 422-2481.

* Jun 8/05

Form 5.1
Civil Enforcement Regulation

Civil Enforcement Agency File Number

Addendum to Notice of Seizure of Personal Property

Dated at _____, Alberta, on _____, _____.

_____ _____
Bailiff's Signature Print Name

Oct. 01/95 Page _____ of _____

Form 5.1 - Addendum to Notice of Seizure of Personal Property

Form 6 - Notice of Objection to Seizure of Personal Property

Form 6
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Notice of Objection to Seizure of Personal Property

TO: We Seize Ltd.

406 Replevin Road, Edmonton, Albrta T5J 2N5
Name, Address and Fax Number of Civil Enforcement Agency

This Notice of Objection to Seizure of Personal Property will not be accepted if a reason for the objection is not provided.

I object to the seizure of the personal property mentioned in the Notice of Seizure of Personal Property for the following reason(s):

Pete the mechanic, told me it was okay if I paid him at the end of February because I was short of cash.

I want my car back.

(IF ADDITIONAL SPACE REQUIRED, PLEASE WRITE ON REVERSE.)

IF YOU OBJECT TO THE SEIZURE OF PERSONAL PROPERTY, THIS NOTICE MUST BE DELIVERED TO THE ABOVE NOTED CIVIL ENFORCEMENT AGENCY WITHIN 15 DAYS OF THE DATE ON WHICH THE SEIZURE DOCUMENTS WERE SERVED.

If there is no valid reason for objecting to the seizure of the personal property, the sending of this notice may result in increased costs to you.

Dated at Edmonton, **Alberta on** January 20, 1996.
Dated **Alberta,**

THE FOLLOWING MUST BE COMPLETED:

Joe Debtor
Signature of Debtor

Joe Debtor
Print Name

13 Badluck Road
Mailing Address of Debtor

Edmonton
City

Alberta	T5B 4L5	423-6789	N/A
Province	Postal Code	Telephone Number	Fax Number

Oct. 01/95

Form 8
Civil Enforcement Regulation

00-00000
Civil Enforcement Agency File Number

Bailee's Undertaking

In consideration of the seized personal property listed in the attached Notice of Seizure of Personal Property being left in my possession, I agree to act as Bailee for the Civil Enforcement Agency and keep the said personal property in good condition at:

11473 - 67 Street

Edmonton, Alberta
Address or Land Location Where Personal Property Will Be Stored.

and deliver it to the Civil Enforcement Agency whenever and wherever it may be required.

I understand that non-delivery or conversion of the personal property may result in a conviction under the Criminal Code for which a term of imprisonment may be imposed.

Dated at Edmonton, Alberta, on January 15, 1996.

Bailee:

Pete Mechanic — Signature of Bailee
Pete Mechanic — Print Name

11473 - 67 Street — Address of Bailee
Edmonton — City
Alberta — Province

T5M 2P4 — Postal Code
422-2696 — Telephone Number
422-7777 — Fax Number

P. Bailiff — Signature of Witness
P. Bailiff — Print Name

406 Replevin Road — Address of Witness
Edmonton — City
Alberta — Province

T5J 2N5 — Postal Code
422-2696 — Telephone Number
422-7777 — Fax Number

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road — Address of Civil Enforcement Agency
Edmonton — City

Alberta — Province
T5J 2N5 — Postal Code
422-2696 — Telephone Number
422-7777 — Fax Number

NOTE: ATTACH TO EACH COPY OF THE NOTICE OF SEIZURE OF PERSONAL PROPERTY.

Oct.01/95

Form 9 - Bailiff's Report

Form 9
Civil Enforcement Regulation

Civil Enforcement Agency File Number

Bailiff's Report

CREDITOR _____

DEBTOR _____

I, _____ (Name of Bailiff), of the City/Town of _____, Alberta

report as follows:

(Describe in detail the action taken, including dates, times, addresses, name(s), documents completed, persons served and with what documents, where personal property was removed to, storage location and cost, changes to the original instructions, and any other factual information that may be important to the instructing party or the civil enforcement agency.)

Is there an Addendum attached? Yes ☐ No ☐
If yes, _____ (Number) Addendum pages attached. (Each page forms part of this Report.)

I hereby certify that the information contained in this Report is true and complete. I understand that any false information may lead to charges under the *Criminal Code* (Canada) and could result in the suspension or cancellation of my appointment as a bailiff.

Dated at _____ (City/Town), Alberta, on _____ (Date), 20___.

_____
Signature of Bailiff

_____
Print Name of Instructing Party

_____
Address

_____ _____ _____
City/Town Province Postal Code

_____
Print Name of Civil Enforcement Agency

_____
Address

_____ _____ _____
City/Town Province Postal Code

*

_____ _____
Toll-Free Telephone Number Toll-Free Fax Number

Seizure Sticker

IDENTIFICATION NO.	CIVIL ENFORCEMENT AGENCY FILE NO.
0001	*00-00000*

UNDER SEIZURE

THIS ITEM IS UNDER SEIZURE BY

We Seize Ltd.

Name of Civil Enforcement Agency

406 Replevin Road, Edmonton *422-2696*

Address Telephone No.

422-7777 *January 15, 1996*

Fax No. Date

P. Bailiff *P. Bailiff*

Bailiff's Signature Print Name

Removal and Sale

Pursuant to section 48 of the Civil Enforcement Act, upon receipt of instructions from the instructing party personal property may be sold to pay the debt owed to enforcement creditors by the enforcement debtor.

Letter of Instructions

You will receive a letter of instructions from the instructing party.

Objections

Pursuant to section 46 of the Civil Enforcement Act, the debtor has 15 days from the day the seizure documents were served to object to the seizure.

On being served with a Notice of Objection to Seizure of Personal Property, the Agency shall not sell or otherwise dispose of the seized property unless permitted to do so by the court.

Searches

If an objection has not been filed and the 15 days have expired, proceed in accordance with instructions received. If instructed to sell:

1. Conduct Searches

   Distribution seizure ("DS") search – it is extremely important to determine the existence of any prior interests, such as Workers' Compensation Board, prior security interests, etc., because firstly the costs priority given under section 99(3) of the Civil Enforcement Act does not apply as against these interests; and, secondly, there is no right to sell property unless there is equity existing after these priority interests are paid out. Check also to see if a stay has been registered. If a stay has been registered, do not proceed with removal or sale until ordered by the court to do so.

   If applicable, consider whether a serial number collateral ("SN") search should also be conducted prior to proceeding, as recommended on page 4.1.

2. Review the searches. If the searches reveal a priority claim, contact the priority creditor to determine the status (including the outstanding balance of the debt) of the claim. Since there may be no equity to be realized by the instructing creditor, discuss the search results with the instructing party and await further instructions.

   - The distribution seizure search must be reviewed and discussed with the instructing creditor for further instructions, prior to effecting seizure to determine other priority registrations and if the seizure will be viable. Also, if the property to be seized is already under seizure refer to sections 48.1 and 48.2 of the Civil Enforcement Act.

3. Review your file to determine if removal is required, e.g. if seized personal property has previously been left on a Bailee's Undertaking.

Required Documents for Bailiff to Remove Property

If the property is to be removed, assign the file to a Bailiff. Include the following documents:

1. Letter of instructions from the instructing party
2. Copy of warrant that initiated the seizure, or copy of the court order, if applicable
3. Copy of Notice of Seizure of Personal Property
4. Copy of Bailee's Undertaking, if applicable
5. Copy of the previous Bailiff's Report, and any notes the Bailiff made at the time of seizure
6. A new Bailiff's Report
7. A new Bailee's Undertaking, if required (i.e. for the signature of a representative of the storage / sale facility)
8. Other documents as required (i.e. letter of instructions from Agency, letter to relieve bailee of his undertaking).

Bailiff Unable to Remove Property

The Bailiff may be unable to take possession of the property for a variety of reasons including:

1. Bailee no longer has the property in their possession
2. Bailee has disposed of the property
3. Bailee refuses to turn over the property
4. Bailee may state that a possessor lien is in effect.

Since removal will prejudice the lawful rights of the party claiming the lien, property subject to a possessory lien may not be removed except pursuant to a court order specifically addressing the possessory lien. Advise the instructing party of the lien.

Section 13(2)(k) of the Civil Enforcement Act provides that a court may hold the bailee in civil contempt if the bailee does not deliver personal property that is under seizure within a reasonable time after being required to do so by the Bailiff or the Agency. Advise the instructing party of the situation. The instructing party may take steps to initiate a court application.

Review of Bailiff's Report

Review the completed Bailiff's Report and accompanying documents to determine if removal was effected. Also review this Report for any errors, omissions, or irregularities.

Removal NOT Effected

If removal was not effected, forward a copy of the Report to the instructing party and await further instructions.

Removal Effected

If removal was effected and if the Report and applicable documents are in order, forward a copy of the Report to the instructing party along with a copy of the new Bailee's Undertaking, if applicable. Proceed to sale if instructed to do so.

Sale

Section 48 of the Civil Enforcement Act governs the sale of seized personal property. Sale must proceed as soon after receipt of instructions as is practicable and by a method that is commercially reasonable. You may, however, delay the sale if it is commercially reasonable to do so, e.g. a delay that would result in a significantly higher purchase price.

Notice of Sale

- Pursuant to section 48(e) of the Civil Enforcement Act, the Agency must prepare a Civil Enforcement Agency Sale Notice advising of the method of the sale being used and serve same on the instructing party and enforcement debtor at least 15 days before the sale date (see example of form in this section).

Private Sale

A private sale may be used when commercially reasonable. A private sale to an enforcement creditor may only be conducted:

- If a notice of the terms of sale is given at least 15 days before the day of sale to the enforcement debtor and all other enforcement creditors having related writs at the time that notice was given,

- Pursuant to section 48(g) of the Civil Enforcement Act if, within 15 days of service of the notice, neither the enforcement debtor nor any of the enforcement creditors having related writs, serve on the Agency a Notice of Objection to the sale, the matter shall be dealt with in the same manner as of a notice of objection is dealt with under section 46.

Sale of Perishable Property, Dated Property and Property Rapidly Deteriorating in Value

- Pursuant to section 48(i) of the Civil Enforcement Act on the basis of commercial reasonableness, this type of seized personal property can be sold without a court order, without notice to any party and within the 1-day objection period.

Sale of Liquor

The Gaming, Liquor and Cannabis Act states that the Alberta Gaming and Liquor Commission Board may authorize a Civil Enforcement Agency to sell liquor that has been seized.

Sale of a Mobile Home

- Pursuant to section 55 of the Civil Enforcement Act, the instruct party must ensure vacant possession is obtained prior to removal of a mobile home that is under seizure, and may need to ensure vacation possession prior to sale of the mobile home that is under seizure.

Sale of Agricultural Products

Growing crops cannot be sold until they have been harvested. Check to see if you received the Grain Delivery Permit Book from the debtor as the book may enhance the return from the sale of the seized grain; otherwise, seized grain may have to be sold as feed.

Section 52(c) of the Civil Enforcement Act imposes rights and duties regarding sale of seized agricultural products.

Finalizing Sale

Pursuant to section 48(j) the person who buys the property obtains only the interest of the enforcement debtor in the property and of any other person with an interest in the property who has consented, and the sale does not adversely affect the rights or interests of any other person in the property.

If requested, you may provide the purchaser with a Bill of Sale (see example of form in this section).

The Agency must register a report of sale at Personal Property Registry within 10 days from the date of sale.

The funds realized from sale must be distributed in accordance with the Civil Enforcement Act. Refer to section 11 – Distribution.

Sale of Land

Pursuant to Part 7 of the Civil Enforcement Act (sections 67 to 76), and Part 3 of the Civil Enforcement Regulation, an enforcement creditor may sell land owned by the debtor. There is no need to take any step to seize the land first; however, under section 26(b) of the Civil Enforcement Act, it is necessary for the instructing creditor's Writ of Enforcement to be filed both at the Personal Property Registry and against the particular property owned by the debtor at the Land Titles Office.

Please note that the sale of land is a complicated matter and this Manual does not purport to contain all applicable information. Prior to proceeding, it would be advisable to carefully review the pertinent statutory and regulatory provisions, and consult legal counsel.

Letter of Instructions

Pursuant to section 68 of the Civil Enforcement Act, instructions must be in writing to sell land owned by debtor. Before proceeding, the Agency may demand from the creditor any relevant documents or information it feels it needs to proceed with the sale of land.

Searches

Conduct searches at the Personal Property Registry and Land Titles Office to ensure that the Writ of Enforcement is properly registered and to see if another agency has given notice of intention to sell the same land. If another agency's notice of intention to sell the same land. If another agency's notice of intention to sell is still in effect then, under section 70(2), you cannot proceed.

Notice of Intention to Sell Land

Prepare a notice of intention to sell the land pursuant to section 70 of the Civil Enforcement Act.

The Notice of Intention must contain:

1. The name of the enforcement debtor whose land is the subject of the sale proceedings
2. The name and address for service, including the fax number, telephone number and email address of the Agency that is carrying out the sale proceedings
3. The name and address for service of the instructing creditor
4. The Judicial District and action number in which the instructing creditor's writ was issued
5. The legal description of the land that is the subject of the sale proceedings
6. The nature of the enforcement debtor's interest in the land, insofar as it is known to the instructing creditor
7. A statement that, unless the court otherwise orders, the Agency cannot offer the land for sale until the expiration of a 180-day waiting period after the notice has been served on the persons who are required to be served with the notice
8. A statement that, unless the court otherwise orders, the Agency cannot offer the land for sale until the expiration of a 180-day waiting period after the notice has been served on the persons who are required to be served with the notice
9. A statement that if the debtor's principal residence is located on the land, the land is likely to be exempt, in whole or in part, from sale under writ proceedings
10. A statement that if the enforcement debtor claims that the land is exempt in whole or in part from sale under writ proceedings, the enforcement debtor must serve written claim on the Agency before the expiration of the waiting period.

Pursuant to section 71 of the Civil Enforcement Act, if growing crops are to be sold as part of the sale of land, the Notice of Intention must state that the crops are to be sold along with the land.

Service of Notice of Intention to Sell Land

The Agency must serve the Notice of Intention to Sell Land on:

1. The enforcement debtor – pursuant to section 35.07 of the Civil Enforcement Regulation, the enforcement debtor must be personally served
2. Every registered owner of the property – pursuant to section 35.07 of the Civil Enforcement Regulation, every registered owner must be personally served
3. Every subordinate claimant whose claim is recorded on the certificate of title for the land.

   If you have any doubts to whether a claim is subordinate, you should consult legal counsel.

- Pursuant to section 46(2) of the Civil Enforcement Regulation, before land may be sold under the Act by an agency, the agency must file a caveat against the certificate of title to the land setting out the notice of intention to sell land.

- Pursuant to section 72 of the Civil Enforcement Act, diarize the file for 150 days. Within this period, and the 30 days following it, the debtor may serve a written claim on the Agency claiming an exemption.

Notice of Method of Sale

Pursuant to section 74 of the Civil Enforcement Act, the Agency must prepare a notice of the method of sale.

The Notice of Method of Sale must contain:

1. The name of the enforcement debtor whose land is the subject of sale proceedings
2. The name and address for service, fax number, telephone number, and email address, of the Agency that is carrying out the sale proceedings
3. The name and address for service of the instructing creditor
4. The Juridical District and action number in which the instructing creditor's writ was issued
5. The legal description of the land that is the subject of sale proceedings
6. The nature of the enforcement debtor's interest in the land, insofar as it is known to the instructing creditor
7. The proposed method of sale
8. If the proposed method of sale is by listing with a real estate agent,
    a. The name and affiliation of the listing agent
    b. The price at which the land is to be listed
    c. Whether the listing is to be exclusive or multiple
    d. The duration of the listing
    e. The amount of or method of calculating the real estate agent's commission
9. If the proposed method of sale is by tender,
    a. The method of publicizing the invitation for tenders
    b. The terms of the invitation for tenders
10. If the proposed method of sale is by auction,
    a. The name of the auction agency
    b. The terms upon which it is proposed to offer the land for auction
    c. The amount or method of calculating the auction agency's commission.

- Pursuant to section 74(2) of the Civil Enforcement Act, the Notice of Method of Sale may set out a minimum price. If it does, the notice must state that any person who objects to the land being sold for the proposed minimum price must serve a Notice of Objection within 30 days of being served with the Notice of Method of Sale, pursuant to section 74(3) of the Civil Enforcement Act.

  Serve the Notice of Method of Sale on:

  1. The enforcement debtor
  2. Every registered owner
  3. Every subordinate claimant whose claim is recorded on the certificate of title for the land.

- Pursuant to section 74(4)(a) of the Civil Enforcement Act, if a Notice of Method of Sale does not set out a minimum price, upon entering into an agreement to sell the land, the Agency must serve notice of the terms of sale on all persons who have been served with a Notice of Method of Sale and, if the instructing creditor is the buyer, every other related writ holder.

- Pursuant to section 74(4)(b) of the Civil Enforcement Act, the notice of the terms of sale must include a provision that that anyone who objects to the proposed sale must serve a Notice of Objection on the Agency within 15 days from the day of being served with the notice of the terms of sale.

- Pursuant to section 74(4)(c) of the Civil Enforcement Act, if an objection is served on the Agency, the Agency shall not complete the sale unless authorized to do so by the Court.

- Pursuant to section 74(4)(d) of the Civil Enforcement Act, if no Notice of Objection is served, the Agency may proceed to complete the sale, and register the sale details and distribution of funds at the Personal Property Registry.

Notice of Objection to Sale of Land

- Pursuant to section 74(3)(b) of the Civil Enforcement Act, if a Notice of Objection is served during the 180-day waiting period, the Agency may not sell the land without a court order.

