

1994 BILL 49

Second Session, 23rd Legislature, 43 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 49

CIVIL ENFORCEMENT ACT

MR. DUNFORD

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 49

1994

CIVIL ENFORCEMENT ACT

(Assented to , 1994)

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

Definitions,
interpretation
and
application

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) “clearing agency” means an entity that provides
 - (i) centralized facilities for the clearing of trades in securities, or
 - (ii) centralized facilities as a depository in connection with the clearing of trades in securities,and includes a nominee of that entity;
- (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) “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;
- (m) “distribute” means pay out in accordance with Part 11;
 - (n) “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;
 - (o) “enforcement creditor” means a person in whose favour a writ is in force;
 - (p) “enforcement debt” means an amount outstanding on a money judgment in respect of which a writ is in force;
 - (q) “enforcement debtor” means a person against whom a writ is in force;
 - (r) “eviction” means anything done to enforce the right to take physical possession of premises or land;
 - (s) “exempt” means not subject to writ proceedings or, in the case of distress proceedings, not subject to distress proceedings;
 - (t) “exigible” means subject to writ proceedings;
 - (u) “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;

- (v) “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;
- (w) “instructing creditor” means the enforcement creditor on whose instructions certain writ proceedings are taken or continued;
- (x) “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;
- (y) “judgment” includes any order, decree, duty or right that may be enforced as or in the same manner as a judgment of the Court;
- (z) “judgment creditor” means a person who has a money judgment;
- (aa) “land” includes any interest in land, but does not include growing crops;
- (bb) “market security” means
 - (i) a share, unit or other ownership interest in a corporation, partnership, association, organization, trust or fund,

- (ii) an obligation of any person or entity, including a corporation, partnership, association, organization, government, trust or fund, or
 - (iii) a right to acquire or to sell an interest or obligation referred to in subclause (i) or (ii)
- that is one or part of a class or series
- (iv) listed and posted for trading on a securities exchange, or
 - (v) for which values or prices routinely appear in published securities market reports or in quotation services used by securities dealers;
- (cc) “Minister” means the member of the Executive Council who is charged with the administration of this Act;
- (dd) “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;
- (ee) “money judgment” means a judgment requiring a person to pay money or that part of a judgment that requires a person to pay money;
- (ff) “obligation” means a legal or equitable duty to pay money;
- (gg) “perfected” means, in respect of a security interest, perfected in accordance with the *Personal Property Security Act*;
- (hh) “person”, when used to refer to a creditor, includes the Crown except where the context otherwise requires;
- (ii) “personal property” means property other than land;
- (jj) “Personal Property Registry” means the Personal Property Registry established under the *Personal Property Security Act*;

(kk) “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;

(ll) “related writ” means

- (i) in respect of a particular enforcement debtor, a writ that would be disclosed if a 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 search was conducted of the Personal Property Registry using the name of that defendant as shown on the attachment order;

(mm) “secured obligation” means an obligation secured by an interest in property;

(nn) “security certificate” means, except in Part 6, a writing that is

- (i) in bearer, order or registered form,
- (ii) of a kind commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment,
- (iii) one of a class or series or by its terms divisible into a class or series, and
- (iv) evidence of a share, participation or other interest in or obligation of the issuer of the writing,

but does not include 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;

- (oo) “seizure documents” means the documents prescribed by regulation for the purposes of instructing an agency to carry out a seizure of personal property;
 - (pp) “serial number goods” means serial number goods as defined in the regulations made under the *Personal Property Security Act*;
 - (qq) “sheriff” means a person designated as a sheriff by the Minister;
 - (rr) “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;
 - (ss) “writ” means a writ of enforcement;
 - (tt) “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 the 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.

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 anywhere in Alberta and any civil enforcement proceedings in respect of that writ may be carried out without regard to judicial districts or other geographical divisions within 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.

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.

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

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.

(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.

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.

Discontinuance of proceedings

7(1) Before any seizure is released or any garnishment is discontinued, a notice of the release or the discontinuance must, at least 15 days before the date on which the seizure is to be released or the garnishment is to be discontinued, be served on all the enforcement creditors having related writs at the time that the notice was given.

(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 15 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.

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.

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 purposes 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 under the *Personal Property Security Act*, and
 - (b) subsection (1)(a), in the case of 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) With respect to serial number goods referred to in section 54,
- (a) a person other than an agency may, notwithstanding this section, effect a seizure of those goods under section 54(b), but
 - (b) the removal of the seized goods, the sale of those goods and the distribution of the proceeds of the sale must be carried out by an agency.
- (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 shall be construed to restrict the powers of a receiver appointed under Part 9.

