



Province of Alberta

## **CIVIL ENFORCEMENT ACT**

Revised Statutes of Alberta 2000  
Chapter C-15

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### Office Consolidation

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Alberta Queen's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.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

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Civil Enforcement Act</b>		
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

# **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 writings 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 Queen’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 bank, treasury branch, trust corporation, loan corporation, credit union or other deposit-taking 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;
- (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;
- (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) “perfected” means, in respect of a security interest, perfected in accordance with the *Personal Property Security Act*;
- (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

## 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 Provincial Court finds that the person has suffered loss or damage, to a judgment for the damages suffered or \$200, whichever is greater.

1994 cC-10.5 s4;1995 c23 s6(3)

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

- (i) buyer of goods;
- (ii) consumer goods;
- (iii) equipment;
- (iv) inventory;
- (v) money;
- (vi) new value;
- (vii) ordinary course of business of the seller;
- (viii) purchase;
- (ix) purchase-money security interest;
- (x) purchaser;
- (xi) security interest;
- (xii) seller;
- (xiii) value.

1994 cC-10.5 s31

**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 attached before or after the personal property became bound by registration of the writ in the Personal Property Registry.

- (2) Subject to section 35(5) and (6) of the *Personal Property Security Act*, a security interest in personal property has priority

over a writ that binds the property if at the time the writ is registered in the Personal Property Registry

- (a) the security interest is perfected or registered in the Personal Property Registry, or
- (b) 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 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 registered or perfected not later than 15 days from the day that

- (a) the debtor, or another person at the request of the debtor, obtained possession of the collateral, or
- (b) the security interest attached, in the case of personal property other than goods, chattel paper, a security certificate, a document of title, an instrument or money.

**(4)** Where

- (a) the registration of a writ
  - (i) lapses as a result of a failure to renew the registration of the writ, or
  - (ii) has been discharged in error or without authorization,and
- (b) the writ is re-registered not later than 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.

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

#### **Disposition of goods**

**36(1)** A buyer or lessee of goods sold or leased in the ordinary course of business of the seller or lessor takes free of any writ that binds the goods.

- (2) A buyer or lessee of goods, other than fixtures, that are acquired as consumer goods takes free from a writ that binds the goods
- (a) if the buyer or lessee gave value for the interest acquired,
  - (b) if the buyer or lessee bought or leased the goods without knowledge that the goods are bound by the writ, and
  - (c) if the purchase price of the goods does not exceed \$1000 or, in the case of a lease, the market value of which does not exceed \$1000.
- (3) Where serial number goods that are bound by a writ are not described by serial number in the registration of that writ in the Personal Property Registry,
- (a) in the case of consumer goods, a buyer, lessee or secured party who gives value for an interest in the goods acquires the interest free of the writ, and
  - (b) in the case of equipment, a buyer, lessee or secured party who gives value for an interest in the goods without knowledge of the writ acquires the interest free of the writ.
- (4) A sale or lease under this section may be for cash, by exchange for other property or 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.

1994 cC-10.5 s36

**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

### **Negotiable instruments**

**38(1)** A holder of money has priority over a writ that binds the money if that holder

- (a) acquired the money without knowledge of the writ, or
- (b) is a holder for value, whether or not the holder has knowledge of the writ.

(2) A purchaser of an instrument or security certificate has priority over a writ that binds the instrument or security certificate if that purchaser

- (a) gave value,
- (b) acquired it without knowledge of the writ, and
- (c) took possession of it.

(3) Repealed 2006 cS-4.5 s107.

(4) A holder of a negotiable document of title has priority over a writ that binds the document of title if that holder

- (a) gave value, and
- (b) acquired the document of title without knowledge of the writ.

(5) A purchaser of chattel paper has priority over a writ that binds the chattel paper if that purchaser

- (a) gave new value,
- (b) took possession of the chattel paper in the ordinary course of the purchaser's business, and

- (c) at the time of taking possession did not have knowledge of the writ.

RSA 2000 cC-15 s38;2006 cS-4.5 s107

#### **Protected purchaser of security**

**39** A person 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

#### **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;
- (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.

1994 cC-10.5 s77

**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 distraint, 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;
- (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

**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









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