- Pursuant to section 74(3)(c) of the Civil Enforcement Act, if no objection is served, the Agency may, without a court order, complete the sale of land for a price that equals or exceeds the proposed minimum price.

Transfer of Land

- Pursuant to section 75(1) of the Civil Enforcement Act, complete a standard Land Titles Office Transfer of Land form, along with a certificate confirming that the Agency has complied with the requirements of the Civil Enforcement Act and Regulation, and that no Notice of Objection was served or that a notice of objection was served on the Agency and the court has authorized the sale of the land. The land will be registered by the Registrar of Land Titles free and clear of all Writs of Execution, but subject to any other encumbrances or interests that were registered against the debtor's land unless there is a court order to the contrary.

Register Sale of Land

- Pursuant to section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the details of the sale at Personal Property Registry within 10 days of the day of the sale.

Liquidating Securities

The seizure and sale of securities is a complicated matter and this manual does not purport to contain all applicable information. Prior to proceeding, it would be advisable to carefully review the pertinent statutory and regulatory provisions, and consult legal counsel.

Pursuant to section 61(1) of Civil Enforcement Act authorizes an Agency to liquidate a seized security by any means that the nature of security permits.

Market Securities

Normally, the most appropriate method of sale of market securities will be to sell them through a securities market. However, where the security is a unit in a mutual fund, the most appropriate method of liquidation will be to require the issuer to redeem it. Further, under section 48 of the Civil Enforcement Act, the Agency has the right to effect an expeditious sale of a market security, without order the court, and waiting the usual 15 days for a Notice of Objection to be filed; the proceeds of such sale then stand in the place in the market security. As with all sales of seizure personal property, there is a requirement on the Agency to act in a commercially reasonable manner.

Restricted Transfer Shares

Where a company's incorporating documents restrict or prohibit the transfer of its shares, with certain exceptions, such restrictions do not apply to an Agency. Upon presentation of a transfer document duly executed by the Agency, the issuer must register the transfer.

Shares Which Are Not Market Securities

1. Serve a notice of intended sale, setting out the proposed method of sale, on the issuer, all registered shareholders of the issuer (if there are not more than 15), and any other persons who, to the knowledge of the Agency, would have preferential right to acquire the seized shares on a voluntary sale by the enforcement debtor.

2. Follow as closely as possible any procedure that the enforcement debtor would follow to sell the seized share, and, in particular, provide the issuer and other shareholders a reasonable opportunity to redeem or buy the shares before offering them for sale to anyone else, unless this would prevent the shares from being sold at all or for a reasonable price.

3. Wait 15 days for service of the notice of intended sale, during which time anyone who is unhappy with the method of sale proposed by the Agency may apply in court.

Civil Enforcement Agency Sale Notice

CIVIL ENFORCEMENT AGENCY SALE

TAKE NOTICE that by virtue of a seizure made against

Joe Debtor
Name of Debtor

in accordance with the Civil Enforcement Act, the following personal property

List personal property to be sold

1	1979 Camaro, Red, S/N 1GM54C761M0G59
1	Kenwood Stereo Receiver, S/N 11897

shall be sold by:

Method: Public Auction

Date: March 15, 1996

Time: 7:00 p.m.

Location: Acme Auction, 23 Sale Road, Edmonton

Dated at Edmonton Alberta, on February 20, 1996

I.B. Owner
Authorized Signature

I.B. Owner
Print Name

We Seize Ltd.
Name of Civil Enforcement Agency

00-00000
Civil Enforcement Agency File No.

406 Replevin Road
Address of Civil Enforcement Agency

Edmonton
City

Alberta
Province

T5J 2N5
Postal Code

422-2696
Telephone No.

422-7777
Fax No.

Oct 1/95

Bill of Sale

00-0000
Civil Enforcement Agency File Number

Bill of Sale

THIS IS TO CERTIFY THAT I have this day sold to I Bought It

3333 - 71 Avenue, Edmonton 477-3344
Address of Purchaser Telephone Number

the following: 1979 Camaro, Red, S/N 1GM54C761M0G59
Clearly identify personal property, including serial numbers

without warranty of title, for the sum of $ 675.00

The purchaser has acquired only the interest of Joe Debtor
Name of Debtor
the Enforcment Debtor, pursuant to the Civil Enforcement Act.

Dated at Edmonton Alberta on March 15, 1996

Acme Auctioneer Acme Auctioneer
Signature of Selling Agent Print Name

We Seize Ltd.
Name of Civil Enforcment Agency

406 Replevin Road, Edmonton
Address of Civil Enforcement Agency City

Alberta T5J 2N5 422-2696 422-7777
Province Postal Code Telephone Number Fax Number

Oct 1/95

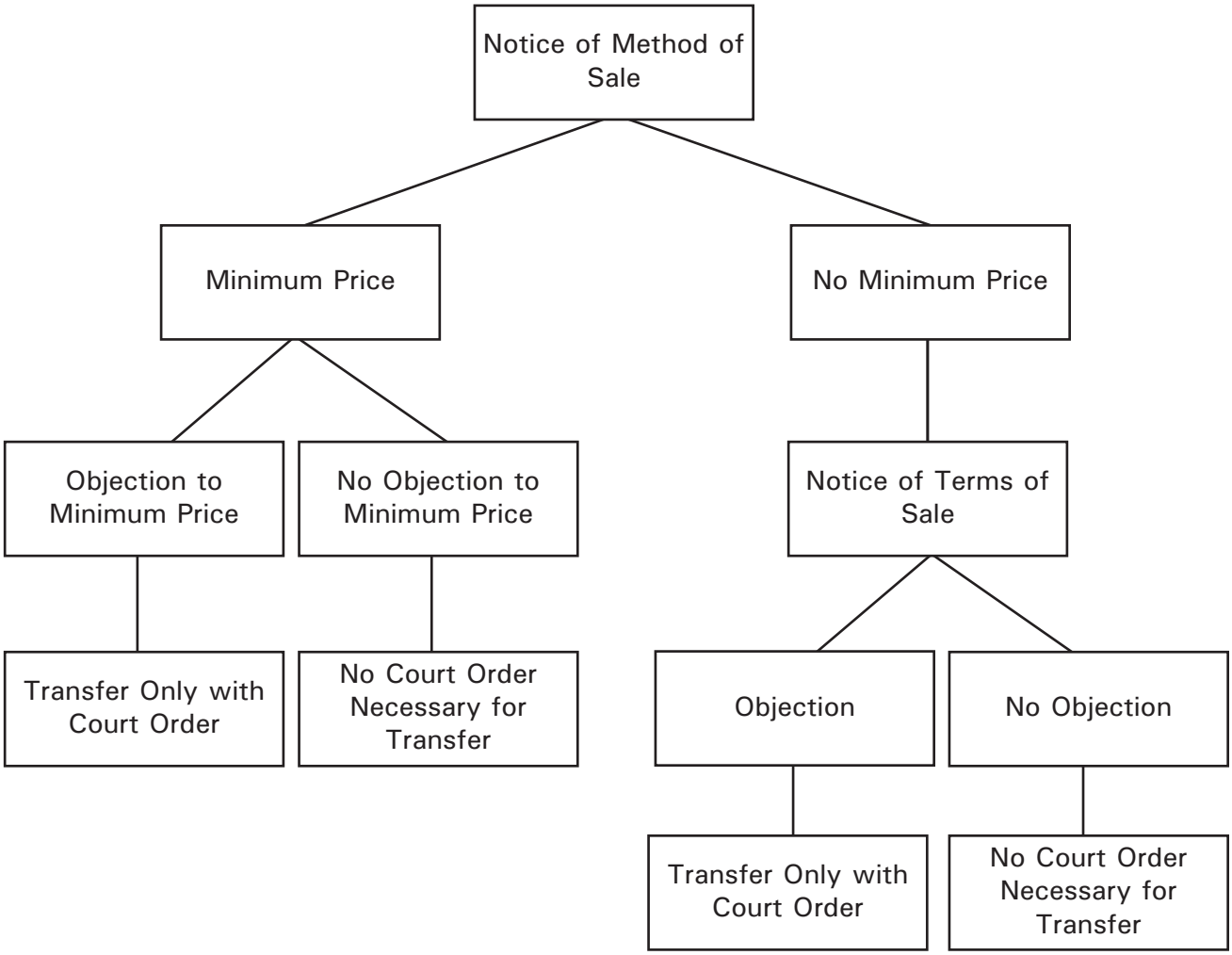
Sale of Land

Confirm Registration
- Personal Property Registry
- Land Titles Office

Confirm that no other agency has given notice of intention to sell and which is still in effect

Notice of Intention to Sell
- File caveat against certificate of title

Wait 180 days (or such lesser time as the Court may order)
- Debtor must claim exemption



Distribution

Part 11 of the Civil Enforcement Act gives the Civil Enforcement Agency authority to distribute monies received by the Agency as a result of enforcement proceedings. The Civil Enforcement Regulation contains guidelines applicable to distribution.

Money received becomes a distributable fund upon receipt, with the exception of money received as a result of enforcement of an Attachment Order. If the money was received as a result of an Attachment Order, the money is to be distributed normally (i.e. only to writ holders) in the absence of any specific provision in the Attachment Order. It would be wise if the Civil Enforcement Agency is acting for the Attachment Order creditor to bring it to the attention of the Attachment Order creditor that the money will be distributed only to writ holders, unless the Attachment Order creditor obtains a court order under section 24(2) entitling the Attachment Order creditor to share in the proceeds.

- Pursuant to section 14 of the Civil Enforcement Regulation, in the case of writ proceedings, the Agency must, within 30 days from the day the money becomes a distributable fund, serve a proposed distribution, and in the case of distress proceedings, the Agency must actually distribute the proceeds within 30 days of receipt.

A search must be conducted upon the money becoming a distributable fund.

Searches

Conduct a distribution seizure (“DS”) search against the debtor. Only those claims registered at Personal Property Registry at the time the money becomes a distributable fund may share in the distribution.

If applicable, consider whether a serial number collateral (“SN”) search should also be conducted prior to proceeding.

Examine the searches to determine any proceedings which may stay the distribution. The following are proceedings which may stay distribution:

1. Court of Justice Civil Claim Appeal

An appeal stays enforcement of the appealed writ only. Unless an order directs otherwise, you must proceed with the distribution. Prepare a Notice of Proposed Distribution, enter the stayed writ marking it “stayed” and enter the distribution amount as “nil”.

2. Bankruptcy

If the debtor is in bankruptcy, all, or a portion of the distribution, subject to the rights of a secured creditor or WCB may be stayed. Contact the Bankruptcy Trustee to determine if the distribution of funds can proceed. Advise the instructing party if you are unable to dispose of the funds OR proceed to distribution if the Trustee advises you to do so.

3. Court Ordered Stays

A court ordered stay may stay distribution of all or part of the distributable fund. Review the search or search the Court of King’s Bench where the stay originated to determine if distribution should proceed. Follow the terms of the order. If the order is silent as to

distribution, prepare a Notice of Proposed Distribution, enter the stayed writ marking it "stayed" and enter the distribution amount as "nil". If you have any doubt as to the meaning of the order, you should consult your legal counsel.

4. Orderly Payment of Debts

If an Orderly Payment of Debt Consolidation Order is registered, contact Money Mentors, formerly Credit Counselling Services of Alberta, to determine if distribution of funds can proceed. Advise the instructing party if you are unable to dispose of the funds OR proceed to distribution if Money Mentors advised you to do so.

Money Mentors can be contacted at 1-888-294-0076 or visit their website at http://www.moneymentors.ca.

Prepare Proposed Distribution

If there are no registrations prohibiting distribution, prepare a Notice of Proposed Distribution covering the money paid in and any interest earned.

Distribution Where Property is Partially Exempt

Sections 98 and 99 of the Civil Enforcement Act provide the authority for distribution.

The priorities identified are based on all parties having taken all necessary steps to protect their claim. The area of priorities is fraught with uncertainty and the order of priority specified below is only suggested for your consideration in preparing a proposed distribution. Distributions are subject to interpretation by the Courts; therefore, it is very important to ensure that all interested parties are served. In all circumstances, you should consider consulting with legal counsel.

Priority Interest

Attempting to determine priorities amongst Priority Claimants may lead to "circular priorities". For example, section 129 of the Workers' Compensation Act gives the Workers' Compensation Board priority over all interest, including PMSI's. However, the WCB does yield priority to Employment Standards claim to the extent of $5,000. On the other hand, under section 113 of the Employment Standards Code, employment standards claims are subordinate to PMSI's. The Sheriff's Office, the past, used the following approach: the WCB was given priority, which was deemed to be given up to the employment standards claim (to a maximum of $7,500, in the case of employment pension $5,000) then the PMSI holder was the next in priority.

If you have such a "circular priority", consult your legal counsel.

1. The amount of the exemption, as applicable to the property that resulted in the funds, is paid to the debtor, except in the following circumstances:
    a. Where the exemptions do not apply by statute (for example a maintenance writ or judgment arising out of an act for which the debtor has been convicted under the Criminal Code)
    b. When a non-PMSI security interest is subordinate to writs registered prior to the security interest. In this instance the exemption would go to pay the priority claimant or security interest first to a maximum of the exemption applicable or the value of the security interest. Any balance remaining is paid to the debtor.

c. Where there are no funds remaining after payment to priority creditors and claimants against whom the exemption does not apply. See Priority Claimants (3) below.

Section 98 gives details as to how to deal with money derived from exempt property.

See the examples at the end of this Unit for further direction on distribution when funds are realized on exempt property.

2. Crop harvesting expenses.

3. Priority Claimants – divided into classes as follows:

Exemptions are not applicable to any of the Priority Claimants listed in (3) unless specially stated.

Class A Agriculture Financial Services Act (section 46(3), crop insurance claims).

Class B Workers' Compensation Board – subject to Employment Standards claims to maximum of $7,500 and Employment Pension claims to a maximum of $5,000. The balance of the Employment Standards or Employment Pension claim, if any, would share in the pro rate distribution.

Class C Garage Keeper's Lien – providing the lien is properly registered and the personal property that resulted in the fund was the subject of the lien. A Garage Keeper's Lien will not have priority over a security interest (Class D or Class H) in a situation where the security interest created during the period between the creation of the Garage Keeper's Lien and its registration.

Class D Purchase Money Security Interest (commonly referred to as a PMSI) if registered within 15 days at the debtor obtaining possession of the personal property where the loan was for the acquisition of personal property that is listed in the security agreement which subsequently resulted in the fund.

Class E Employment Standards (to a maximum of $7,500)

Employment Pension Plans (to a maximum of $5,000)

If both have an interest they would both share pro rata. The balance of the claim, if any, would share in the pro rata distribution as indicated in (9) below.

Class F Municipal Government Act (section 348) – only if the personal property was seized under this Act.

Class G Section 427, Bank Act (federal) – the priority between a Bank Act interest and any security interest (including a PMSI) is based on whomever arose first.

Class H Security Interest other than a PMSI – if registered at Personal Property Registry within 15 days from the date the debtor took possession of the personal property and registered prior to any Writs of Enforcement and PMSI's.

Landlord Distress – if the personal property that resulted in the fund was seized by this creditor. Exemptions are applicable to Landlord Distress in accordance with section 104(d) of the Civil Enforcement Act.

Between these 2 claimants, whomever seizes first takes priority.

Priority between non-PMSI security agreements and Writs of Enforcement:

Serial numbered property is defined in the Personal Property Security Regulation.

- Writ and security agreement are both registered against serial numbered property – the first to register takes priority.
- Neither writ or security agreement registered against serial numbered property – the first to register takes priority.
- Writ registered against serial numbered property, but security agreement not registered against serial numbered property – the first to register takes priority.
- Writ not registered against serial numbered property but the security agreement is registered against serial numbered property – the security agreement takes priority even if the writ is registered first.

Note: If the writ takes priority, the lesser of the proceeds of the sale or the amount owing on the writ is made available for distribution to related writs subject to applicable exemptions.

4. Fees of the Distributing Authority.

5. Costs incurred by the enforcing creditor in producing the fund and such other costs as the Court has ordered to be paid out of the fund (e.g. as per Schedule C in the Alberta Rules of Court).

6. Costs of an interpleader action pursuant to section 103 Civil Enforcement Act to be shared pro rata among the creditors who have together taken interpleader proceedings.

7. Claims that by virtue of any other enactment or law are entitled to priority over the claims of enforcement creditors generally, e.g. Matrimonial alimony or maintenance claims (Maintenance Enforcement Act).

8. $2,000 rule – To the instructing creditor, the first $2,000 plus 15% of the amount by which the balance of the fund remaining exceeds $15,000. Use the following formula:

   $2,000 + 15% (X - $15,000)

   X = proceeds remaining after (1) through (7) plus the $2,000 are paid

   If (X - $15,000) is negative, enter 0

9. Pro rata distribution among remaining creditors.

10. Balance to debtor to any other personal who is entitled to the money.

Distribution Where Property is Not Exempt

The following priorities are based on all parties having taken all of the necessary steps to protect their claim. The priorities may change depending on the circumstances; the order specified below is only for consideration in preparing a proposed distribution. Distributions are subject to interpretation by the Courts; therefore, it is very important to ensure that all interested parties are served. Consult your legal counsel for clarification.

Priority Interest

Attempting to determine priority amongst Priority Claimants may lead to "circular priorities". For example, section 129 of the Workers' Compensation Act gives the Workers' Compensation Board priority over all interests, including PMSI's. However, the WCB does yield priority to Employment Standards claims to the extent of $7,500 and to Employment Pension claims to the extent of $5,000. On the other hand, under section 11.3 of the Employment Standards Code, employment standards claims are subordinate to PMSI's. The Sheriff's Office, in the past, used the following approach: the WCB was given priority, which was deemed to be given up to the employment standards claim (to a maximum of $7,500, in the case of employment pension $5,000) then the PMSI holder was the next in priority.