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).

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.

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 of 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.

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, subject to clauses (b) and (c), the right

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

(A) the seizure and the removal, as the case may be, of property of the debtor, or

(B) the eviction of a debtor,

and

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

(b) a bailiff may use reasonable force for the purposes of gaining access to a location or premises of a debtor, other than a residence;

(c) in the case of a residence of a debtor or any location or premises, including a residence, of a person other than a debtor, a bailiff shall not,

(i) where entry to the residence, location or premises is refused, enter the residence, location or premises, or

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

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

(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 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 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.

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 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 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.

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” or “sheriff” 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,
- (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.

(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), that 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 a fine and imprisonment.

PART 3

PREJUDGMENT RELIEF

Definitions

16 In this Part,

- (a) “claim” means a claim that will 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.

**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 the property up 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.

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 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.

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.

- 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,
- (d) by agreement between all interested persons, or
 - (e) by the Court, having regard to all the circumstances, including the apparent value of the defendant's interest in the attached property.
- 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).
- 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.
- 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.

Commence-
ment, 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 leave 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.

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.

PART 4
JUDGMENTS AND WRITS

Division 1
Registration

- | | |
|--|--|
| Registration required | <p>26 A judgment creditor may not initiate any writ proceedings in respect of a money judgment</p> <ul style="list-style-type: none"> (a) against any personal property unless a writ 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 <ul style="list-style-type: none"> (i) in the Personal Property Registry, and (ii) under the <i>Land Titles Act</i> against the certificate of title to that land. |
| When writ is in force | <p>27(1) A writ is in force only while the judgment in respect of which the writ is issued is in force.</p> <p>(2) For the purposes of subsection (1), a judgment is not in force</p> <ul style="list-style-type: none"> (a) if it has been satisfied, or (b) on the expiration of 10 years from the day that the judgment is entered with the clerk unless the judgment is renewed or an action is brought on that judgment within the 10-year period. |
| Duration of registration in Personal Property Registry | <p>28 The registration of a writ in the Personal Property Registry</p> <ul style="list-style-type: none"> (a) is in effect for 2 years from the day that it is registered or such longer period as prescribed by the regulations, and |

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

Duration of registration under the Land Titles Act
Error or omission re writ

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

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.

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 as 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.

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.

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.

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.

Priority
between writs
and security
interests

35(1) Except as otherwise provided for in this Division, a security interest in personal property that is not registered or perfected at the time that the property becomes bound by a writ is subordinate to the writ.

(2) Subject to section 35(5) of the *Personal Property Security Act*, a security interest in personal property has priority over a writ if the security interest was registered or perfected before the property became bound by the writ.

(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.

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 if the buyer or lessee

- (a) gave value for the interest acquired,
- (b) bought or leased the goods without knowledge that the goods are bound by the writ, and
- (c) 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.

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(5) 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*.

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) A clearing agency that takes possession of a security certificate without knowledge of a writ that binds the security certificate has priority over the writ.

(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.

Market
securities

39 A person who acquires a market security in a transaction that is settled through a clearing agency has priority over a writ that binds the market security if that person did not have knowledge of the writ at the time of settlement.

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.

Effect of seizure **41** Subject to section 35(5) 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.

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 shall be construed so as to create any priority as between writs.

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) Any exigible personal property of an enforcement debtor that is to be seized pursuant to writ proceedings shall be seized and dealt with in accordance with this Part.

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 where a security, as defined in section 56, is held on behalf of an enforcement debtor by a clearing agency or an intermediary, as defined in section 56.

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) 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.

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).

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 90 days, the agency may give 30 days' notice to every enforcement creditor who, at the time that the notice is given, has a related writ against the enforcement debtor of the agency's intention to release the property from seizure.

(3) Unless within the 30-day period referred to in subsection (2) the agency has been directed by an enforcement creditor to continue the seizure, the agency may release from seizure the property in respect of which the notice was given.

Sale of property, etc.

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

- (a) subject to clause (h), 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) subject to section 34(2), when property is sold,
 - (i) the person who buys the property obtains only the interest of the enforcement debtor in the property, and
 - (ii) the sale of the property does not adversely affect the rights or interest of any other person in the property.

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.

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 thereon;
 - (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.

Secured obligations **51** For the purposes of seizing and dealing with a secured obligation, other than a market 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.

