

Three questions that come up time and time again on Civil Enforcement files are “**Can I keep the goods I seized in lieu of my debt?**” “**Can I sell the seized goods myself?**” “**Where do I go to find out what seized goods are for sale?**”

In most cases the answer to the first two questions is, No! The only time a creditor can take goods in lieu of the debt is when the seizure was conducted under the Personal Property Act of Alberta and then only if the original security agreement contained a “Retention of Collateral” clause, something that we see very few of in today’s security agreements.

The only time a creditor can sell seized goods in their possession is again when the seizure was conducted under the Personal Property Act of Alberta and the goods were “surrendered” to the instructing party. It is very important to remember when goods have been surrendered the creditor must ensure that he adheres to all requirements under the Personal Property Security Act before he proceeds to sell the seized goods. Once a surrender has been completed, the seizing agency carries no further liability with respect to the seized goods.

In the case of any seizure outside of the Personal Property Security Act (PPSA), or a PPSA seizure where the goods were not surrendered, the only party who has the authority to sell the seized goods and to transfer ownership of the same is the civil enforcement agency who is in control of the seizure.

The *Civil Enforcement Act* appoints the agency in control of the seizure as the “*Selling and Distributing Authority*”. In fact the agency is not only required to sell the seized goods they are required to ensure that they are commercially reasonable in the manner for which they sell the goods and that they are obtaining fair market value for the goods.

Most common methods of selling seized goods in the Province of Alberta:

1. Public Auction - The goods are deemed to be sold for fair market value, the public has set the selling price at the time of the auction
2. Private Sale to Creditor - This is an option that we will often recommend to landlords and garage keepers. In the case of landlords if this is a business that can be re-leased to new tenants as a turnkey operation it may be in the best interest for the landlord to purchase the goods for fair market/appraised value.

In the case of Garage Keepers, the garage keeper might be better off to purchase the vehicle (for fair market value/appraised value) complete any outstanding or complete additional modifications to the vehicle to increase the market value of the vehicle, upon completion the Garage Keeper can then resell the vehicle for its new value.

3. Private Sale to Third Party – If the costs of removing the goods exceed the value expected from the sale of the goods, or if the goods are of a unique or specialized manner, the goods can be sold to a third party for fair market value.

Can the creditor accept/manage the sales proceeds?

As the controlling civil enforcement agency carries the liability for the sale of the seized goods, all sales proceeds must be accepted and managed by the selling authority (the seizing agency) and all sales proceeds must be distributed as per the Civil Enforcement Act of Alberta by the agency. Even if the creditor wishes to purchase the goods – the creditor must pay the sales proceeds to the seizing agency who will then distribute them as per the act.

How and where are civil enforcement sales advertised?

Most agencies leave the advertising of their goods for sale up to the auction/agent conducting the actual sale. Consolidated is unique in how they advertise the seized goods for sale

1. We advertise our seized goods for sale on the **"Sales"** portion of our website. www.ccebailiff.ca/sales. On this website we post all of the seized goods currently up for sale in both Alberta and British Columbia. Real Estate, Vehicles, Boats and Marine, Equipment and Miscellaneous. This website details where and when the sale will be held, asking price if applicable, and how and where to bid on these items – including internet bidding if applicable.
2. When we are selling industry specific items, we send out fax/email notifications to other companies within that industry making them aware that we have these goods available for sale and inviting them to visit our website for more information.
3. We have a future sales page within our website, which is where we list items that are expected to come up for sale in the near future, which allows interested parties to contact us for further information on these goods. Even before they have been removed for sale, possibly allowing us to receive offers before our client/creditor has had to incur removal costs.
4. When conducting the sale of Real Estate, we use licensed Realtors throughout the province who have been specifically trained in the sale of property under the Civil Enforcement Act.
5. As with all agencies, our auctions are also required to advertise in local papers the items we have for sale in their upcoming auctions.

Can anyone bid/buy seized goods?

Any interested parties can bid/buy seized goods, the only exception to this rule is the instructing creditor cannot purchase seized goods, unless the debtor has been made aware by way of a *"Private Sale to Creditor Sales Notice"*, and the debtor has not objected to this method of sale. If a debtor does not object to the creditor buying the goods, the goods can be sold to the creditor for fair market value.

When goods are sold by auction or by private sale to a third party, any interested party can attend the auction to bid on the goods, or can submit an offer to purchase the seized goods.

If you have never attended an auction, you should consider attending at least once to see how this method of sale works. I can assure you that you will find it an interesting and fast paced experience. If you are not sure that you want to take a chance at the auction, visit our website and you may be surprised to find something for sale that you didn't know you were looking for.

If you would like some more information on selling or buying seized goods, or if I can assist you with any other civil enforcement questions/needs, please do not hesitate to drop me an email at patriciaw@ccebailiff.ca or contact me by phone at (403) 668-8804 or (780) 448-5833 ext. 8804.

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