If you have such a "circular priority", consult your legal counsel.

1. Crop harvesting expenses.

2. Priority Claimant – divided into classes as follows:

   Exemptions are not applicable to any of the Priority Claimants listed in (2) unless specifically stated.

   Class A Agriculture Financial Services Act (section 46(3), crop insurance claims).

   Class B Workers' Compensation Board – subject to Employment Standards claims to maximum of $7,500 and Employment Pension claims to a maximum of $5,000. The balance of the Employment Standards or Employment Pension claim, if any, would share in the pro rata distribution.

   Class C Garage Keeper's Lien – providing the lien is properly registered and the personal property that resulted in the fund was the subject of the lien. A Garage Keeper's Lien will not have priority over a security interest (Class D or Class H) in a situation where the security interest is created during the period between the creation of the Garage Keeper's Lien and its registration.

   Class D Purchase Money Security Interest (commonly referred to as a PMSI) if registered within 15 days of the debtor obtaining possession of the personal property where the loan was for the acquisition of personal property that is listed in the security agreement which subsequently resulted in the fund.

   Class E Employment Standards (to a maximum of $7,500)

   Employment Pension Plan (to a maximum of $5,000)

   If both have an interest they would both share pro rata. The balance of the writ claim, if any, would share in the pro rata distribution as indicated in (8) below.

Class F Municipal Government Act (section 348) – only if the personal property was seized under this Act.

Class G Section 427, Bank Act (federal) – the priority between a Bank Act interest and any security interest (including a PMSI) is based on whichever arose first.

Class H Security Interest other than a PMSI – if registered at Personal Property Registry within 15 days from the date the debtor took possession of the personal property and registered prior to any Writs of Enforcement And PSMI's.

Landlord Distress – if the personal property that resulted in the fund was seized by this creditor. Exemptions are applicable to Landlord Distress in accordance with section 104(d) of the Civil Enforcement Act.

Between these 2 claimants, whomever seizes first takes priority.

Priority between non-PMSI security agreements and Writs of Enforcement:

Serial numbered property is defined in the Personal Property Security Regulation.

- Writ and security agreements are both registered against serial numbered property – the first to register takes priority.
- Neither writ or security agreement registered against serial numbered property – the first to register takes priority.
- Writ registered against serial numbered property, but security agreement not registered against serial numbered property – the first to register takes priority.
- Writ not registered against serial numbered property but the security agreement is registered against serial numbered property – the security agreement takes priority even if the writ is registered first.

Note: If the writ takes priority, the lesser of the proceeds of the sale or the amount owing on the writ is made available for distribution to related writs subject to applicable exemptions.

3. Fees of the distributing authority.

4. Costs incurred by the enforcing creditor in producing the fund and such other costs as the Court has ordered to be paid out of the fund (e.g. as per Schedule C in the Alberta Rules of Court).

5. Costs of an Interpleader action pursuant to section 103 Civil Enforcement Act to be shared pro rata among the creditors who have together taken interpleader proceedings.

6. Claims that by virtue of any other enactment or law are entitled to priority over the claims of enforcement creditors generally, e.g. Matrimonial alimony or maintenance claims (Maintenance Enforcement Act)

7. $2,000 rule – To the instructing creditor, the first $2,000 plus 15% of the amount by which the balance of the fund remaining exceeds $15,000. Use the following formula:

   $2,000 + 15% (X - $15,000)

   X = proceeds remaining after (1) through (6) plus the $2,000 are paid

   If (X - $15,000) is negative, enter 0

8. Pro rata distribution amongst remaining creditors.

9. Balance to debtor or to any other person who is entitled to the money.

Distribution Calculation Where Property is Not Exempt

The money remaining after all prior claims have been deducted is then distributed on a pro rata basis among the related writ holders registered at Personal Property Registry on the date that the money became a distributable fund.

The following formula may be used to calculate the ratio required to determine the pro rata share.

a = amount for the distribution

b = total of the outstanding balance of each related writ to share in the distribution

a divided by **b** = **c**

c = the ratio used to calculate each related writ holders share

E.g. If the amount available for distribution is

$1,687.40

and the outstanding balance of two related writs are

$2,604.26 + $9,621.55 = $12,225.81

- then:

$1,687.40 divided by $12,225.81 = .13801948

The ratio is .13801948. You now multiply each outstanding balance of the related writs by this ratio to obtain the portion of the distributable fund each related writ holder will receive.

$2,604.26 x .13801948 = $ 359.44

$9,621.55 x .13801948 = $1,327.96

Total payout $1,687.40

The total paid out must equal the amount to be distributed. If you need to adjust the figures due to penny differences add or deduct the pennies from any of the Writs.

Notice of Proposed Distribution

Serve a copy of the Notice of Proposed Distribution on the enforcement debtor and on each of the enforcement creditors listed on the notice. It is also wise to serve the Notice of Proposed Distribution on any party you know may be claiming an interest in the funds (see example of

- form in this section). Service must be effected in accordance with Division 3 of the Alberta Rules of Court.

  If there is no objection, 15 days following service (22 days if served by mail) the cheques should be prepared and mailed.

- Pursuant to section 13(c) of the Civil Enforcement Regulation, within 3 days of conducting a distribution, the Agency must register the distribution details at the Personal Property Registry.

  If a Notice of Objection is received, the Agency must distribute as much of the distributable fund as not to prejudice the effect of the objection. The funds that are subject of the objection are to be held for a further 15 days from the receipt of the Notice of Objection. Within 3 days of conducting the distribution of the funds not the subject of the objection, register the distribution at the Personal Property Registry.

- Within the second 15-day period, the creditor/debtor that objected must file a Notice of Motion with the Clerk of the Court of King's Bench dealing with the objection. The Notice of Motion must also be served on the Agency within the same 15-day period; otherwise, the objection is deemed to be abandoned.

  If the Notice of Motion is filed and served on the Agency, the funds are to be held in trust pending an order of the court. The Agency must pay out according to the resulting court order, and register the distribution details at the Personal Property Registry within 3 days of conducting the distribution.

  If the Notice of Motion is not filed and served on the Agency within the 15 days, proceed to distribute the disputed fund on the 16th day and register the distribution details at the Personal Property Registry within 3 days of conducting the distribution.

Amended Proposed Distribution

An amended Notice of Proposed Distribution may be prepared to correct clerical errors or omissions only. The amendment is not to include objections or disputes between the parties unless consented to by all parties as those matters are to be resolved through the objection process.

Follow the procedures as for the pro rata distribution. Any amendments should be noted in a manner to easily identify the changes.

Serve the amended Notice of Proposed Distribution and await the objection periods as identified earlier.

Discharge of Distribution

Where an Agency has carried out a distribution, the Agency must pursuant to section 15(1) of the Civil Enforcement Regulation, within one year from the day of completing the distribution, register in the Personal Property Registry a discharge of all seizure, sale and distribution registrations pertinent to the personal property sold.

Notice of Proposed Distribution

00-00000
Civil Enforcement Agency File Number

Notice of Proposed Distribution

Ima Creditor

Name and Address of Instructing Creditor

Joe Debtor

13 Badluck Road, Edmonton, Alberta
Name and Address of Debtor

Date(s) of Seizure January 15, 1996

Proceeds of Enforcement	$ 67,230	00
Interest earned	$ 770	00
Available for Distribution	$ 68,000	00 (A)

SEE REVERSE FOR PROPOSED DISTRIBUTION.

If you wish to object to this proposed distribution, you must within 15 days from the day of being served with this statement, serve the Civil Enforcement Agency identified below with your written notice of objection to this distribution. If an objection is not served within this period this statement of proposed distribution is final and conclusive as between all persons on whom it was served.

Dated at Edmonton, Alberta, on March 15, 1996.

□□□□□□□□□□ Jane Smith
Authorized Signature — Print Name

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road — Edmonton
Address of Civil Enforcement Agency — City

Alberta — T5J 2N5 — 422-2696 — 422-7777
Province — Postal Code — Telephone Number — Fax Number

Proposed Distribution

PROPOSED DISTRIBUTION

Exemption Amount $ 15,000.00 (For calculation purposes only.)	Amount available for distribution	$ (A)
	Minus exemption refunded to debtor	$
	Minus crop harvest expenses	$
	TOTAL	$ (B)

CLAIMS PAID PRIOR TO PRO RATA DISTRIBUTION (PRIORITY CLAIMS)

CREDITOR NAME AND ADDRESS	FILE #	AMOUNT OWING	EXEMPTION APPLIED	DISTRIBUTION REC'D
		$	$	$
	FILE #	$	$	$
	FILE #	$	$	$
			From Addendum	$ (C)
			TOTAL	$ (D)
			Total (B) minus (C)	$ (E)
			Fees of distributing authority	$
			Costs incurred in producing fund	$
			Interpleader costs	$
			TOTAL	$ (F)

PRIORITY WRIT CLAIMS INCLUDING $2,000 RULE

Amount available (E) minus (F) $ (G)

CREDITOR NAME AND ADDRESS	FILE #	AMOUNT OWING	EXEMPTION APPLIED	DISTRIBUTION REC'D.
		$	$	$
	FILE #	$	$	$
			From Addendum	$ (H)
			TOTAL	$ (I)

PRO RATA DISTRIBUTION TO RELATED WRITS

Amount available (G) minus (I) $ (J)

CREDITOR NAME AND ADDRESS	FILE #	AMOUNT OWING	EXEMPTION APPLIED	DISTRIBUTION REC'D
		$	$	$
	FILE #	$	$	$
			From Addendum	(K)
			TOTAL	$ (L)

CLAIMS PAID SUBSEQUENT TO PRO RATA DISTRIBUTION

Amount available (J) minus (L) $ (M)

CREDITOR NAME AND ADDRESS	FILE #	AMOUNT OWING	EXEMPTION APPLIED	DISTRIBUTION REC'D
		$	$	$
			From Addendum	$ (N)
			TOTAL	$ (O)
			Refund to debtor (M) minus (O)	$

ADDENDUM ATTACHED ☐ YES ☐ NO

Page _____ of _____

PROPOSED DISTRIBUTION ADDENDUM

CLAIMS PAID PRIOR TO PRO RATA DISTRIBUTION (PRIORITY CLAIMS)				
CREDITOR NAME AND ADDRESS	FILE #	AMOUNT OWING	EXEMPTION APPLIED	DISTRIBUTION R
		$	$	$
	FILE #	$	$	$
	FILE #	$	$	$
			FORWARD TOTAL TO (C)	$

PRIORITY WRIT CLAIMS INCLUDING $2,000 RULE				$
CREDITOR NAME AND ADDRESS	FILE #	AMOUNT OWING	EXEMPTION APPLIED	DISTRIBUTION REC'D
		$	$	$
	FILE #	$	$	$
			FORWARD TOTAL TO (H)	$

PRO RATA DISTRIBUTION TO RELATED WRITS				
CREDITOR NAME AND ADDRESS	FILE #	AMOUNT OWING	EXEMPTION APPLIED	DISTRIBUTION REC'D
		$	$	$
	FILE #	$	$	$
	FILE #	$	$	$
	FILE #	$	$	$
	FILE #	$	$	$
	FILE #	$	$	$
	FILE #	$	$	$
			FORWARD TOTAL TO (K)	

CLAIMS PAID SUBSEQUENT TO PRO RATA DISTRIBUTION				
CREDITOR NAME AND ADDRESS	FILE #	AMOUNT OWING	EXEMPTION APPLIED	DISTRIBUTION REC'D
		$	$	$
	FILE #	$	$	$
			FORWARD TOTAL TO (N)	$

Page _____ _____

Examples of Proposed Distributions

The following examples of proposed distributions were prepared by Mr. Douglas Lint, Barrister & Solicitor, for a presentation sponsored by the Alberta Legal Education Society and are included herein with their permission. We thank them for allowing us to use them. These examples, as with the previous information regarding priorities in distribution, are offered for assistance only, your legal counsel should be contacted to determine your procedures or to seek clarification.

1. Security Interest in Priority to Writ - Non-exempt property

$50,000.00 was realized from the sale of non-exempt property. A search of Personal Property Registry revealed only two registrations listed in order of registration priority:

1st	Security Interest	$30,000.00
2nd	Writ	$10,000.00

Order of Distribution listed in order of registration priority:

1st	Security Interest	$30,000.00
2nd	Writ	$10,000.00
3rd -	DebtorRefund	$10,000.00

2. Security Interest in Priority to Writ - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed only two registrations listed in order of registration priority:

1st	Security Interest	$15,000.00
2nd	Writ	$20,000.00

Order of Distribution listed in order of registration priority:

1st	Security Interest	$15,000.00
2nd -	DebtorExemption	$20,000.00
3rd	Writ	$15,000.00

Note: After payment of the security interest, the debtor is entitled to be paid the whole amount of his exemption before any monies are paid to the writ creditor.

3. Writ in Priority to Security Interest - Non-exempt Property

$50,000 was realized from the sale of non-exempt property. A search of Personal Property Registry revealed only two registrations listed in order of registration priority:

1st	Writ	$10,000.00
2nd	Security Interest	$30,000.00

Order of Distribution listed in order of registration priority:

1st	Writ	$10,000.00
2nd	Security Interest	$30,000.00
3rd	Debtor - Refund	$10,000.00

4. Writ in Priority to Security Interest - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed only two registrations listed in order of registration priority:

1st	Writ	$ 5,000.00
2nd	Security Interest	$15,000.00

Order of Distribution listed in order of registration priority:

3rd	Writ	$ 5,000.00
1st	Security Interest	$15,000.00
2nd	Debtor - Exemption	$ 5,000.00
4th	Debtor - Refund	$25,000.00

(Note: The Writ holder is not entitled to the exemption amount so the secured creditor receives the exemption amount to the value of their debt then the debtor is entitle to the balance of the exemption. After the exemption is used up the Writ holder is the next to get paid since it has priority by way of being registered prior to the security interest.)

5. Writ in Priority to Security Interest - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed only two registrations listed in order of registration priority:

1st	Writ	$ 5,000.00
2nd	Security Interest	$25,000.00

Order of Distribution listed in order of registration priority:

2nd	Writ	$ 5,000.00
1st	Security Interest	$20,000.00
3rd	Security Interest	$ 5,000.00
4th	Debtor - Refund	$20,000.00

Note: The security interest is only entitled to priority over the writ to the extent of the debtor's $20,000.00 exemption.

6. Writ, Subordinate Secuirty Interest, Writ - Non-exempt Property

$50,000 was realized from the sale of non-exempt property. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Writ	$10,000.00
2nd	Security Interest	$30,000.00
3rd	Writs	$30,000.00

Order of Distribution listed in order of registration priority:

1st	Writ (set aside)	$10,000.00
2nd	Security Interest	$30,000.00
3rd	Writs	$10,000.00

Note: The first $10,000.00 that was set aside for Creditor A plus the $10,000.00 made available for writs is joined to make $20,000 available for pro-rata distribution to Writ holders.

7. Writ, Subordinate Security Interest, Writ - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Writ	$20,000.00
2nd	Security Interest	$15,000.00
3rd	Writs	$30,000.00

Order of Distribution listed in order of registration priority:

3rd	Writ (set aside)	$20,000.00
1st	Security Interest	$15,000.00
4th	Writs	$10,000.00
2nd	Debtor - Refund	$ 5,000.00

Note: The exempt amount is dealt with first then the claims in order of registration priority. The amount available for pro-rata distribution to Writ creditors is $30,000.

Examples 8 through 12 deal with section 93 Writs, which are not Maintenance Enforcement Writs.

8. Security Interest, Writs, Section 93 Writ - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Security Interest	$15,000.00
2nd	Writs	$30,000.00
3rd	Section 93 Writ	$30,000.00

Order of Distribution listed in order of registration priority:

1st	Security Interest	$15,000.00
3rd	Writs (set side)	$15,000.00
2nd	Section 93 Writ	$20,000.00

Note: The amount available for pro-rata distribution to Writ creditors is $15,000.00.

9. Security Interest, Writs, Section 93 Writ - Exempt property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Security Interest	$15,000.00
2nd	Writs	$30,000.00
3rd	Section 93 Writ	$10,000.00

Order of Distribution listed in order of registration priority:

1st	Security Interest	$15,000.00
4th	Writs (set aside)	$15,000.00
2nd	Section 93 Writ	$10,000.00
3rd	Debtor - Refund	$10,000.00

Note: The security interest gets paid out first then the exemption is applied to the Section 93 Writ with any balance being refunded to the debtor. Next the Writs creditors will share on a pro-rata basis $15,000.00.

10. Writ, Security Interest, Section 93 Writ, Writs - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Writ	$10,000.00
2nd	Security Interest	$15,000.00
3rd	Section 93 Writ	$10,000.00
4th	Writs	$30,000.00

Order of Distribution listed in order of registration priority:

3rd	Writ (set aside)	$10,000.00
1st	Security Interest	$15,000.00
2nd	Section 93 Writ	$ 5,000.00
4th	Writs	$20,000.00

Note: Since the Writ was registered prior to the security interest the exemption is distributed first, it gets applied to the security interest first and the balance would be applied to the Section 93 Writ. Then, the Writ registered first is paid out but the money is set aside for pro-rata distribution to all Writ creditors.

11. Section 93 Writ, Security Interest, Writs - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Section 93 Writ	$10,000.00
2nd	Security Interest	$20,000.00
3rd	Writs	$30,000.00

Order of Distribution listed in order of registration priority:

1st	Section 93 Writ	$10,000.00
2nd	Security Interest	$20,000.00
3rd	Writs	$20,000.00

Note: The exemption is applied first to the Section 93 Writ and the balance is applied to the Security Interest, the balance of the Security Interest is paid next and the remaining funds are available for pro-rata distribution.