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.

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.

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.

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.

Division 2 Securities

Definitions **56(1)** In this Division,

(a) “holder” means, in relation to a security, a person

(i) who or whose nominee is the registered holder of the security,

(ii) who has possession of a security certificate evidencing the security, or

(iii) for whom a clearing agency holds the security;

(b) “intermediary” means a holder who holds the relevant security on behalf of an enforcement debtor but does not include a clearing agency unless the clearing agency’s own records shows that the clearing agency holds the relevant security for the enforcement debtor;

(c) “issuer” means the issuer of securities that are the subject of seizure proceedings;

(d) “registered holder” means a person shown as the owner or holder of a security in the records of the security’s issuer or the records of the issuer’s transfer agent;

- (e) “security” means any share or market security;
- (f) “security certificate” means a document evidencing a security;
- (g) “share” means a share in a corporation.

(2) For the purposes of this Part and regulations, “transfer agent” means an entity appointed by an issuer as its agent for the purposes of

- (a) maintaining a securities register,
- (b) recording the transfer of securities,
- (c) distributing dividends or other payments in respect of its securities, or
- (d) providing services that are ancillary to matters referred to in clauses (a) to (c).

Effecting
seizure

57(1) An agency may seize a security,

- (a) if the security is evidenced by a security certificate, by seizing the security certificate in accordance with Part 5,
- (b) if the enforcement debtor is the registered holder of the security, by serving the issuer with a notice of seizure in the prescribed form,
- (c) if the security is held by an intermediary, by serving the intermediary with a notice of seizure in the prescribed form, or
- (d) where it is possible to effect seizure of the security by any one or more of the methods referred to in clauses (a) to (c), by whichever method the agency considers most appropriate in the circumstances.

(2) Notwithstanding subsection (1), a seizure may be effected in accordance with subsection (1)(b) or (c) only if the notice of seizure is served in Alberta on the issuer or intermediary.

Duties of
issuer

58(1) Where the enforcement debtor is the registered holder of a security that an agency has seized otherwise than in accordance with section 57(1)(b), the agency must serve the notice of seizure on the issuer as soon after effecting the seizure as is practicable.

(2) An issuer who 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 issuer to the enforcement debtor;
- (c) comply with any instruction given by the agency regarding the seized security where the issuer would be required to comply with the instruction if that instruction was given by the enforcement debtor while the security was not under seizure.

(3) Except as it applies to the enforcement debtor, nothing in subsection (2) shall be construed so as to adversely affect any right of a holder of a security certificate under a law in force in Alberta or the laws under which the issuer of the security certificate is incorporated or otherwise constituted.

Duties of
intermediary

59(1) Where an agency has seized a security by serving a notice of seizure on an intermediary, the following applies:

- (a) the intermediary shall hold the security on behalf of and in accordance with the instructions of the agency;
- (b) the agency is entitled to receive any information or documents relating to the security that the intermediary is required to give to the enforcement debtor;
- (c) the intermediary shall pay to the agency any dividend or other payment in respect of the security that would otherwise be payable by the intermediary to the enforcement debtor;
- (d) the agency is entitled to give any instruction to the intermediary regarding the seized security that the enforcement debtor would otherwise be entitled to give;
- (e) if so instructed by the agency, and if it is possible to do so, the intermediary shall cause the security to be registered in the name of the agency or deliver a security certificate evidencing the security to the agency, or both;

(f) if so instructed by the agency, the intermediary shall liquidate the security and pay to the agency any proceeds to which the enforcement debtor would otherwise be entitled.

(2) Notwithstanding subsection (1), seizure of a security held by an intermediary does not prejudice any right that the intermediary would otherwise have to enforce a security interest or lien

(a) for the amount owed by the enforcement debtor to the intermediary at the time of seizure, or

(b) to the extent otherwise provided by the regulations.

(3) If a notice of seizure is served on an intermediary after the intermediary has agreed on behalf of the debtor to sell a security to which the notice of seizure applies, the intermediary may complete the sale and deal with the proceeds in accordance with subsection (1)(f).

Liability of issuer or intermediary

60 An issuer or 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.

Liquidation of security

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

(2) Subject to section 65, no restriction on the transfer of a security, other than a constraint under section 168 of the *Business Corporations Act*, applies to the transfer of a security by an agency under this Act.

Liquidation procedure re non-market securities

62 The following applies only in respect of shares that are not market securities:

(a) where an issuer has been served with a notice of seizure in respect of certain shares, the issuer must so inform any person who requests information from the issuer 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 issuer,

(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 issuer, 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 issuer and the existing shareholders of the issuer 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 agency's fees or charges 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 issuer 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).

Execution of
transfer
documents

63 The issuer of a security is not required to acknowledge any document executed or endorsed by an agency or a receiver unless the document is accompanied by the certificate of the agency or receiver stating that the document has been executed or endorsed by the agency or receiver under the authority of this Act.

Missing
security
certificate

64 Where

- (a) liquidation of the enforcement debtor's interest in the security would ordinarily require presentation of a security certificate to the issuer or a transfer agent of the issuer,
- (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 issuer against any liability the issuer may incur in respect of the security certificate,

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

Effect of
transfer

65(1) On presentation of a transfer document endorsed or executed by the agency or receiver that is in compliance with section 63, the issuer shall register the transfer of a registered security to the person named as transferee in the transfer document.

(2) In addition to any agreement to which the transferee is deemed by section 140 of the *Business Corporations Act* to be a party, the transferee is deemed to be a party to any shareholders' agreement regarding

(a) the management of the affairs of the issuer, 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.

(3) Notwithstanding subsection (2) of this section and section 140 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, by-law or article that discriminates against the transferee by reason of the transferee acquiring the securities through writ proceedings.

Foreign
issuers

66 Where

(a) a security of an issuer that is not incorporated or otherwise constituted under the laws of Alberta is seized under this Act, and

(b) the Court is satisfied that the issuer or some other person is likely to suffer actual prejudice as a result of a conflict between anything in this Division and the laws under which the issuer is incorporated or otherwise constituted,

the Court shall make any order it considers necessary to prevent the issuer or person from being so prejudiced.

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.
- 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.
- Method of sale **69** An agency may sell land by any method of sale that is commercially reasonable.
- Notice of intention to sell **70** Before land is sold under this Act, a notice of intention to sell the land must be given in accordance with the regulations.
- 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.
- 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 of 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.

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) shall be 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 leave of the Court, subsequently claim that the land is in whole or 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.

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.

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

- (c) free of all writs that were registered against the enforcement debtor's interest in the land, but
- (d) 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 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.

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.

PART 8

GARNISHMENT

Definitions and 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.

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 by the clerk is not subject to garnishment.

When
garnishee
summons is in
effect

79(1) Subject to subsection (2), a garnishee summons expires one year from the day on which it was issued.

(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.

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.

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 employment 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 alimony or maintenance must be determined in accordance with the *Maintenance Enforcement Act*;

(k) an interruption of less than 30 days in an enforcement debtor's employment shall not 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.

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.

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,

shall be disregarded for the purposes of this Part.

(2) Notwithstanding section 79, a garnishee summons that attaches a joint 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.

(4) The Court may on application make any order necessary to prevent a garnishee from being prejudiced by the operation of this section.

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.

PART 9

RECEIVERS AND SPECIAL REMEDIES

Court
appointed
remedies

85 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 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.

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.

Receivers

87 With respect to receivers, the following applies:

- (a) a person may not be appointed as a receiver unless that person
 - (i) 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.

PART 10

EXEMPTIONS

Exempted
property

88 The following property of an enforcement debtor 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 that are of a value not exceeding an amount prescribed by the regulations;
- (c) household furnishings and appliances that are of a value not exceeding an amount prescribed by the regulations;
- (d) one motor vehicle that is of a value not exceeding an amount 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 a enforcement debtor
 - (i) who is a bona fide farmer, and

(ii) whose principal source of livelihood is farming,

160 acres if the enforcement debtor's principal residence is located on that 160 acres and that 160 acres is part of that enforcement debtor's farm;

- (g) the principal residence of an enforcement debtor, including a residence that is a mobile home, where the enforcement debtor's equity in that residence does not exceed an amount 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 income is not earned from farming operations, personal property not exceeding in value an amount 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 income is earned from farming operations, 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.

Property
exceeding
exempted
values

89(1) Where the enforcement debtor's equity in the property referred to in section 88 exceeds the prescribed value of the exemption for the property, that property is subject to sale pursuant to writ proceedings.