12. Section 93 Writ, Security Interest, Writs - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Section 93 Writ	$ 5,000.00
2nd	Security Interest	$10,000.00
3rd	Writs	$50,000.00

Order of Distribution listed in order of registration priority:

1st	Section 93 Writ	$ 5,000.00
2nd	Security Interest	$10,000.00
4th	Writs	$30,000.00
3rd	Debtor - Exemption	$ 5,000.00

Note: The exemption is distributed first and applied to the Section 93 Writ then the Security Interest, since both are paid off and there is an exemption balance of $5,000.00 remaining it is paid to the debtor. The remaining funds are available for pro-rata distribution.

13. Security Interest, Writs, Section 93 Maintenance Enforcement Writ - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Security Interest	$15,000.00
2nd	Writs	$30,000.00
3rd	Section 93 (Mntc.) Writ	$30,000.00

Order of Distribution listed in order of registration priority:

1st	Security Interest	$15,000.00
4th	Writs	$ 5,000.00
2nd	Section 93 (Mntc.) Writ	$20,000.00
3rd	Section 93 (Mntc.) Writ	$10,000.00

Note: Since the Security Interest was registered first it gets paid out then the exemption amount is applied to the Section 93 Writ which happens to be a Maintenance Writ. The Maintenance Writ then gets paid the balance of the amount outstanding since it is a priority writ leaving $5,000 which is available for pro-rata distribution.

14. Writ, Security Interest, Section 93 Maintenance Enforcement Writ, Writs - Exempt Property

$50,000.00 was realized from the sale of exempt property. The exemption amount applicable is $20,000. A search of Personal Property Registry revealed the following registrations listed in order of registration priority:

1st	Writ	$10,000.00
2nd	Security Interest	$15,000.00
3rd	Section 93 (Mntc.) Writ	$10,000.00
4th	Writs	$30,000.00

Order of Distribution listed in order of registration priority:

4th	Writ (set aside)	$10,000.00
1st	Security Interest	$15,000.00
2nd	Section 93 (Mntc.) Writ	$ 5,000.00
3rd	Section 93 (Mntc.) Writ	$ 5,000.00
5th	Writs	$15,000.00

Note: The exemption is applied first to the Security Interest then the balance to the Section 93 (Mntc.) Writ. The maintenance writ is paid next and the balance is available for pro-rata distribution.

Release of Seizure

Releasing a Seizure

Pursuant to section 47(1) of the Civil Enforcement Act, once personal property is seized, that property remains under seizure until the Agency:

- Sells or otherwise disposes of property, or
- Releases the property from seizure.

Seizure can be released in the following situations:

1. On instructions received from the instructing creditor only. It is recommended that you obtain these instructions in writing.
2. By court order. Consult your legal advisor if you have any questions regarding the interpretation of the order.
3. When seized property has been under seizure for at least 45 days and there has been no subsequent instruction, pursuant to section 47(2) of the Civil Enforcement Act.
4. Property which was seized and not surrendered, pursuant to section 58(6) of the Personal Property Security Act.
5. Upon receipt of a copy of an assignment or a receiving order, under the Bankruptcy and Insolvency Act, certified by the trustee as a true copy. In this situation, the seized property is released to the Trustee in Bankruptcy.
6. Under the third party claim. Refer to “Interpleader” in the Alberta Rules of Court.

Instructing Creditor Requests Release (Situation #1)

1. Check to ensure that the seizure was effected by your Agency. If the seizure was not conducted by your Agency, refer the party to the Agency who seized the personal property.
2. Conduct a distribution seizure search.

   If applicable, consider whether a serial number collateral (“SN”) search should also be conducted prior to proceeding, as recommended on page 4.1.
3. Review the searches to determine if there are other related writs, or notice given to the agency under section 48.1 or other seizures against the same property pursuant to section 48.2 of the Civil Enforcement Act.

If there are no other creditors:

- Check that all outstanding charges, including storage costs have been paid.

- Release seizure by sending the debtor a release letter. Send a copy of the letter to the instructing party. If a Bailee's Undertaking exists, send a copy of the letter to the bailee relieving the bailee of his undertaking (see example of form in this section).

- Pursuant to section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the release of seizure at the Personal Property Registry within 10 days from the day the seizure is released.

If there are enforcement creditors with related writs:

- Pursuant to section 7 of the Civil Enforcement Act, a notice of the release must be served on all enforcement creditors shown on the search results and on any person who has given notice to the agency under section 48.1. The notice must be served at least 30 days before the date on which the seizure is to be released (see example of form in this section).

- If the enforcement creditors wish to have the seizure continued on their behalf, they must provide you with written instructions (within 30 days of being served with the notice) requesting that the seizure be continued and should provide you with an indemnification.

- If more than one creditor instructs that the proceedings continue, the creditor whose instructions were first received by the Agency is deemed to be the instructing creditor pursuant to section 7(3) of the Civil Enforcement Act.

- Re-register the seizure identifying the new instructing creditor's registration at the Personal Property Registry and register the release of the seizure identifying the originating seizure registration.

If no creditor replies to the notice within the 30-day period:

- Check that all outstanding charges, including storage costs have been paid.

- Release seizure by sending the debtor a release letter. Send a copy of the letter to the instructing party. If a Bailee's Undertaking exists, send a copy of the letter to the bailee relieving the bailee of his undertaking (see example of form in this section).

- Pursuant to section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the release of seizure at the Personal Property Registry within 10 days from the day the seizure is released.

Release of Seizure by Court Order (Situation #2)

1. Check to ensure that you have a copy of a court order directing the release.

2. Check to ensure that the seizure was effected by your Agency. If the seizure was not conducted by your Agency, refer the party to the Agency who seized the personal property.

3. Check that all outstanding charges, including storage costs, have been paid.

4. Release seizure by sending the debtor a release letter. Send a copy of the letter to the instructing party. If a Bailee Undertaking exists, send a copy of the letter to the bailee relieving the bailee of his undertaking (see example of form in this section).

5. Pursuant to Section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the release of seizure at the Personal Property Registry within 10 days from the day the seizure is released.

Property Under Seizure for More Than 45 Days (Situation #3)

Pursuant to section 47(2) of the Civil Enforcement Act, if personal property has been under seizure for at least 45 days, the Agency may give 15 days notice of an intention to release the seizure to every enforcement creditor, who at the time the notice was given, has a related writ against the enforcement debtor, and to any person who has given notice to the agency under section 48.1.

1. Check your file to ensure that 45 days have elapsed since the date of seizure.

2. Conduct a distribution seizure ("DS") search.

   If applicable, consider whether a serial number collateral ("SN") search should also be conducted prior to proceeding, as recommended on page 4.1.

3. Review the searches to determine if there are other related writs, or notice given to the agency under section 48.1, or other seizure against the same property pursuant to section 48.2 of the Civil Enforcement Act.

If there are no other creditors:

- Serve a notice of intention to release on the instructing party. If no response is received within 15 days of service of the notice, proceed to release of seizure (see example of form in this section).

- Check that all outstanding charges, including storage costs, have been paid.

- Release seizure by sending the debtor a release letter. Send a copy of the letter to the instructing party. If a Bailee's Undertaking exists, send a copy of the letter to the bailee relieving the bailee of his undertaking (see example of form in this section).

- Pursuant to section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the release of seizure at the Personal Property Registry within 10 days from the day the seizure is released.

If there are enforcement creditors with related writs:

- A notice of intention to release must be served on all enforcement creditors shown on the search results and on any person who has given notice to the agency under section 48.1 of the Civil Enforcement Act (see example of form in this section). The notice must be served at least 15 days before the date on which seizure is to be released.

- If the enforcement creditors wish to have the seizure continued on their behalf, they must provide you with written instructions (within 15 days of being served with the notice) requesting that the seizure be continued and should provide you with an indemnification.

- If more than one creditor instructs that the proceedings continue, the creditor whose instructions were first received by the Agency is deemed to be the instructing creditor pursuant to section 7(3) of the Civil Enforcement Act.

- Re-register the seizure identifying the new instructing creditor's registration at the Personal Property Registry and register the release of seizure identifying the originating seizure registration.

If creditors do not reply to the notice with the 15-day period:

- Check that all outstanding charges, including storage costs, have been paid.

- Release seizure by sending the debtor a release letter. Send a copy of the letter to the instructing party. If a Bailee's Undertaking exists, send a copy of the letter to the bailee relieving the bailee of his undertaking (see example of form in this section).

- Pursuant to Section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the release of seizure at the Personal Property Registry within 10 days from the day the seizure is released.

Property Which Was Seized and Not Surrendered Under Section 58(5) P.P.S.A. (Situation #4)

This relates only to seizures effected pursuant to the Personal Property Security Act.

- Serve a notice on the instructing party that you intend to release seizure by a specified date unless they take possession of the seized property before that date (see example of form in this section).

If the instructing party wants to take possession of the seized personal property, surrender the property to them by completing a Notice of Surrender (see example of form in this section).

- The surrender information should be entered in the free format portion of the seizure registration screen at the Personal Property Registry. This should be done within 10 days from the surrender date.

If the instructing party does not take possession of the seized property by the date specified, proceed to release the seizure.

- Check that all outstanding charges, including storage costs, have been paid.

- Release seizure by sending the debtor a release letter. Send a copy of the letter to the instructing party. If a Bailee's Undertaking exists, send a copy of the letter to the bailee relieving the bailee of his undertaking (see example of form in this section).

- Pursuant to Section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the release of seizure at the Personal Property Registry within 10 days from the day the seizure is released.

Release of Seized Property to Trustee in Bankruptcy (Situation #5)

Upon receipt of a copy of an assignment or receiving order, under the Bankruptcy and Insolvency Act (federal), certified by a Trustee as a true copy:

1. Check that all outstanding charges, including storage costs, have been paid

2. Subject to the rights of a secured creditor or WCB to the seized property, release the seized personal property to the Trustee in Bankruptcy. This can be done by letter. Send a copy of the letter to the debtor and the instructing party.

3. If a Bailee's Undertaking exists, send a letter to the bailee relieving the bailee of his undertaking.

4. Pursuant to Section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the release of seizure at the Personal Property Registry within 10 days from the day the seizure is released.

Release of Seized Property Under a Third Party Claim (Situation #6)

If the instructing party and all other related writ holders do not dispute the claim, the Agency may release from seizure the property claimed by the third party.

1. Check that all outstanding charges, including storage costs, have been paid.

2. Release the seizure of the property claimed. Send a release letter to the third party and a copy to the debtor and the instructing party.

3. If a Bailee's Undertaking exists, send a letter to the bailee relieving the bailee of his undertaking with respect to the property claimed.

4. Pursuant to Section 13(1)(b) of the Civil Enforcement Regulation, the Agency must register the release of seizure at the Personal Property Registry within 10 days from the day the seizure is released.

Notice of Intention to Release Seizure Pursuant to Section 47(2) CEA

Notice of Intention to Release Seizure Pursuant to Section 47(2) CEA

Re: Notice of Intention to Release Seizure Regarding

(enter the full names of the creditor and debtor)

Pursuant to section 47(2) of the Civil Enforcement Act, take notice that it is my intention to release seizure of the following property:

(enter a description of the items that will be released from seizure)

which was seized by my Bailiff on _____, 19_____.

If you require seizure to be continued on your behalf, you must, within 15 days of the service of this notice, instruct this Agency, in writing, to continue seizure otherwise seizure will be released without further notice.

Yours truly,

Letter to the Debtor Releasing Seizure.

Re:

Pursuant to the Civil Enforcement Act, you are hereby notified that the seizure effected on behalf of _____ **(name of creditor instructing release of seizure)** _____ on _____, 19 _____, of the property identified as:

(list of property to be released)

is hereby released insofar as it pertains to this seizure only.

Include only if applicable

The bailee, _____ **(name of bailee)** _____, is by copy of this letter, hereby relieved of his Bailee's Undertaking entered into on _____, 19_____.

Yours truly,

Notice of Intention to Release Seizure Pursuant to Section 7 CEA

Notice of Intention to Release Seizure

Re:

Instructions have been received from **(name of person instructing release of seizure)**. Pursuant to section 7 of the Civil Enforcement Act, you are hereby notified that the seizure effected on behalf of **(name of creditor instructing seizure** on _____, 20____, of the property identified as:

(list of property to be released)

will be released within **30** days of service of this notice.

If you require seizure to be continued on your behalf, you must, within **30** days of being served with this notice, instruct this Agency, in writing, to continue proceedings otherwise seizure will be released without further notice.

Yours truly,

Letter to the Debtor Releasing Seizure Pursuant to Court Order

Letter to the Debtor Releasing Seizure Pursuant to Court Order

Re:

Pursuant to an order of the Court, you are hereby notified that the seizure effected on behalf of _____ **(name of creditor instructing release of seizure)** _____, on _____ 19 ___, of the property identified as:

(list of property to be released)

is hereby released.

Include only if applicable

The bailee, _____ **(name of bailee)** _____, is by copy of this letter, hereby relieved of his Bailee's Undertaking entered into on _____, 19_____.

Yours truly,

Notice of Intention to Release Seizure Pursuant to Section 58(6) PPSA

Notice of Intention to Release Seizure Pursuant to Section 58(6) PPSA

Re: Notice of Intention to Release Seizure
(enter the full names of the creditor and debtor)

Take notice that, pursuant to Section 58(6) of the Personal Property Security Act, I intend to release seizure of the personal property seized by my Bailiff on _____, 19 _____ identified as:

(enter a description of the items that will be released from seizure)

unless you take possession of the property by _____, 19_____.

Yours truly,

00-00000
Civil Enforcement Agency File No.

Ima Creditor — Creditor

vs.

Joe Debtor — Debtor

Notice of Surrender

TAKE NOTICE THAT pursuant to Section 58(5) of the Personal Property Security Act, I hereby surrender possession or the right of possession of the property seized as described in the attached *Notice of Seizure of Personal Property* dated the 15 day of January, 1996 to Ima Creditor, 6942 Broad Valley, Edmonton Alberta

Dated at Edmonton, Alberta, on January 15 1996, ,

at 2:15 ~~A.M.~~/P.M.

P. Bailiff
Bailiff's Signature

P. Bailiff
Print Name

Ed Driver
Signature of Creditor/Designated Agent to Whom Property is Surrendered

Edward Driver
Print Name

We Seize Ltd.
Name of Civil Enforcement Agency

406 Replevin Road — Address of Civil Enforcement Agency
Edmonton — City
Alberta — Province
T5J 2N5 — Postal Code
422-2696 — Telephone No.
422-7777 — Fax. No.

Oct. 01/95

Letter to the Debtor Releasing Seizure Pursuant to Section 58(7) PPSA

Letter to the Debtor Releasing Seizure Pursuant to Section 58(7) PPSA

Re: **(enter the full names of the creditor and debtor)**

Pursuant to Section 58(**7**) of the Personal Property Security Act, you are hereby notified that the seizure effected on behalf of **(name of creditor instructing release of seizure seizure)**, on _____, 19____, of the property identified as:

(list property to be release)

is hereby released insofar as it pertains to this seizure only.

Include only if applicable

The bailee, **(name of bailee)**, is by copy of this letter, hereby relieved of his Bailee's Undertaking entered into on_____, 19_____.

Yours truly,

Extraordinary Situations

This section is intended to present you with an overview of some of the extraordinary situations that you may encounter in the conduct of civil enforcement. You will notice that some of the procedures for these situations are governed by the Civil Enforcement Act and others are pursuant to other provincial or federal legislation. While an attempt has been made to include as many of the known extraordinary situations as possible, you will undoubtedly encounter additional ones. In every situation, you must ensure that you have the legislative authority to carry out the instructions you have received. If in doubt, contact your legal advisor.

Demand on a Third Person

A third person is a person affected by writ proceedings other that the enforcement debtor or and enforcement creditor with a related writ.

This applies to writ proceedings only on situations where there are reasonable grounds to believe that exigible personal property of the enforcement debtor is in the possession of control of a third person.

Pursuant to section 44 Civil Enforcement Act, the Agency may, and if so instructed by the instructing party must, serve a demand on the third person requiring the third person to deliver the property to the Agency or make it available for seizure within 15 days form the day the demand is served on the third person.

Upon the third person being served with the demand, the third person must forthwith deliver the property to the Agency or make arrangements with the Agency for seizure of the property. The third person may advise the Agency that his is not required to comply with the demand namely, that he has a right to retain the property or that he does not have possession of the property.

The Agency must compensate the third person for any expenses reasonably incurred by the third person in complying with the demands.

Seizure on First Nation or Metis Settlements

Section 89 of the Indian Act (federal) states that the real and personal property of an Indian or an Indian band situated on an Indian reserve is not subjected to seizure or distress with the following exception:

> ***89(2)*** *A person who sells to a band or a member of a band a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller may exercise his rights under the agreement notwithstanding that the chattel is situated on a reserve.*

An Indian or Indian band cannot waive section 89.

A security agreement must contain a Reservation of Title Clause in order for you to lawfully seize property on an Indian reserve. An example of a reservation of title clause is:

> *The title, ownership and right of property in the vehicle shall not pass to you until all monies payable by you under this contract are fully paid.*

If members on a reserve form a company, the company's assets are NOT exempt for seizure.

Review instructions to ensure that the seizure on the Indian reserve is appropriate.

Ensure that the Bailiff is aware that the seizure is on an Indian reserve.

Procedure for Effecting Seizure

The Bailiff should:

1. Review instructions to ensure that the seizure on the Indian reserve is appropriate. If satisfied, proceed as instructed. If unclear, review the instructions with the Civil Enforcement Agency.