(2) If property to which subsection (1) applies is sold pursuant to writ proceedings, the following applies:

- (a) an agency shall, before distributing any of the proceeds of the sale under Part 11,
 - (i) pay to the enforcement debtor an amount that is equal to the prescribed value of the exemption, or
 - (ii) where the property was subject to a subordinate security interest or encumbrance, pay to the secured creditor the lesser of
 - (A) the prescribed value of the exemption, and

(B) the amount owed by the enforcement debtor to the secured creditor;

(b) clause (a) does not apply where the enforcement debtor has other property of the same description that is exempted under section 88;

(c) except where money paid to an enforcement debtor under clause (a) or section 98(a) is intermingled with other funds of the enforcement debtor, that money and any deposit accounts into which that money is paid is exempt for a period of 60 days from the day that the money is paid to the enforcement debtor.

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.

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.

Estate

92(1) Where an enforcement debtor is deceased, the property of that enforcement debtor that would be exempt if the enforcement debtor were alive remains exempt from writ proceedings against the enforcement debtor's estate for the period of time that the property is required for the maintenance and support of the deceased enforcement debtor's dependants.

(2) For the purposes of section 90, if an enforcement debtor has died, the representative of the enforcement debtor's estate may make a selection of the property to be exempt.

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 writ proceedings on a judgment for the payment of maintenance or alimony;
- (c) to property that the enforcement debtor has abandoned;
- (d) 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).

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.

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.

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,

shall 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 by a person other than a distributing authority, that person must pay to an agency any portion of the proceeds that exceeds the amount necessary to discharge the security interest or encumbrance.

(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.

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 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 89(2) or 98 does not constitute or form part of a distributable fund.

Money derived from exempted property

98 Where a distributing authority receives money that is exempt or that represents the proceeds of exempt property, that money constitutes a distributable fund subject to the following payments being made from that money:

- (a) if an enforcement creditor against whom the exemption does not apply has a related writ, the distributing authority
 - (i) shall pay to that enforcement creditor the lesser of
 - (A) the amount outstanding on the writ, and
 - (B) the maximum prescribed value of the exemption,
 and
 - (ii) shall, insofar as the remaining balance permits, pay to the enforcement debtor the amount, if any, by which the maximum prescribed value of the exemption exceeds the amount of the payment made under subclause (i);
- (b) if there is not an enforcement creditor who qualifies to be paid under clause (a), the distributing authority shall, insofar as the amount of that money held by the distributing authority permits, pay to the enforcement debtor an amount that is equal to the maximum prescribed value of the exemption.

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 claims exceeds the amount of a distributable fund, the distributing authority must apply the distributable fund towards the claims in the following order of priority:

- (a) first, if the fund is comprised of the proceeds of sale of a crop, to any charge for harvesting or marketing expenses to which an agency or enforcement creditor is entitled under section 52(f);
- (b) second, to other fees and expenses of a distributing authority earned or incurred in connection with the enforcement measures that have produced the fund;
- (c) third, to other costs 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) fourth, to claims referred to in section 103(1);
- (e) fifth, to claims that by virtue of any other enactment or law in force in Alberta are entitled to priority over the claims of enforcement creditors generally;
- (f) sixth, 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) seventh, to all other eligible claims, including any unpaid balance of the instructing creditor's claim, on a pro rata 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.

Distributable fund exceeds claims, etc.

100 Where the amount of the distributable fund from which claims are to be paid is equal to or greater than the amount of the claims against the distributable fund, the distributing authority must, from the distributable fund,

- (a) first, pay the claims, and
- (b) second, on paying the 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.

Claims exceed a distributable fund

101(1) Where the amount of the distributable fund is less than the total amount of all 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,

a notice of motion, returnable not more than 30 days from the day that the notice of motion is filed, for an order determining the matter in respect of which the objection was made;

- (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.

(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 immediately distribute the fund in accordance with section 99(3).

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.

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 pro rata 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)(c) 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 solicitor and client costs, of proceedings referred to in subsection (1) are not paid by an adverse party, those costs shall be paid out of a distributable fund that results from or is preserved by the proceedings.

PART 12

DISTRESS

Distress by
landlord

104 In carrying out a distress by a landlord for rent the following applies:

- (a) sections 45 to 48 apply to the distress as if it were a seizure made pursuant to writ proceedings;
- (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) property set out in section 88(a), (b), (c), (e), (h) and (i) is exempt unless the tenant has absconded or is about to abscond from Alberta without leaving
 - (i) any spouse in Alberta, or
 - (ii) any children under the age of majority in Alberta.

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).

(2) Sections 45 to 48 apply to a distress under subsection (1) as if it were a seizure made pursuant to writ proceedings.

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) 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 68 to 76;
 - (iv) providing other provisions to operate in place of sections 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*;
- (p) 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 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;
- (q) for the purposes of section 59(2), governing the extent to which an intermediary may enforce a security interest or lien;
- (r) subject to section 28, prescribing the period of time during which the registration of the writ in the Personal Property Registry remains in effect;
- (s) governing the circumstances under which section 54(b) may be used for the seizure of serial number goods;
- (t) 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.

Rules of Court **107(1)** The Lieutenant Governor in Council may by regulation make rules

- (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) subject to any provision of this Act respecting applications to the Court, governing the applications made to the Court under this Act and the relief that may be granted by the Court 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 determining
- (i) the identity of or verifying the identity of an enforcement debtor, and
 - (ii) 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 any provision 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 information to be provided by a garnishee;
 - (v) the amount payable to a garnishee as compensation for carrying out the garnishee's duties;
 - (vi) the liability incurred for not complying with a garnishee summons and the provisions of this Act governing garnishment;
 - (vii) the handling of funds received under garnishment;
 - (viii) the provision of information by the clerk;

- (ix) the making of objections with respect to garnishment;
 - (x) the garnishment, when a garnished obligation arises or becomes payable on the satisfaction of a condition;
 - (xi) the setting aside of a garnishee summons;
 - (xii) the issuance and use of replacement 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 to a garnishee,
- (i) a grace period following service of a garnishee summons on a garnishee or a notice of seizure on an issuer or intermediary during which the garnishee, issuer or intermediary 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 a garnishee, issuer or intermediary to receive the benefit of the grace period;
- (h) governing the enforcement of a writ of possession and the disposition of any personal property removed from the location or premises.

(2) The Rules of Court Committee established under the *Court of Queen's Bench Act* may make recommendations to the Minister of Justice and Attorney General with respect to rules made under this section.

PART 14

**TRANSITIONAL, CONSEQUENTIAL,
REPEAL AND COMMENCEMENT**

**Division 1
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 or a provision of that Act,*
- (b) the Exemptions Act or a provision of that Act,*
- (c) the Seizures Act 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 the coming into force of this Act,*

is deemed to be a reference to this Act or the corresponding or similar provision of this Act, as the case may be.

Transitional
provisions

109(1) *In this section,*

- (a) "previous Acts" means*
 - (i) the Execution Creditors Act;*
 - (ii) the Exemptions Act;*
 - (iii) the Seizures Act;*
 - (iv) the Garnishee Rules under the Alberta Rules of Court as they existed immediately prior to the coming into force of this Act;*

- (b) *“previous eviction” means an eviction commenced before the coming into force of this Act;*
 - (c) *“previous judgment” means a judgment that is in force immediately after the coming into force of this Act but that was granted before the coming into force of this Act;*
 - (d) *“previous seizure” means a seizure commenced before the coming into force of this Act;*
 - (e) *“transitional period” means the period of time commencing on the date prescribed by regulation and terminating on the expiry of 12 months from the day of the commencement of that period;*
 - (f) *“writ” includes a writ of execution and a writ of enforcement.*
- (2) *A writ of execution that is issued prior to and that is in force on the coming into force of this Act is deemed to be a writ of enforcement but that writ ceases to be in force on the expiry of the transitional period unless,*
- (a) *in the case of a writ of execution that was not registered in the Personal Property Registry immediately before the coming into force of this Act, the writ is registered in the Personal Property Registry during the transitional period, and*
 - (b) *in the case of a writ of execution that was registered in the Personal Property Registry immediately before the coming into force of this Act, the writ is re-registered in the Personal Property Registry during the transitional period.*
- (3) *Where a writ that, immediately before the commencement of the transitional period, was the subject of a valid registration in the Personal Property Registry is registered in the Personal Property Registry under subsection (2), the registration under subsection (2) has the same priority as the earlier registration.*
- (4) *During the transitional period, for the purposes of a distribution made in any judicial district under Part 11, eligible claims include the amounts outstanding on all writs of execution filed in that judicial district with the sheriff against the execution debtor.*
- (5) *The Lieutenant Governor in Council may make regulations,*
- (a) *prescribing the date of the commencement of the transitional period;*