2. Upon attending on the reserve, identify yourself to the band office. Briefly advise one of the band members in the administration office of your business, to obtain a permit to allow entry on the reserve. For an example of this refer to Circular 5/97in section 16 – Circulars.

3. Proceed as instructed.

4. Advise the band office of your departure from the reserve.

5. Complete the Bailiff's report. Refer to section 6 – Writ Seizure.

Farm Debt Mediation Act

This federal legislation was designed to provide mediation between farmers and their creditors to resolve financial problems. The Act provides that a farmer who applies under section 5(1)(a) will have a Stay of Proceedings to prevent creditors form commencing or continuing proceedings for the collection of any debt. There is also a provision that every secured creditor must provide the farmer with a Notice of Intent to Realize on Security and then wait at least 15 business days before taking any action to realize on the security.

The Farm Debt Mediation Act defines "farmer", "farming", and "secured creditor".

Farmer means any person, cooperative, partnership or other association of persons that is engaged in farming for commercial purposes and that meets any prescribed criteria.

Farming means the production of field-grown crops, cultivated and uncultivated, and horticultural crops; the raising of livestock, poultry and fur-bearing animals; the production of eggs, milk, honey, maple syrup, tobacco, fibre, wood from woodlots and fodder crops; and the production or raising of any other prescribed thing or animal.

Secured creditor means any creditor holding a mortgage, hypothec, pledge, charge, lien, privilege, priority claim or other security interest on or against the property of a farmer or any part thereof as security for a debt due or accruing due from the farmer; any person, cooperative, partnership or other association of persons with which a farmer has entered into an agreement for sale, a lease with an option to purchase or a conditional sales contract relating to any property used or possessed by the farmer, or to which such an agreement or contract has been assigned; and any bank to which security on the property of a farmer or any part of the property has been given under section 427 of the Bank Act.

Sections 12 and 21 of the Farm Debt Mediation Act state:

> ***12*** *Notwithstanding any other law, during any period in which a stay of proceedings is in effect, no creditor of the farmer*
>
> *(a) shall enforce any remedy against the property of the farmer; or*
>
> *(b) shall commence or continue any proceedings or any action, execution or other proceedings, judicial or extra-judicial, for the recovery of a debt, the realization of any security or the taking of any property of the farmer.*
>
> …
>
> ***21(1)*** *Every secured creditor who intends to*
>
> *(a) enforce any remedy against the property of a farmer; or*
>
> *(b) commence any proceedings or any action, execution or other proceedings, judicial or extra-judicial, for the recovery of a debt, the realization of any security of the taking of any property of the farmer*
>
> *shall give the farmer written notice of the creditor's intention to do so, and in the notice shall advise the farmer of the right to make an application under section 5.*
>
> ***(2)*** *The notice must be given to the farmer and to an administrator, in the form established by the Minister and in accordance with the regulations, at least 15 business days before the doing of any act described in paragraph (1)(a) or (b).*

Seizure Request Under Security Agreement

When you receive instructions to seize under a security agreement, and the debtor is believed to be a farmer or in a farming operation, the Agency should ensure that the provisions of section 21 of the Farm Debt Mediation Act have been followed.

This can be confirmed by the instructing party in the letter of instructions. The Agency may also wish to confirm that the debtor is not protected under a stay of proceedings pursuant to an application made under section 5(1)(a) of the Farm Debt Mediation Act. This can be confirmed by calling the Farm Debt Mediation Service at 1-866-452-5556.

Seizure Request No Security Agreement

When you receive instructions to seize under a writ or for rent arrears, the farmer does not have to be served in accordance with section 21 of the Farm Debt Mediation Act. However, the Agency may also wish to confirm that the debtor is not protected under a stay of proceedings pursuant to an application made under section 5(1)(a) of the Farm Debt Mediation Act. This can be confirmed by calling the Farm Debt Mediation Service at 1-866-452-5556.

Effecting Seizure

If there is a stay of proceedings, you are not entitled to seize the assets of the farmer. If at the time of seizure the farmer indicates that he is registered on the program, or there is a stay of proceedings under the Farm Debt Mediation Act, have your Civil Enforcement Agency contact the Farm Debt Mediation Service at 1-866-452-5556 to confirm. If a stay is in place, withdraw and complete your Bailiff's Report. If there is not a stay, proceed with seizure.

Seizure of Firearms

Seizure of firearms may present unusual problems which should be considered by the Agency and Bailiff (for more information, see Circular #1/2023 in section 16 – Circulars).

Seizure of Livestock

Seizure and/or removal of livestock may present unusual problems which should be considered by the Agency and Bailiff (for more information, see circulars #7/2000 and #3/2002 in section 16 – Circulars).

As extra costs will be involved in feeding and caring for livestock, explicit instructions should be obtained from the instructing party specifying whether removal is necessary.

Procedure for Effecting Seizure:

The Bailiff should:

1. Take a brand inspector along with you to assist in the identification of the brands (for more information, see circulars #5/2001 and #2/2002 in section 16 – Circulars).

   All brands should be registered with Livestock Identification Services Ltd.

Toll Free #:	1-866-509-2088
Telephone #:	403 509-2088
Fax #:	403 509-2098

2. Effect seizure of the livestock. To effect seizure, you must physically see and count the number of animals being seized. In some cases, that may mean rounding up the animals using specialized resource persons.

3. If leaving the seized property with the debtor or other individual, complete a Bailee's Undertaking and have it signed by the responsible person (refer to section 6 – Writ Seizure).

   If removing, ensure that a veterinarian inspects the animals prior to loading. Ensure that proper arrangements for the boarding and care of the animals are made.

   If removing seized cattle that do not have a Canadian Cattle Identification Agency approved ear tag, you should contact your Agency for further instructions (for more information, see circulars #5/2001 and #2/2002 in section 16 – Circulars).

4. Advise the instructing party of the veterinarian's attendance and the anticipated cost.

5. Obtain a report form the veterinarian outlining the specific condition of the animals and any proposed "action" required. Attach to your Bailiff's Report.

6. Complete the Bailiff's Report and return the completed documents to the Agency (refer to section 6 – Writ Seizure).

Seizure of Grain

The authority for seizure of grain is derived from the Civil Enforcement Act. A Bailiff may be instructed to seize the following:

(a) growing crops, or

(b) grain stored in bins.

Procedure For Effecting Seizure

Growing Crops

The Bailiff should:

1. Review instructions, including any land descriptions that have been provided so that you are familiar with both.

2. Proceed as instructed.

3. Post a completed Notice of Seizure of Personal Property on each quarter section of land where crops were seized.

4. Serve a Notice to Grain Elevator Agents on all grain elevator operators in the area (see example of form in this section). Service can be conducted by the Civil Enforcement Agency.

5. Every effort should be made to obtain the Grain Delivery Permit Book from the debtor voluntarily even though it cannot be seized or replevied. It should be explained toe the debtor that the Grain Delivery Permit Book will enhance the return from the sale of the seized grain; otherwise, the seized grain may have to be sold as feed and not provide the best return for the creditor or the debtor. Upon receipt of the Grain Delivery Permit Book, place it in the care of the Civil Enforcement Agency.

6. A Bailee's Undertaking should be completed and signed by a responsible person (refer to section 6 – Writ Seizure).

7. Complete the Bailiff's Report and return the completed documents to the Agency (refer to section 6 – Writ Seizure).

Grain in Bin

The Bailiff should:

1. Review instructions, including any land descriptions that have been provided so that you are familiar with both.

2. Proceed as instructed.

3. Post a completed Notice of Seizure of Personal Property on each bin where the grain has been seized.

4. The following formula may be used to determine the approximate amount of grain in the bin.

Square or Rectangular Bin:

Width x Length x Depth = Cubic Feet x 0.8 = Number of Bushels

Round Bin:

Diameter x Diameter x Depth x 0.785 = Cubic Feet x 0.8 = Number of Bushels

Always state approximate number of bushels in your Bailiff's Report.

5. Serve a Notice to Grain Elevator Agents on all grain elevator operators in the area (see example of form in this section). Service can be conducted by the Civil Enforcement Agency.

6. Every effort should be made to obtain the Grain Delivery Permit Book from the debtor voluntarily even though it cannot be seized or replevied. It should be explained toe the debtor that the Grain Delivery Permit Book will enhance the return from the sale of the seized grain; otherwise, the seized grain may have to be sold as feed and not provide the best return for the creditor or the debtor. Upon receipt of the Grain Delivery Permit Book, place it in the care of the Civil Enforcement Agency.

7. A Bailee's Undertaking should be completed and signed by a responsible person (refer to section 6 – Writ Seizure).

8. Complete the Bailiff's Report and return the completed documents to the Agency (refer to section 6 – Writ Seizure).

Seizure Where Media Present

The Bailiff may encounter a situation where the media is present or shows up while he is in the process of effecting seizure.

The Bailiff should:

1. Avoid a confrontation. It may be necessary to withdraw temporarily to re-evaluate.

2. Solicit advice/direction from the Civil Enforcement Agency and/or instructing party.

3. Avoid making comments or providing opinions to the media.

4. When possible, using common sense and communication skills, proceed to effect seizure.

Seizure of Motor Vehicles

Serial Number Discrepancies

When seizing a vehicle, it is important that the Bailiff compare and verify the serial number on the vehicle as shown in the warrant provided by the instructing party.

The Bailiff may encounter a situation where the serial number does not match exactly but the discrepancy seems minor in nature.

Example: **5** is actually **S**

The two digits are so close that they often are confused. In these types of situations, seizure may be effected. However, consideration should be given to the entering into a Bailee's Undertaking rather than removing or surrendering. That way, seizure has been effected but the debtor has not been deprived use of the vehicle.

If the serial number discrepancy is significant, contact the Civil Enforcement Agency. The Agency will likely request an amended warrant or an order from the Court directing seizure be effected.

Seizure of Cash

The Bailiff may be instructed to seize cash from a business, or the Bailiff while attending at a business may decide to seize cash. When seizing cash, it is important to remember the following:

1. Cash from a cash register drawer or other storage location may be seized by physically taking possession of it. If the employees store the day's proceeds in a money belt, that cash may only be seized once the funds have been physically handed to the person responsible.

   Example: manger or hostess

2. Tips are the personal property of individuals and therefore not subject to seizure.

3. Once cash have been seized, immediately issue a receipt. Clearly outline the details of the seizure in the Notice of Seizure of Personal Property (refer to section 6 – Writ Seizure).

4. The Bailiff is responsible for the cash until it is turned over to the Civil Enforcement Agency. The Bailiff should obtain a receipt from the Civil Enforcement Agency to attach to his receipt book.

Seizure of Perishable Goods

Before seizing perishable property, the Bailiff should check with the Civil Enforcement Agency as to where the items should be removed to and/or stored at, and whether they should be disposed of (by sale) immediately.

As a precaution, a Health Board Inspector's attendance may be requested whenever perishable food is placed under seizure.

Environmental Public Health
Telephone: 1-833-476-4743
Website: https://ephisahs.microsoftcrmportals.com/create-case/

Seizure of Liquor

Section 82 of the Gaming, Liquor and Cannabis Act reads as follows:

A civil enforcement agency may seize liquor in accordance with the Civil Enforcement Act, and the board may, subject to any conditions it considers advisable, authorize the civil enforcement agency to sell the liquor.

If seizure of liquor is instructed, it is important that the Bailiff provide an itemized inventory with sufficient descriptions of the stock. Seizure may be effected on sealed bottles only. If removal is necessary, ensure the seized liquor is secured in a safe location. In particular, pay attention to the temperature of the storage facilities.

Seizure at a Pharmacy

To seize restricted drugs from a pharmacy, the Bailiff needs to have two pharmacists on site to accurately list the names and quantities of the seized drugs and verity that the drugs are being surrendered to the appropriate pharmaceutical party who can legally have possession of the substance.

Once the seizure is completed, the list of all seized drugs must be mailed to

Compliance Monitoring and Liaison Division
Office of Controlled Substances
Health Canada
1801 B
Ottawa, ON K1A 0K9

All activity should be clearly indicated in the Bailiff's Report.

Seizure at a Veterinary Clinic

When seizing at a veterinary clinic, the Bailiff should ensure that an independent, certified veterinarian is in attendance for advice, assistance and/or equipment.

Seizure and/or Removal of Property at Oil and Gas Production Facilities

The Alberta Energy Regulator (AER) enforces the Oil and Gas Conservation Act and regulations. The AER has authority to take over oil and gas wells and associated facilities to enforce the provisions of the Act including the sale or disposal of any equipment to recover costs. It is possible that debt recovery by other parties could occur simultaneously with the AER's enforcement action resulting in coincidental seizures of the same equipment.

The AER is concerned with the removal of seized equipment from oil or gas facilities by other parties. In particular, one concern is the removal of wellhead equipment and the potential this action might have in putting the public or the environment at risk. This work must be completed by trained and knowledgeable people and conducted according to applicable provincial statutes and regulations.

Before carrying out instructions to seize and/or remove property at oil and gas production facilities, you should contact the AER at the following address:

Suite 1000, 250 – 5th Street S.W.
Calgary, AB T2P 0R4
Telephone: 403-297-8311
Email: Inquiries@aer.ca

Woodmen's Lien

The Woodmen's Lien Act authorizes an employee or sub-contractor to seize for labour or services rendered while working for a logging company or sub-contractor of the logging company.

The Civil Enforcement Agency may be instructed to seize:

1. Any logs or timber in respect of which the labour or services were rendered;
2. Any other logs that belong to the same owner and that have been mixed with any of the logs or timber in respect of which the labour or services where rendered;
3. Any lumber made out of any of those logs or timber, so long as the lumber has not been sold and fully paid for by the bona fide purchaser without the purchaser having notice of the lien; or
4. Any part thereof.

The logs/timber/lumber shall not be seized when in transit by water from the place they were cut to the place of destination.

Writ of Attachment

A Writ of Attachment is issued by the Clerk of the Court and it is the document which provides the direction of authority to commence seizure proceedings. Sufficient copies are required to allow for service on each defendant, the owner of the logs if different from the defendant, and return of original to the Agency.

Letter of Instructions

In addition to the Writ of Attachment, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

1. Any urgency associated with the file
2. Any unusual circumstances which might be anticipated
3. Whether removal is required
4. If the logs or timber are in the possession of another party
5. Form of indemnification as requested by the Agency.

You may wish to consider and discuss with the instructing party the following issues with regard to the seizure and possible removal of the logs or timber:

1. How to determine which logs or timber are referred to in the Writ of Attachment
2. If the logs or timber are in the hands of a third party, how to identify which logs or timber belong to the defendant
3. Location of the logs or timber and the required equipment and estimated costs of removal, as removal may be costly

4. The condition or value of the property to be seized, as the cost of seizure may outweigh the money which may be realized from a sale of the property or the money realized may not significantly reduce the debt.

If removal may put the defendant our of business or cause severe hardship and there is a responsible person available, you may which to consider leaving the property with that person (often the defendant) under a Bailee's Undertaking.

Required Documents for Bailiff

In order to effect seizure, the Bailiff must be provided with a copy of the Writ of Attachment, a copy of the letter of instructions and the following documents:

1. Notice of Seizure of Personal Property – sufficient copies to allow service of one on each defendant, if applicable, the owner or person in possession or control of the seized property, on for each Bailee and return of the original to the Agency.

2. Bailee's Undertaking – sufficient copies to provide a copy to each Bailee and return original to the Agency.

3. Bailiff's Report

4. Other documents as required.

Notice of Seizure of Personal Property

This form is used to describe in detail the items seized and to notify all affected parties of the seizure of personal property. Sufficient copies are required to allow service of one on each defendant, if applicable, the owner or person in possession or control of the seized property, one of each Bailee and return of the original to the Agency (see example of form in section 6 – Writ Seizure).

The following must be completed by the Agency:

1. Agency file number

2. Name and address of defendant

3. Amount owing as shown on the Writ of Attachment

4. "NO" box completed for Notice of Objection to Seizure of Personal Property applicable to the seizure; strike out applicable section on the form; there are no provisions for an objection under the Woodmen's Lien Act.

5. Agency's name, address, telephone number, fax number and email address.

Bailee's Undertaking

This form is used when the Bailiff leaves the seized logs/timber with a responsible person who agrees to keep the logs/timber and is responsible for its safekeeping and delivery to the Civil Enforcement Agency when requested. Sufficient copies are required: one for each Bailee, and return of the original to the Agency (see example of form in section 6 – Writ Seizure).

The following must be completed by the Agency:

1. Agency file number

2. Agency's name, address, telephone number, fax number and email address.

The Bailee's Undertaking must be witnessed and is usually witnessed by the Civil Enforcement Bailiff.

If a responsible person is not available to sign the Bailee's Undertaking, the Bailiff should consider removal and storage of the seized property to ensure its safekeeping. If this is the case, the Bailiff may want to contact the Civil Enforcement Agency for further instructions.

There are pros and cons to using a Bailee's Undertaking. A few have been listed of consideration when determining if a Bailee's Undertaking is appropriate.

Pros

A Bailee's Undertaking assigns responsibility for the care and control of the seized property to a specific individual.

If the bailee is the debtor, storage costs are generally eliminated.

If it is the debtor who enters into the Bailee's Undertaking, he may continue to use the seized items. This is especially important when you are dealing with the debtor's livelihood, e.g. farmer.

Cons

There is a risk that the bailee, or other individual, will abscond with the property. Although the option of criminal or civil proceedings exists, the personal property may not be recovered.