- (b) *establishing, notwithstanding the provision of any enactment, a process, arrangement or system under which writs may be registered or filed with the Court, an officer of the Court or the Personal Property Registry or under the Land Titles Act during the transitional period;*
- (c) *providing, notwithstanding the provision of any enactment, for the validity of and the enforcement of a writ during and after the transitional period;*
- (d) *governing*
 - (i) *the handling and disposition of property that was seized or otherwise in the custody or under the control or supervision of the sheriff immediately after the coming into force of this Act, and*
 - (ii) *the disposition of any funds received in respect of that property;*
- (e) *generally for the purposes of providing for the enforcement of previous judgments and the carrying out of previous seizures and evictions under this Act.*

Division 2 Consequential

Amends SA
1984 cA-8.1

110 *The Agricultural Pests Act is amended in section 20(6) by repealing clause (c) and substituting the following:*

- (c) *a civil enforcement bailiff may assist the inspector and the inspector's assistants in enforcing their powers and duties under clause (b), and*

Amends RSA
1980 cA-10

111 *The Agricultural Relief Advances Act is amended in section 18*

- (a) *in subsection (1) by repealing clause (a) and substituting the following:*

- (a) *by a writ of enforcement registered in the Personal Property Registry at the time of the creation of the lien, or*

- (b) *by repealing subsection (4).*

- Amends SA
1993 cA-12.5 **112** *The Agriculture Financial Services Act is amended in section 46(5) by striking out “sheriff under the Seizures Act” and substituting “civil enforcement agency under the Civil Enforcement Act”.*
- Amends SA
1990 cA-23.5 **113** *The Alberta Government Telephones Reorganization Act is amended in section 36(1)(c)*
- (a) *in subclause (ii) by striking out “under the Chattel Security Registries Act or”;*
- (b) *in subclause (iv) by striking out “or a sheriff”.*
- Amends RSA
1980 cA-31 **114** *The Alberta Income Tax Act is amended by repealing section 40 and substituting the following:*
- Issue of
warrant **40** *The Provincial Treasurer may issue a warrant directed to a civil enforcement agency for the amount of the tax, interest and penalty, or any of them, owing by the taxpayer, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the civil enforcement agency, and the warrant has the same force and effect as a writ of enforcement issued under the Civil Enforcement Act.*
- Amends RSA
1980 cB-15 **115** *The Business Corporations Act is amended in section 70 by striking out “No” and substituting “Except as otherwise provided for in the Civil Enforcement Act, no”.*
- Amends RSA
1980 cC-11 **116(I)** *The Civil Service Garnishee Act is amended by this section.*
- (2) *Section 2 is amended by striking out “contained in the Alberta Rules of Court” and substituting “provided for under the Civil Enforcement Act”.*
- (3) *Section 5(a) is amended by striking out “contained in the Alberta Rules of Court” and substituting “provided for under the Civil Enforcement Act”.*
- Amends RSA
1980 cC-20 **117** *The Companies Act is amended in section 244(1) by striking out “sheriffs” and substituting “civil enforcement agencies”.*

Amends RSA
1980 cC-22

118(1) *The Condominium Property Act is amended by this section.*

(2) *Section 31(7) is amended by striking out “the Exemptions Act” and substituting “Part 10 of the Civil Enforcement Act”.*

(3) *Section 68 is amended by striking out “section 1(k) of the Exemptions Act” and substituting “Part 10 of the Civil Enforcement Act”.*

(4) *Section 69 is amended by striking out “writ of execution” and substituting “writ of enforcement”.*

Amends RSA
1980 cC-29

119(1) *The Court of Queen's Bench Act is amended by this section.*

(2) *Section 17 is amended by adding “civil enforcement bailiffs,” after “Sheriffs,”.*

(3) *Section 21 is repealed and the following is substituted:*

Judicial
districts

21 The Lieutenant Governor in Council may by regulation

- (a) establish judicial districts and sub-districts;
- (b) alter the boundaries of any judicial district or sub-district;
- (c) provide for and govern the transfer and the effect of the transfer of documents and judicial processes from one judicial district or sub-district to another judicial district or sub-district;
- (d) make any provision that the Lieutenant Governor in Council considers necessary to protect any interests affected by the operation of a regulation made under this section.

Amends RSA
1980 cC-35

120 *The Crop Payments Act is amended in section 2*

(a) *in subsection (2) by striking out “execution creditor” and substituting “enforcement creditor”;*

(b) *in subsection (3) by striking out “Exemptions Act and apart from this Act be exempt from seizure by virtue of writs of execution” and substituting “Civil Enforcement Act and apart from this Act be exempt from seizure in writs proceedings”.*

121(1) *The Domestic Relations Act is amended by this section.*

(2) *Section 27 is amended by adding the following after subsection (2):*

(2.1) The applicant shall serve the summons either personally or in a manner that a provincial judge may in writing direct.