Excerpts from the Criminal Code

Theft by bailee of things under seizure

324 *Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or on demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.*

Punishment for theft

334 *Except where otherwise provided by law, every one who commits theft*

(a) if the property stolen is a testamentary instrument or the value of what is stolen is more than $5,000, is guilty of

(i) an indictable offence and liable to imprisonment for a term of not more than 10 years, or

(ii) an offence punishable on summary conviction; or

(b) if the value of what is stolen is not more than $5,000, is guilty

(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(ii) of an offence punishable on summary conviction.

Change of Bailee

If circumstances require a change of bailee, the new bailee must have the undertaking responsibilities explained. He must enter into the new Bailee's Undertaking by signing it and having it witnessed by an Agency employee or a Bailiff. Sufficient copies are required: one for the bailee, one for the plaintiff and the original for the Agency. At the discretion of the Agency, the condition of the logs and/or timber may be verified.

The following must be completed by the Agency:

1. Prepare a new Bailee's Undertaking. Have the undertaking signed by the new bailee and witnessed. Attach the original to the original Notice of Seizure of Personal Property and give the new bailee a copy of the new Bailee's Undertaking with a copy of the Notice of Seizure of Personal Property attached.

2. Advise the original bailee in writing of his release from the undertaking.

Bailiff's Report

This form is the Bailiff's certification of the action he has taken.

Other Documents

Other documents that may be required would include relevant court orders, Addendum to Notice of Seizure of Personal Property and Seizure Stickers.

The Addendum to the Notice of Seizure of Personal Property may be required by the Bailiff if he runs out of space on the Notice of Seizure of Personal Property. It is suggested that the Bailiff keep a supply of these with him at all times.

Offer of Settlement

1. If the defendant offers settlement, the Bailiff should contact the Civil Enforcement Agency to confirm the exact amount of the outstanding debt and costs, and whether he is authorized to accept payment.

   Unless the entire debt is collected or the instructing party instructs you to stop action, seizure should be effected.

2. Settlement should always be in the form of cash, certified cheque, bank draft or money order unless the instructing party agrees otherwise.

3. If the defendant tenders cash, the Bailiff should issue a receipt to the defendant. If the Bailiff is unable to submit the cash to the Agency, at the first opportunity he should obtain a money order payable to the Civil Enforcement Agency. The Bailiff should attach a copy of the money order to he receipt book. If there is a fee for purchasing the money order, it may be charged back as an expense.

4. If the defendant tenders non-certified funds and the instructing party has not consented to this form of payment, seizure of personal property must still be effected.

5. DO NOT accept postdated cheques unless instructed to do so by the instructing party.

Negotiated Settlement

If the defendant and instructing party negotiate some other form of settlement, any directions to discontinue the seizure action must be received directly from the instructing party.

Procedure for Effecting Seizure

The Bailiff should:

1. Carefully read the letter of instructions and the Writ of Attachment to determine the dollar amount required for seizure and the location of the property to be seized.

2. Review the file to see if there are any arrangements that should be made ahead of time (e.g. trucking for removal if requested).

3. Proceed to the location provided in the instructions and identify yourself to the owner or person in whose custody or control the logs/timber/lumber may be. Advise this person why you are there.

4. Proceed with the seizure in accordance with your instructions. Post a Notice of Seizure of Personal Property to each pile the attachment is made on. Clearly indicate on each Notice of Seizure of Personal Property the volume of logs/timber/lumber seized, ensuring that there is a sufficient amount to satisfy the claim of the applicant to the value contained in the Writ of Attachment.

5. Serve a copy of the Writ of Attachment along with a Notice of Seizure of Personal Property on:
   - the defendant
   - the owner or the person in possession/custody of the logs/timber/lumber.

6. Obtain a Bailee's Undertaking from a responsible person where the logs/timber/lumber is being kept.

7. Complete the Bailiff's Report. Ensure that you include the names of the persons you served with the Writ of Attachment and Notice of Seizure of Personal Property, and the time and date of service.

Review of Bailiff's Report

The Agency should review the completed Bailiff's Report and accompanying documents to determine if seizure was effected. Also, review the report for any errors, omissions, or irregularities.

Seizure NOT Effected

If seizure was not effected, forward a copy of the Report to the instructing party and await further instructions.

Seizure Effected

If seizure was effected and if the report and applicable documents are in order, forward a copy of the Report to the instructing party along with a copy of the Notice of Seizure of Personal Property, and Bailee's Undertaking (if applicable)

Service of Seizure Documents

If the Writ of Attachment and the Notice of Seizure of Personal Property were not served on the defendant or an adult member of the defendant's household, section 45 of the Civil Enforcement Act requires that the Agency must serve the documents on the defendant as soon after effecting seizure as is practicable.

Register Seizure

Pursuant to the provisions of the Civil Enforcement Regulation section 13(1)(a), the Agency must register details of all seized property and pertinent information such as the condition/location of the seized property at Personal Property Registry within 3 days of seizure being effected.

Third Party Claims, Received After Seizure Effected

A third party is someone, other than the defendant or the plaintiff, who claims to be the owner of the seized property or who has some other interest in the personal property that would preclude sale of the seized property.

Any dispute to the attachment must be filed in the form of a Statement of Defence with the Clerk of the Court in the Judicial Centre in which the action arose. If you receive a dispute, contact the instruction party.

Bankruptcy and Insolvency Act

The general provisions of the Bankruptcy and Insolvency Act state that upon an Agency receiving a copy of an assignment or a receiving order certified by the Trustee as a true copy, the Agency shall deliver all the bankrupt's property in its hands and any monies realized from the sale of property, less its fees and costs, to the Trustee.

Upon receiving a certified copy of an assignment from a Trustee, check your records to determine if you have property belonging to the bankrupt/debtor still under seizure or if you have monies in trust realized from a sale of property seized from the bankrupt/debtor.

If you have property under seizure, release it to the Trustee following the procedures in section 12 – Release of Seizure.

If you have monies in trust, deduct any fees and expenses of the instructing party and of the Agency and forward a cheque for the balance to the Trustee.

Federal Court Act

The Federal Court Act states that the Governor in Council may appoint the Sheriff of the Federal Court for any geographical area; failing such appointment, the Sheriff or Deputy Sheriff of the county or the judicial division within that geographical area are ex officio Sheriff and Deputy Sheriff of the Federal Court.

If a situation arises where it is necessary for the Sheriff to act in this capacity (e.g. to arrest a ship), an Agency may be instructed to act on the Sheriff's behalf.

Seizure of Securities

Seizure and sale of securities is a complicated matter, and this manual does not purport to contain all applicable information. Prior to proceeding, it would be advisable to carefully review the applicable statutory and regulatory provisions, and consult legal counsel.

Section 57 of the Civil Enforcement Act (the "CEA") states that seizure of the securities must be made in accordance with sections 47 to 51 of the Securities Transfer Act (the "STA"). The result of reading these two statutes together is that the method of seizure is specified for each of three types of securities: certificated securities, uncertificated securities, and security entitlements.

Certificated Securities

A certificated security is defined in section 1(e) of the STA as "a security that is represented by a certificate".

The seizure of certificated securities must be conducted in accordance with section 48(1) of the STA, and requires actual seizure by a Civil Enforcement Agency (just like any other item of personal property). Under section 48(2), if the certificate was surrendered in the issuer, it may be seized by notice to the issuer at the issuer's chief executive office.

Section 57(2) of the CEA states that, notwithstanding section 48 of the STA, an agency can seize the interest of an enforcement debtor and certificated securities issued by an "Alberta private company" (a closely-held company) by serving notice of seizure on the issuer at the issuer's chief executive office. In other words, when shares are issued by a closely-held corporation and are certificated, physical seizure is not the only option. Section 58 of the CEA specifies the duties of the Alberta private company when it is served under section 57(2).

Uncertificated Securities

An uncertificated security is defined in section 1(kk) of the STA as "a security that is not represented by a certificate". Such a security will be registered in the name of the investor/enforcement debtor.

Seizure of uncertificated securities must be done in accordance with section 49 of the STA. This requires seizure by a Civil Enforcement Agency serving notice on the issuer at the issuer's chief executive office. Section 58 of the CEA again applies if the issuer is an Alberta company.

Security Entitlements

A security entitlement is defined in section 1(hh) of the STA as "the rights and property interest of an entitlement holder with respect to a financial asset that are specified in Part 6" of the STA. Basically, this constitutes a security which is owned by an investor/enforcement debtor but is not specifically registered in his name.

Seizure of the security entitlement is done in accordance with section 50 of the STA, and requires that the Civil Enforcement Agency serve notice on the securities intermediary (as defined in section 1(ee)(ii) of the STA, but usually a broker) with whom the enforcement debtor's account is maintained.

Seizures pursuant to sections 48 to 50 of the STA are subject to section 51, which deals with situations where a secured party is involved.

Section 57.1 of the CEA specifies the powers of a Civil Enforcement Agency upon seizure of both securities and security entitlements.

Section 59 of the CEA, dealing with security entitlements only, sets out under what conditions the Agency will be entitled to information, documents and dividends the enforcement debtor would have been entitled to, as well as when the Agency can give directions to the intermediary regarding the seized security. This condition is that the security intermediary's jurisdiction within the meaning of the STA is Alberta.

Section 61 of the CEA specifies, with respect to securities only, that an agency may liquidate securities by any means that the nature of the security permits, and also that restrictions on the transfer attached to the shares of an Alberta private company do not apply to transfers by an Agency.

The law is not clear as to how to deal with the situation where the debtor's securities and security entitlements are located outside Alberta. At this point, it would appear that, because uncertificated securities and security entitlements are intangible, their location is notional, and it may be that the location of uncertificated securities would be the location of the issuer's chief executive office. Security entitlements would be located where the security's intermediary is located (i.e. where the broker keeps his records indicating the enforcement debtor's ownership). However, at this point, as there is no case law dealing with the new legislation, this is unknown. Therefore, until the law is more settled, it is strongly recommended that, whenever an Agency is considering seizing uncertificated securities or security entitlements, it consult legal counsel before taking action.

00-00000

Civil Enforcement Agency File Number

Notice to Grain Elevator Agents

TO All Grain Elevators

34 Wheat Drive, Spruce Grove, Alberta

Name and Address of Grain Elevator

TAKE NOTICE that I have seized the grain of

Joe Debtor

Name of Debtor

N.E. 1/2 of 7-3-54 -- West of the 5th Meridian

Land Description Where Grain Was Seized

Should the Debtor or his agent deliver the grain to you for sale, you are required to pay the proceeds of the sale to the Civil Enforcement Agency noted below:

P. Bailiff — P. Bailiff

Authorized Signature — Print Name

We Seize Ltd.

Name of Civil Enforcement Agency

406 Replevin Road — Edmonton

Address of Civil Enforcement Agency — City

Alberta	T5J 2N5	422-2696	422-7777
Province	Postal Code	Telephone Number	Fax Number

Dated at Edmonton Alberta, January 15, 1996

Oct. 01/95

Court Orders

Receivers and Special Remedies

Pursuant to section 85 of the Civil Enforcement Act, the court may grant an order appointing a receiver of the personal property of an enforcement debtor.

If an Agency is appointed as the receiver of the personal property, the Agency must agree in writing to act as the receiver (section 87(a)(ii) of the Civil Enforcement Act). The court my also order that the personal property be delivered to the receiver.

Upon receipt of the court order:

1. Check that the order is directed to an Agency
2. Comply with the conditions set out in the order.

Replevin Order

A Replevin Order is granted pursuant to Part 6, Division 8 of the Alberta Rules of Court. A Replevin Order is the document which provides the direction and authority to recover personal property unlawfully taken or detained. Only a Civil Enforcement Agency may enforce a Replevin Order.

Upon receipt of the Replevin Order, check:

1. That the order is directed to the Agency
2. That the property to be recovered is specifically described in the order
3. Whether the Agency should remove and store the property or return the personal property to a certain person or location
4. That the order includes either or both of the following:
    a. An order to a Civil Enforcement Agency to make a report on its enforcement or attempted enforcement of the Replevin Order;
    b. The value of the personal property.

Note: The Replevin Order is not effective until an affidavit or evidence that the order requiring security has been complied with has been files, and the affidavit or evidence has been served on the respondent and the Civil Enforcement Agency.

Letter of Instructions

In addition to the Replevin Order, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

1. Any urgency associated with the file
2. Any unusual circumstances which might be anticipated
3. Where the property is located

4. To whom/where to deliver the property

5. Form of indemnification as requested by the Agency.

Required Documents for Bailiff

In order to execute the Replevin Order, the Bailiff must be provided with the following documents:

1. A copy of the Replevin Order

2. A copy of the letter of instructions

3. Bailiff's Report

4. Other documents as required.

Bailiff's Report

This form is the Bailiff's certification of the action they have taken.

Procedure for Carrying Out Replevin Orders

The Bailiff should:

1. Carefully read the Replevin Order and other instructions received from the instructing party or the Civil Enforcement Agency

2. Review the file to see if there are any arrangements that should be made ahead of time which may assist in carrying out the order (e.g. tow truck, moving van, veterinarian etc.)

3. Proceed to the location given in the letter of instructions.

   For street addresses, a good city/town map may be helpful if you are unfamiliar with the area. For locating property identified by legal land description, you should know how to read the section, township, range and meridian shown on the district map. Ensure that you have access to the various district maps.

Arrival At Location

1. Upon arriving at the location, identify yourself to the respondent. If the respondent is not present, advise the person present who you are and why you are there. Every attempt should be made to contact the respondent if their whereabouts are known.

2. Ensure the copy of the Replevin Order is available for the inspection by the respondent, if requested.

3. Entry by Force – Pursuant to section 13(2)(c)(iii) of the Civil Enforcement Act, do not enter by force into any residence without a court order. An attached garage is considered part of the residence.

   Forced Entry – At any location or premises belonging to the respondent, other than a residential premises, you have the authority to force entry using the services of a locksmith. Where you have to use force to gain entry, you must reasonably secure the premises before leaving.

If denied access to the premises belonging to someone other than the respondent, you have no authority to enter without a court order.

Before entering buildings equipped with an alarm system, notify the alarm company or the police providing full particulars on the nature of your call, location and time, etc.

4. Recover the personal property in accordance with the letter of instructions and the Replevin Order. You must physically see and be able to lay your hands on the personal property in order to remove, store and retain possession as directed in the order.

5. When removing a vehicle, the Bailiff should never drive it away. Always have removal done by a licenced and approved towing company.

6. If the respondent or someone representing the respondent is not present at the time of removal of the personal property, advise the local police agency that the property has been removed in the event the property is later reported stolen.

7. Indicate in the comments section of the Bailiff's Report the number, quantity and quality of the property recovered. If all of the property was not recovered, list this property and state the reasons why it could not be recovered.

8. If you are unable to execute the Replevin Order, complete the Bailiff's Report stating the reasons and any useful information about the respondent or the personal property.

9. Complete and sign the Bailiff's Report.

10. Return the completed documents to the Civil Enforcement Agency.

11. The Civil Enforcement Agency must take possession of the recovered personal property and as soon as practicable, serve notice on the applicant. The Civil Enforcement Agency must not give the personal property to the applicant unless the Court Orders otherwise. If an order for possession of the personal property is not made within one month of the Civil Enforcement Agency serving notice of taking possession, the Civil Enforcement Agency must return the personal property to the respondent.

Review of Bailiff's Report

Review the competed Bailiff's Report and accompanying documents to determine if replevin was carried out. Also review the report for any errors, omissions, or irregularities.

Replevin NOT Carried Out

If replevin was not carried out, forward a copy of the Bailiff's Report to the instructing party and await further instructions.

Replevin Carried Out

If replevin was carried out, forward a copy of the Bailiff's Report to the instructing party.

Order of Possession of Land (Eviction)

An Order of Possession orders a person to give up possession of land to another person. The order must include a statement to the effect that a Civil Enforcement Agency has authority, after service of the order has been effected, to evict any occupant of land, premises or mobile home, as the case may be.

Orders granted pursuant to the Alberta Rules of Court.

Unless the Court otherwise orders, the Order of Possession must be served on every person ordered to give up possession of the land and every occupant of the land. Once an Affidavit of Service has been filed, the Civil Enforcement Agency has authority to evict those persons served from the land occupied.

Note: In the case of conditional orders sometimes referred to as "Cinderella Orders" (orders that are stayed while payments are made but which may be enforced if there is a default), Notice of Default must be served on every person ordered to give up possession and every occupant of the land, unless the Court otherwise orders.

Orders Granted under the Residential Tenancies Act (RTA), Mobile Home Sites Tenancies Act (MHSTA), Cooperatives Act and Expropriation Act

Orders for the recovery of possession of residential premises and mobile home sites must contain a statement to the effect that a Civil Enforcement Agency has authority, after service of the order has been effected, to evict any occupant of the premises or the mobile home site, as the case may be.

Orders of possession under the Expropriation Act and the Cooperatives Act must contain a statement to the effect that a Civil Enforcement Agency has authority, after service of the order has been effected, to evict any occupant of the land.

The Residential Tenancies Act section 34.1 and the Mobile Home Sites Tenancies Act section 37.1 provide that a Civil Enforcement Agency has authority to evict an occupant from the residential premises or the mobile home site

a. only in accordance with an Order of Possession, and

b. unless the Court otherwise orders, only after the Civil Enforcement Agency is satisfied that

    i. the order has been served on the tenant, the overholding tenant or the person living in the residential premises if the tenant has abandoned, and

    ii. an affidavit of service has been filed in the Court of King's Bench by the person who has the Order of Possession.

Under the Residential Tenancies Act section 57 and the Mobile Home Sites Tenancies Act section 60, the order has to be served on the tenant, the overholding tenant or the person living in the residential premises if the tenant has abandoned. Pursuant to the Alberta Rules of Court, orders under the Expropriation Act and Cooperatives Act must be served on every occupant of the land.

The Residential Tenancies Act and Mobile Home Sites Tenancies Act provide that if an order for recovery of possession of premises or a mobile home site is stayed while payments are being made in accordance with the order granting the stay (i.e. conditional orders, also known as Cinderella Orders), the order for recovery of possession may not, unless the Court otherwise orders, subsequently be enforced until a notice of default is served on the tenant.

The conditional order may provide direction on how long after a default the tenant can be served with the notice of default and how much time the notice of default must provide the tenant to vacate the premises. There is currently no prescribed form for the notice of default, but a form has been developed by the Residential Tenancy Dispute Resolution Service (RTDRS), which can be used with conditional orders granted by RTDRS Tenancy Dispute Officers, as well as conditional orders granted in the Court of Justice and in the Court of King's Bench. The form is available on the RTDRS website (www.rtdrs.alberta.ca) and the Alberta Courts website (www.albertacourts.ca).

Letter of Instructions

In addition to the Order of Possession, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

1. Any urgency associated with the file
2. Any unusual circumstances which might be anticipated
3. Where the premises are located
4. If removal is required or if the respondent's possessions are to be left on site
5. Form of indemnification as requested by the Agency.

Required Documents for Bailiff

To enforce the Order of Possession, the Bailiff must be provided with the following documents:

1. A copy of the Order of Possession
2. A copy of the letter of instructions
3. Bailiff's Report
4. Other documents as required.

Bailiff's Report

This form is the Bailiff's certification of the action he has taken.

Procedure for Carrying Out Eviction

The Bailiff should:

1. Carefully read the Order of Possession and any other instructions received from the instructing party or the Civil Enforcement Agency

2. Review the file to see if there are any arrangements that should be made ahead of time which may assist in carrying out the order (e.g. tow truck, moving van, Family and Social Services, S.P.C.A. etc.)

3. Proceed to the location given in the letter of instructions.

   For street addresses, a good city/town map may be helpful if you are unfamiliar with the area. For locating property identified by legal land description, you should know how to read the section, township, range and meridian shown on a district map. Ensure that you have access to various district maps.

Arrival at Location

1. Upon arrival at the location, identify yourself to the tenants. Explain why you are there. Ensure the Order of Possession is available for inspection by the tenants, if requested. Your Agency will give you instructions on negotiating a timeframe (as soon as is reasonably possible) to allow the tenants to move out. Attend at the end of the timeframe agreed to and follow

   a. procedure 3 below, if vacant, or

   b. procedure 4 below, if not vacant.

2. If no one is home, assess the situation as to whether it appears the tenants have vacated the premises. If so, follow procedure 3 below. If it does not appear that the tenants have vacated the premises, post a notice on the residence door stating they must vacate by a specific time (usually give 24 hours). Attend after the time period has elapsed and follow procedure 3 below.

3. If the premises appear to be vacant, have a locksmith attend to gain entry to the residence and change the locks, if so instructed.

   If personal property remains on the premises, obtain instructions from your Civil Enforcement Agency as to whether it is necessary to remove and store. If you are instructed to remove the property, follow procedure 5 below.

4. If the tenants have not vacated, have a locksmith attend to gain entry to the residence and change the locks, if so instructed.

   If the tenants refuse to leave, contact your Civil Enforcement Agency for further instructions. For example,

   - if necessary, have police attend to keep the peace and assist in whatever way they are willing and able,
   - have person entitled attend to take lawful possession,
   - have a moving company attend to produce and inventory, remove and store the personal property of the tenants,
   - have the S.P.C.A. attend to look after pets,
   - contact Social Services to make them aware of the tenant’s situation, etc.

5. Remove the tenant's property only when instructed by your Civil Enforcement Agency. Make a complete inventory of items removed. For removal and storage, use a licensed and approved moving company.

   In these situations, your discretion and judgment is very important. If you encounter violence, assess the situation and if appropriate, withdraw and seek further instructions from your Civil Enforcement Agency.

6. Complete and sign the Bailiff's Report.

7. If you are unable to carry out the Order of Possession, complete the Bailiff's Report stating the reasons and any useful information about the respondent or personal property. Complete and sign the report.

8. Return the completed documents and the keys to the premises, if possession was obtained, to the Civil Enforcement Agency.

Disposition of Respondent's Possessions

Rule 9.27 of the Alberta Rules of Court governs removal, storage and sale of personal property in connection with the enforcement of an Order of Possession.

Where an Agency, in its discretion, chooses to remove and store personal property while carrying out an Order of Possession, the owner of that property may, on the written authorization of the Agency, obtain the property from storage upon payment of all costs, including storage and transportation.

If the Bailiff does not remove the personal property at the time the order is enforced, then the person who obtained the Order of Possession may deal with the property as set out in Rule 9.28 of the Alberta Rules of Court.

Attachment Order

An Attachment Order is granted pursuant to section 17 of the Civil Enforcement Act, as a form of per-judgment relief. The Court may direct that the Attachment Order applies to all or specific eligible property of the defendant. This form of an Attachment Order is the direction and authority to conduct the seizure.

Upon receipt of the Attachment Order, check:

1. That the order is directed to an Agency

2. Whether or not the order is an ex parte Attachment Order, as it will expire after 21 days of being granted unless the order is extended by the court

3. That the property is described in the order or that the Bailiff is given the direction to identify in writing exigible property

4. Whether the order authorizes the sale or other disposition of property.

Letter of Instructions

In addition to the Attachment Order, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

1. Any urgency associated with the file
2. Any unusual circumstances which might be anticipated
3. Where the property is located
4. Instruction regarding specific property
5. Form of indemnification as requested by the Agency.

Required Documents for Bailiff

In order to carry out the Attachment Order, the Bailiff must be provided with the following documents:

1. A copy of the Attachment Order
2. A copy of the letter of instructions
3. Notice of Seizure of Personal Property
4. Bailee's Undertaking
5. Bailiff's Report (the original)
6. Other documents as required.

Notice of Seizure of Personal Property

This form is used to describe in detail the items seized and to notify all affected parties of the seizure of personal property. Sufficient copies are required to allow service of one notice on each defendant, and return of the original to the Agency. (See example in Writ Seizure section).

The following must be completed by the Agency:

1. Agency file number
2. Name, address and email address of defendant
3. Amount owing as shown on the Attachment Order
4. Name, address and email address of plaintiff
5. "NO" box completed for Notice of Objection to Seizure of Personal Property applicable to this seizure; strike out applicable section on the form; there are no provisions for an objection to seizure pursuant to an Attachment Order
6. Agency's name, address, telephone number, fax number and email address.

Bailee's Undertaking

This form is used when the Bailiff leaves the seized personal property with a responsible person who agrees to keep the seized property and is responsible for its safekeeping and delivery to the Civil Enforcement Agency when requested. Sufficient copies are required: one for the bailee, and return of the original to the Agency (see example of form in section 6 – Writ Seizure).

The following must be completed by the Agency:

1. Agency file number

2. Agency's name, address, telephone number, fax number and email address.

The Bailee's Undertaking must be witnessed and is usually witnessed by the Civil Enforcement Bailiff.

If a responsible person is not available to sign the Bailee's Undertaking, the Bailiff should consider removal and storage of the seized property to ensure its safekeeping. If this is the case, the Bailiff may want to contact the Civil Enforcement Agency for further instructions.

There are pros and cons to using a Bailee's Undertaking. A few have been listed for consideration when determining if a Bailee's Undertaking is appropriate.

Pros

Storage costs are generally eliminated

Cons

There is a risk that the Bailee, or other individual, will abscond with the personal property. Although, the option of criminal or civil proceedings exists, the personal property may not be recovered.

Since an Attachment Order is usually granted because a debtor is going to abscond with or dissipate the property, it may not be prudent to leave the property with the debtor on a Bailee's Undertaking.

Excerpts from the Criminal Code

Theft by bailee of things under seizure

324 *Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or on demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.*

Punishment for theft

334 *Except where otherwise provided by law, every one who commits theft*

(a) if the property stolen is a testamentary instrument or the value of what is stolen is more than $5,000, is guilty of

(i) an indictable offence and liable to imprisonment for a term of not more than 10 years, or

(ii) an offence punishable on summary conviction; or

(b) if the value of what is stolen is not more than $5,000, is guilty

(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(ii) of an offence punishable on summary conviction.

Change of Bailee

If circumstances require a change of bailee, the new bailee must have the undertaking responsibilities explained. He must enter into the new Bailee's Undertaking by singing it and having it witnessed by and Agency employee or a Bailiff. Sufficient copies are required: one for the bailee, one for the plaintiff and the original for the Agency. At the discretion of the Agency, the condition of the personal property may be verified.

The following must be completed by the Agency:

1. Prepare a new Bailee's Undertaking. Have the undertaking signed by the new bailee and witnessed. Attach the original to the original Notice of Seizure of Personal Property and give the new bailee a copy of the new Bailee's Undertaking with a copy of the Notice of Seizure of Personal Property attached.

2. Advise the original bailee in writing of his release from the undertaking.

Bailiff's Report

This form is the Bailiff's certification of the action he has taken

Other Documents

Other documents that may be required would include relevant court orders, Addendum to Notice of Seizure of Personal Property and Seizure Stickers.

The Addendum to the Notice of Seizure of Personal Property may be required by the Bailiff if he runs out of space on the Notice of Seizure of Personal Property. It is suggested that the Bailiff keep a supply of these with him at all times.

Procedure for Enforcing Attachment Order

The Bailiff should:

1. Carefully read the Attachment Order and any other instructions received from the instructing party or the Civil Enforcement Agency

2. Review the file to see if there are any arrangements that should be made ahead of time which may assist in executing the order (e.g. tow truck, moving van, veterinarian etc.)

3. Proceed to the location given in the letter of instructions.

   For street addresses, a good city/town map may be helpful if you are unfamiliar with the area. For locating property identified by legal land description, you should know how to

read the section, township, range and meridian shown on a district map. Ensure that you have access to various district maps.

Arrival At Location

1. Upon arriving at the location, identify yourself to the defendant. If the defendant is not present, advise the person present who you are and why you are there. Every attempt should be made to contact the defendant if his whereabouts are known.

2. Ensure the Attachment Order is available for inspection by the defendant, if requested.

3. List the exigible personal property in accordance with the letter of instructions and the Attachment Order. You must physically see and be able to lay your hands on the exigible personal property being listed as directed in order.

Complete the Notice of Seizure of Personal Property

The Bailiff should:

1. Describe the personal property seized on the Notice of Seizure of Personal Property and an Addendum, if necessary. The description should include the quantity, serial number, make, model, year and colour, if applicable, and any other information to help identify the property (see example in section 6 – Writ Seizure).

2. Date and sign your name at the bottom before serving and attaching.

3. If an Addendum is used, indicate so by checking the box Addendum Attached and number the pages 1 of _, 2 of _, etc. (see example in section 6 – Writ Seizure).

4. Ensure that the following are indicated on the Addendum:
   a. Civil Enforcement Agency file number, and
   b. date and signature.

Complete the Bailiff's Report

The Bailiff's Report should be clear, concise and factual. As this document may be used in court, it is extremely important that the Bailiff not speculate or offer opinions. Specific details should be included:

1. If seizure is effected, indicate how the Notice of Seizure of Personal Property was served. This is important because if these documents were not served, the Civil Enforcement Agency must serve them on each debtor as soon after effecting seizure as is practicable.

2. If the Bailiff is unable to personally serve the Notice of Seizure of Personal Property on the defendant or an adult person at the location where the seizure took place, he should:
   a. Post the documents in a conspicuous place at the location where the seizure took place,
   b. Attach the documents to the seized property, or
   c. Affix the seizure stickers to the seized property.

This meets the seizure requirements; however, it does not meet the service obligation. Ensure that the fact service was not effected is indicated in the Bailiff's Report.

3. If the seized property was removed, indicate:
   a. Where it was removed to
   b. The name and address of the person with whom the personal property was left
   c. The name and address of the person who signed the Bailee's Undertaking.

   Storage Expenses
   The Bailiff must ensure that he does not incur excessive storage costs in relation to the value of the personal property. Advise the storage company that the Civil Enforcement Agency must receive an invoice for storage at least monthly. Ensure that the storage details, including costs, are referred to in the comments section of the Bailiff's Report.

4. Complete and sign the Report.

5. If the Bailiff is unable to effect the seizure, he should complete the Report stating the reason and any useful information about the defendant or the personal property. Complete and sign the Report.

6. Return the completed documents to the Civil Enforcement Agency. This should be done promptly as the Agency must register the details of the seizure within 3 days after the date of seizure.

Review of Bailiff's Report

Review the completed Bailiff's Report and accompanying documents to determine if attachment was effected. Also review the Report for any errors, omissions, or irregularities.

Attachment NOT Effected

If attachment was not effected, forward a copy of the Report to the instructing party and await further instructions.

Attachment Effected

If attachment was effected and if the Report and applicable documents are in order, forward a copy of the report to the instructing party along with a copy of the Notice of Seizure of Personal Property, and Bailee's Undertaking (if applicable).

Service of Seizure Documents

If the Notice of Seizure of Personal Property was not (pursuant to section 45) served on the respondent or an adult member of the respondent's household, the Civil Enforcement Act requires that the Agency must serve the documents on the respondent as soon after effecting seizure as is practicable.

Register Attachment

Pursuant to section 13(1)(a) the Civil Enforcement Regulation, the Agency must register details of all attached property and pertinent information such as the condition/location of the attached property at Personal Property Registry, within 3 days of the attachment being effected.

Disposition of Property

Follow the directions in the Attachment Order regarding sale or other disposition of the property.

Third Party Claims, Received After Attachment Effected

A third party is someone, other than the debtor or the creditor, who claims to be owner of the seized property or who has some other interest in the personal property that would without the consent of the third party preclude sale of the seized property. A third party claim must be in writing and contain an address for service for the third party.

Upon the third party serving a claim on the Agency, proceed as follows:

1. Serve written notice of the third party's claim on the instructing party and on all other holders of related writs.

2. Diarize the file for 20 days plus 7 days if served by recorded mail.

After 20 Days, or 27 Days Where Applicable

If the Agency has not been served with written notice disputing the third party claim the Agency may release the seizure and return the property to the person from whom the property was seized.

A third party dispute may result in the commencement of interpleader proceedings. This is a complex area of law; you should contact your legal advisor for direction. Depending on arrangements made with the creditor, it may be the creditor's lawyer who commences interpleader proceedings.

If the instructing party disputes the claim, the seizure shall continue, subject to the appropriate fees and conditions imposed by the Agency. If the instructing party does not dispute the claim, but another related writ holder does, that writ holder may instruct the Agency to continue the seizure. On receiving such instructions, the Agency shall continue the seizure if the other person pays the appropriate fees, if any, and meets any other conditions that may be imposed by an Agency on an instructing party, e.g. indemnification.

You must accept a third party claim up to the time proceeds are distributed. Therefore, if a sale has been set up you must cancel it with respect to those items referred to in the third party claim. If the items have been sold the third party may be entitled to the proceeds of the sale. Consult your legal counsel for direction.

Maintenance Orders

The Director of Maintenance Enforcement can register a maintenance order with Personal Property Registry and when registered is deemed to be a Writ of Enforcement.

The Director of Maintenance Enforcement my provide instructions to an Agency to effect seizure to collect the arrears owing under a maintenance order registered at Personal Property Registry.

Refer to section 6 – Writ Seizure and follow the procedures set out.

Anton Piller (Pillar) Orders

The purpose of this type of order is to protect material, such as documents and property, from possible destruction. The order should specify any and all powers or instructions a Civil Enforcement Agency and Civil Enforcement Bailiff will require.

Upon receipt of the court order and a letter of instructions:

1. Check that the order is directed to an Agency
2. Comply with the conditions set out in the order.

Civil Enforcement Remote Information System

Contents of Tab 15 PERPIS removed as the system was replaced by APPRES (Alberta Personal Property Registry Electronic System), on December 3, 2007.

**For more information,
visit www.servicealberta.ca**

October 9, 1997

CIRCULAR #5/97

TO: **All Civil Enforcement Agencies**

SUBJECT: **Samson Cree Nation - Entry on Reserve**

It has come to my attention that the Samson Cree Nation has a by-law governing entry on the reserve. This by-law states as follows:

> "All persons having any business to do on [the] reserve must receive the appropriate approvals from [the] Samson Cree Nation. This includes a letter, Band Council motion and a Band Council Resolution as well as further compliance with S. 89 of the Indian Act."

For those agencies and bailiffs having business on the reserve, please govern yourselves accordingly. If you have any questions I suggest you deal directly with the Samson Cree Nation's Administration office.

Please ensure that each bailiff working for your agency is made aware of the above information.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

DCW:daq

June 08, 2000

CIRCULAR #7/2000

TO: **All Civil Enforcement Agencies**

SUBJECT: **Livestock Identification Services (LIS)**
Assistance to Civil Enforcement Agencies and Bailiffs

For your information, attached is a copy of LIS's policy regarding the circumstances under which LIS will provide assistance to civil enforcement agencies in the seizure and sale of livestock, and the procedure to be followed in such cases.

Please ensure that all of your staff and bailiffs are made aware of this policy.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

Attachment

DCW:daq

LIVESTOCK IDENTIFICATION SERVICES
POLICY RE ASSISTANCE TO CIVIL ENFORCEMENT AGENCIES AND BAILIFFS

Objective:
The purpose of this policy is to set out the circumstances under which LIS will provide assistance to civil enforcement agencies in the seizure and sale of livestock, and the procedure to be followed in such cases.

I. SEIZURE OF LIVESTOCK

A. Role of LIS

LIS will provide assistance to civil enforcement agencies and bailiffs who are carrying out a seizure of livestock, on a fee-for-service basis. This assistance will consist of: providing an LIS employee to accompany the bailiff who is performing the seizure; identifying the brands on any livestock located at the premises where the seizure is occurring; and advising the bailiff of the name of the person or persons who are the registered owners of the brands.

LIS and its employees will not assist in capturing or removing the livestock.

B. Protocol

1. All requests for assistance with a seizure of livestock must be made in writing by a civil enforcement agency to the LIS General Manager. If the request is made to a brand inspector or other employee of LIS, the employee will direct the person making the request to contact the General Manager.

2. The written request must be accompanied by documents evidencing the seizing creditor=s entitlement to carry out a seizure, as follows:

   - in the case of an enforcement creditor, a copy of the writ of enforcement, together with evidence that the writ has been registered at the Personal Property Registry;

- in the case of a secured creditor who has obtained judgement against the debtor, a copy of the writ of enforcement or notice of seizure pursuant to s. 51 of the Civil Enforcement Act, together with evidence that the writ or the notice has been registered at the Personal Property Registry; or

- in the case of a secured creditor who has not obtained a judgement against the debtor, a copy of the warrant delivered to the civil enforcement agency, together with any other documentation required by the civil enforcement agency (but not including any indemnity or bond required by the civil enforcement agency from the creditor).

3. The General Manager will accept the request only if LIS has been provided with a form of indemnity satisfactory to LIS executed by the civil enforcement agency requesting the seizure. The General Manager will also advise the civil enforcement agency of the fee to be charged by LIS for its assistance.

4. If the General Manager accepts the request, he will assign a senior brand inspector or supervisor to accompany the civil enforcement bailiff and perform the necessary brand inspections.

C. Confidentiality of Requests

1. Subject to (3) below, all requests for assistance with seizures will be treated as confidential.

2. Employees of LIS will not discuss a request with anyone other than the General Manager (including other employees of LIS) unless instructed to do so by the General Manager.

3. When the General Manager receives a request for assistance from more than one civil enforcement agency in respect of seizure of the same livestock, he will advise each agency that another request has been made. He will not disclose any further information about the respective requests, such as the name of the other civil enforcement agency or civil enforcement bailiff, the name of the instructing creditor, or the time or date of the proposed seizure. LIS will render assistance to civil enforcement agencies in the sequence that the requests were received.

II. SALE OF LIVESTOCK FOLLOWING SEIZURE

A. Legislative Context

Pursuant to the Livestock Identification and Brand Inspection Act, all livestock brought to an auction market for sale must be accompanied by a livestock manifest and inspected by a brand inspector. If the name shown on the livestock manifest as contributor of the livestock is different from the name of the registered owner of the last brand on the livestock, the brand inspector has two options: to place a hold on the sale itself, or to allow the sale to proceed but place a hold on the sale proceeds.

There is nothing in the Livestock Identification and Brand Inspection Act which permits a brand inspector to accept a livestock manifest which shows a civil enforcement agency or bailiff, or a seizing creditor, as contributor of the livestock without placing a hold on the sale proceeds. The following protocols have been developed in order to permit seizing creditors to take advantage of the provisions of the Civil Enforcement Act and the Personal Property Security Act so as to complete the livestock manifest in the name of the civil enforcement agency or seizing creditor without risk of a hold on the sale proceeds.

B. Enforcement Creditors

LIS will not require any documentation in addition to that required prior to assistance with the seizure, i.e., a copy of the writ of enforcement and evidence that the writ of enforcement has been registered at the Personal Property Registry.

C. Secured Creditors - With Judgement

Where a secured creditor has filed a writ of enforcement pursuant to a judgement against the debtor, paragraph B above applies. If the secured creditor has elected instead to file a notice of seizure under s. 51 of the Civil Enforcement Act, in addition to a copy of the notice of seizure and evidence that the notice has been registered at the Personal Property Registry (which may already have been provided to LIS prior to the seizure), LIS will require an affidavit verifying service of the notice of seizure on the enforcement debtor.

D. Secured Creditor - Without Judgement

In addition to a copy of the warrant (which may already have been provided to LIS prior to the seizure), LIS will require a copy of the Notice of Intention pursuant to s. 60(4) of the Personal Property Security Act, together with an affidavit verifying service of the Notice on all persons entitled to receive the Notice.

E. Advance Notice of Intended Sale

In all cases, the civil enforcement agency should advise the General Manager of the proposed sale at least 24 hours in advance, and preferably 48 hours in advance, so that the General Manager can make the necessary arrangements with the local brand inspector.

F. Fees

The fee charged by LIS in respect of the sale of seized livestock will be the standard brand inspection fee of $1.00 per head of livestock plus GST.

Sent by Fax

October 16, 2001

CIRCULAR #5/2001

TO: **All Civil Enforcement Agencies**

SUBJECT: **Canadian Cattle Identification Program**

The above program, developed by the cattle industry, came into effect January 1, 2001.

The program's main purpose is to identify cattle that leave their original herd and be able to trace those cattle if a reportable disease is found. This is achieved by requiring cattle producers to purchase ear tags that are unique to each animal.

A bailiff removing cattle may encounter a situation where the cattle are not properly tagged. The Canadian Cattle Identification Agency, the office that looks after this program, has indicated to us that it is not the bailiff's responsibility to apply tags or to force the producer to purchase tags before removing the cattle. However, it would be very helpful to the success of the program if bailiffs would inform the producer at the time of seizure about the requirement to tag the cattle and that there are penalties for failing to do so under this program. You may want to develop a policy within your office on how you want to handle these cases.

Please contact me if you need more information or you may contact the Canadian Cattle Identification Agency directly at:

#230, 6715 - 8th St. NE
Calgary AB T2E 7H7

Phone 1-877-909-2333 (toll free)
Fax 403-275-1668
email ccia@cattle.ca
web www.cattle.ca/ccia

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

DCW:daq

Sent by Fax

February 28, 2002

CIRCULAR #2/2002

TO: **All Civil Enforcement Agencies**

SUBJECT: **Canadian Cattle Identification Program**

This is a followup to the October 16, 2001 Circular #5/2001.

The Canadian Cattle Identification Agency (CCIA) has obtained a legal opinion from the Canadian Food Inspection Agency, and as a result they now say that civil enforcement agencies and bailiffs removing seized cattle are obligated to ensure and arrange the tagging of cattle before removing them.

There is an issue over whether a bailiff has authority to request tags for cattle he or she proposes to seize if the farmer-operator of the farm of origin of the cattle in question has not properly tagged the cattle or refuses to do so. We are looking at possible changes to the Civil Enforcement Regulation giving bailiffs the necessary authority to request tags as required under the Health of Animals Regulation. It is possible that the authority to request tags as contained in the governing security agreement. If you have reason to believe that this may be the case, you should have your legal counsel review the security agreement to confirm this.

I strongly urge you to share this with your agency staff and bailiffs.

Please contact me if you have any comments or need more information.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

DCW:daq

October 29, 2002

CIRCULAR #3/2002

TO: **All Civil Enforcement Agencies**

SUBJECT: **Using Brand inspectors When Seizing Livestock**

This is to remind you and your bailiffs about the importance of using an "expert" in cattle identification, a brand inspector, when seizing livestock.

The RCMP recently investigated an alleged offence under section 324 of the Criminal Code, Theft by Bailee of Things Under Seizure. It was a case where a bailee failed to produce seized cattle when requested by the bailiff. Their investigation revealed that when the bailiff seized the cattle a brand inspector was not used which proved fatal to the prosecution's case.

They indicate they must be able to prove the cattle were on the property at the time the bailee entered into the bailee's undertaking. They say that when a bailiff does not use the services of a brand inspector to properly identify the cattle at the time of seizure they are unable to prove this element of the case against the bailee.

When seizing livestock the agency and its bailiff(s) should follow the Sheriff's June 8, 2000 Circular #7/2000 by obtaining the services of a brand inspector to properly identify the livestock being seized. Not doing so has serious consequences as it makes the criminal prosecution of these cases impossible. As well, it could have negative consequences if proceeding with civil action under section 13(2)(k) of the Civil Enforcement Act.

Please ensure all your bailiffs are made aware of this circular.

If you have any questions or need more information, please contact me.

Thank you

Dwayne C. Weatherall
Sheriff - Civil Enforcement

Alberta Justice and Solicitor General

Office of the Sheriff – Civil Enforcement
2nd Floor, 108th Street Building
9942 – 108 Street
Edmonton, Alberta T5K 2J5
Canada
Telephone: (780)422-2481
Fax: (780) 422-3011
sheriff-civil.enforcement@gov.ab.ca

July 16, 2018

CIRCULAR #1/2018

TO: **All Civil Enforcement Agencies**

SUBJECT: **Surrendering Seized Goods**

It has come to my attention that some agencies are surrendering goods seized under the Civil Enforcement Act *(including; Writs, Landlord Distress, Other Distress)* and/or the Garage Keeper's Lien Act. These goods are being surrendered to creditors or creditor's agents using a Notice of Surrender form, an example of which is found on Page 7.24 of the Civil Enforcement Procedure Manual (CEPM)).

The action of surrendering seized goods to creditors or creditor's agents, are applicable to seizure actions conducted under the Personal Property Security Act only. Page 7.7 of the Civil Enforcement Procedure Manual notes the following:

> ***Notice of Surrender***
> *A PPSA seizure is different from all other seizures because pursuant to the provision of the Personal Property Security Act it allows the Bailiff to surrender possession or the right of possession of the seized property to the creditor or an agent designated by the creditor. Once the property has been surrendered there is no further liability for loss or damage to the property and this concludes the file.*

Section 47 of the Civil Enforcement Act, states that all goods seized under the Civil Enforcement Act and the Garage Keepers Lien Act, must remain under seizure until they are either sold by the agency or the property is released from seizure:

> **Civil Enforcement Act**
> *Part 5 - Seizure of Personal Property*
> *Section 47 Termination of Seizure*
> *(1) Once personal property is seized, that property remains under seizure until the agency*
> *a) sells or otherwise disposes of the property under this Act, or*
> *b) releases the property from seizure.*

Garage Keeper's Lien Act

Section 9 - Seizure of a Motor Vehicle

(1) On a seizure of a motor vehicle or farm vehicle pursuant to this Act, Part 5 of the Civil Enforcement Act, except where expressly otherwise provided in this Act, governs and applies to the seizure, and the lienholder shall, subject to the subsection (2), enforce the lien holder's rights and remedies under this Act in accordance with that Act.

All Agencies and Bailiffs must immediately cease the action of surrendering goods seized under the Civil Enforcement or Garage Keepers Lien Acts. Agencies must adhere to the requirements in Section 47 of the Civil Enforcement Act and Part 12 of the Civil Enforcement Manual – Release of Seizure.

Please ensure that a copy of this circular is shared with all Agency Bailiffs and Staff, and that it forms a part of future staff and Bailiff trainings.

Regards,



Patricia Wilson
Sheriff-Civil Enforcement

Alberta Public Safety and Emergency Services

Sheriff – Civil Enforcement
9th Floor, J.E. Brownlee Building
10365 – 97 Street
Edmonton, Alberta
Canada T5J 3W7
Telephone: (780)422-2481
Fax: (587) 759-5355
Email: sheriff-civil.enforcement@gov.ab.ca

March 22, 2023

Circular #1/2023

To: Civil Enforcement Agencies
Civil Enforcement Bailiffs

Subject: Seizure of Firearms

This circular is to repeal and replace Circular #1/2004 Seizure of Firearms

As you are aware, the federal *Firearms Act* and regulations set out the licensing requirements for individuals and businesses that possess and handle firearms. The firearms legislation requires anyone in possession of a firearm (individual or business) to hold a firearms license issued by their Chief Firearms Officer.

Civil Enforcement Bailiffs enjoy the protections afforded to peace officers under the *Criminal Code* (Canada) when carrying out their duties. As such, they do not need to hold a firearms licence for the purposes of their employment. (If a Bailiff owns their own person firearm, they must hold a firearms licence in that context.) While a Civil Enforcement Bailiff enjoys the protections afforded to peace officers under the *Criminal Code* (Canada) when carrying out their duties, Civil Enforcement Bailiffs are not appointed as peace officers under the *Peace Officer Act* (Alberta).

Therefore, as Sheriff, I require that any Civil Enforcement Bailiff who seizes, or handles firearms must have previously completed one of the following required safety training courses:

- Canadian Firearms Safety course
- Canadian Restricted Firearms Safety course

For information on finding a certified firearms safety training instructor please visit:
https://www.alberta.ca/firearms-safety-training-and-instructors.aspx

After a Civil Enforcement Bailiff seizes a firearm, they must either personally transport

it, or hire a moving company that holds a firearms business license to transport the firearm. This also means that any storage facility or auction house to which the firearm is transported, must also hold a valid firearms business license.

For information respecting which auction houses and storage facilities have firearm business licenses, please contact the Chief Firearms Officer for Alberta, at the Alberta Chief Firearms Office. For more information on the Alberta Chief Firearms Office, please visit https://www.alberta.ca/albertas-chief-firearms-office.aspx.

If a Civil Enforcement Agency takes possession of firearms after seizure by a Bailiff (i.e.: for storage) then the Civil Enforcement Agency must hold a firearms business license. Civil Enforcement Agencies that wish to apply for their own firearms business license must contact the Chief Firearms Officer for Alberta, at the Alberta Chief Firearms Office. For more information on the Alberta Chief Firearms Office, please visit https://www.alberta.ca/albertas-chief-firearms-office.aspx.

Prohibited Weapons and Prohibited Devices: If a Civil Enforcement Bailiff sees a prohibited weapon or prohibited device during a seizure, or seizes such an item, it is imperative that he contact his local police department immediately. While businesses can be licensed to possess such items, generally individuals cannot legally possess them. Information as to what constitutes a prohibited weapon (brass knuckles, push-dagger knife) or prohibited device (over capacity magazines) is available from the Canada Firearms Centre. Their website is https://www.rcmp-grc.gc.ca/en/firearms.

Sincerely,



Patricia Wilson
Sheriff-Civil Enforcement

Glossary

A

Affidavit of Service	A sworn statement outlining that a particular document has been given(served) to an individual or corporation in the manner set out in this sworn document.
Assignment of Book Debts	A transfer to an assignee of monies owing to the assignor.
Attachment Order	An order granted by the Court as a form of prejudgment relief.

B

Bailee	A person who has undertaken to hold property seized by the Civil Enforcement Bailiff on behalf of a Civil Enforcement Agency until it is required by the Civil Enforcement Agency.
Bailee's Undertaking	An agreement signed by the bailee agreeing to keep the personal property seized by the Civil Enforcement Bailiff and surrender it when required.

C

Civil Enforcement Bailiff	An officer appointed under the Civil Enforcement Act and empowered to conduct specific enforcement activities such as seizures and evictions.
Custodia Legis	A Latin term meaning "in the custody of the law". It is used in reference to personal property that has been the subject of a previous seizure.

D

Debtor	One who owes money to another.
Distress	The right that a person has to enforce the payment of certain claims against another person that do not form part of a judgment issued by a court.

E

Encumbrance	A claim of a right or interest that a person has in property owned by another that may affect the ability of the owner to freely deal with the property e.g. security agreement, lien, etc.
Enforcement Creditor	A person in whose favour a writ is in force.
Enforcement Debtor	A person against whom a writ is in force.
Equitable Interest	A right or claim to property that is less than a legal interest, e.g. an unregistered agreement for the sale of land.
Examination	Interrogation on oath.
Exigible	The portion of personal property in which the debtor has equity, that is liable to seizure.

G

Garnishee	A person who is required by a Garnishee Summons to pay to the creditor money that would otherwise be payable to the debtor.

I

Indemnity	A contract or assurance, by which one person agrees to secure another against an anticipated loss .
Instructing Creditor	Enforcement creditor on whose instruction the Agency commences seizure activity.
Instructing Party	In this manual, the term refers to an instructing creditor, his agent or his solicitor who provides written instructions to the Agency.

J

Judgment	The final decision of the court resolving the dispute and determining the rights and obligations of the parties.

L

Lien	The right to hold the property of another as security for performance of an obligation.

P

Perfected Security Interest A security interest registered in the Personal Property Registry. A security interest may be perfected

(a) by registration in the Personal Property Registry, or

(b) by taking possession of the property that is subject to the security interest other than under enforcement proceedings.

Personal Property Property other than land.

R

Removal and Sale The taking of possession of seized personal property from the debtor and sale of the seized personal property pursuant to the terms of the Civil Enforcement Act.

Replevin Recovery of personal property from one who has wrongfully or fraudulently taken or withheld it.

Reserve Bid Bid placed by an absentee bidder for a certain amount on an item being auctioned. The item cannot be sold for less but can be sold to another bidder for more.

S

Sale By Tender	Sale by sealed bids of seized personal property.
Seizure	The act of taking possession of personal property.
Statement of Claim	The pleading by which a plaintiff commences an action against a defendant.
Stay of Proceedings	The suspending of proceedings by the court.
Style of Cause	The name of the plaintiff and the defendant (creditor/debtor) as it appears on a document.
Substitutional Service	Service that is authorized by the Court, other than personal service or service as was otherwise prescribed by a statute or other legislative enactment, e.g. the Court may allow service upon a defendant by serving his wife.
Surrender	To turn over personal property seized from a debtor to a creditor.

W

Warrant	A legal document authorizing those to whom it is addressed to do an act in the administration of justice, for example, seize personal property.
Writ of Enforcement	A document issued by the Court authorizing civil enforcement proceedings.
Writ Proceedings	Any action, step or measure authorized by the Civil Enforcement Act to be taken for the purpose of enforcing a money judgment.

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