(3) *Section 28 is amended*

(a) in subsection (2) by striking out “may be served either personally or in a manner the provincial judge may in writing direct, and”;

(b) by adding the following after subsection (2):

(2.1) The applicant shall serve the summons either personally or in a manner that a provincial judge may in writing direct.

(4) *Section 30 is amended*

(a) in subsection (1)

(i) by striking out “file” and substituting “register”;

(ii) by striking out “with a sheriff of the Court” and substituting “in the Personal Property Registry”;

(b) by repealing subsection (2) and substituting the following:

(2) When an order is registered in the Personal Property Registry, the order is deemed to be a writ of enforcement for the amount that the payment ordered is in arrears from time to time.

(c) by repealing subsections (3), (4) and (5);

(d) in subsection (6)

(i) by striking out “filed” and substituting “registered”;

(ii) by striking out “writ of execution” and substituting “writ of enforcement”;

(e) in subsection (7) by striking out “under section 16 of the Execution Creditors Act or”;

(f) by repealing subsection (8).

Amends RSA
980 cD-38

122(1) *The Dower Act is amended by this section.*

(2) *Section 1(d)(v) is amended by striking out “execution” and substituting “writ proceedings”.*

(3) *Section 14(b) is amended*

(a) by striking out “writ of execution” and substituting “writ of enforcement”;

(b) in subclause (i) by striking out “the sheriff or bailiff” and substituting “a civil enforcement agency”.

(4) *Section 23(1) is amended*

(a) by striking out “declared in the Exemptions Act to be” and substituting “, pursuant to Part 10 of the Civil Enforcement Act,”;

(b) by striking out “writ of execution” and substituting “writ of enforcement”.

Amends RSA
1980 cD-39

123(1) *The Drainage Districts Act is amended by this section.*

(2) *Section 171(1)(c)(i) is amended by striking out “an execution” and substituting “a writ of enforcement”.*

(3) *Section 174 is amended*

(a) in subsection (1)

(i) in clause (b) by striking out “the sheriff or by a bailiff” and substituting “a civil enforcement agency”;

(ii) by striking out “sheriff, bailiff” and substituting “civil enforcement agency”;

(b) in subsection (2) by striking out “sheriff, bailiff” and substituting “civil enforcement agency”.

(4) *The title to Part 7 is repealed and the following is substituted:*

ENFORCEMENT PROCEEDINGS AGAINST DISTRICTS

(5) *Section 193 is amended*

(a) by repealing subsection (1) and substituting the following:

Writ of
enforcement

193(1) A writ of enforcement against a board may be endorsed with a direction to a civil enforcement agency to levy the amount of the writ by rate.

(b) in subsection (2)

(i) by striking out “sheriff” and substituting “civil enforcement agency”;

(ii) by striking out “execution” and substituting “writ”;

(iii) by striking out “sheriff’s” and substituting “civil enforcement agency’s”;

(c) in subsection (3) by striking out “the sheriff” wherever it occurs and substituting “the civil enforcement agency”;

(d) in subsection (4)

(i) by striking out “sheriff shall thereupon issue a precept under his hand and seal of office” and substituting “civil enforcement agency shall issue a precept”;

(ii) by striking out “execution” and substituting “enforcement”;

(e) in subsection (5)

(i) by striking out “Execution” and substituting “Enforcement”;

(ii) by striking out “executions” and substituting “writs of enforcement”;

(f) in subsection (6)

(i) by striking out “execution rate” and substituting “enforcement rate”;

(ii) by striking out “sheriff” and substituting “civil enforcement agency”;

(g) in subsection (7) by striking out “execution” and substituting “enforcement”;

(h) in subsection (8) by striking out “execution and all fees thereon the sheriff” and substituting “writ of enforcement and all fees thereon, the civil enforcement agency”;

(i) in subsection (9)

- (i) *by striking out “sheriff” and substituting “civil enforcement agency”;*
- (ii) *by striking out “the execution” and substituting “a writ of enforcement”;*
- (iii) *in clause (a) by striking out “from which the writ is issued”.*

(6) Section 194 is amended

(a) in subsection (1)

- (i) *by striking out “the sheriff is unable to proceed as herein provided he” and substituting “a civil enforcement agency is unable to proceed as herein provided, the civil enforcement agency”;*
- (ii) *by striking out “execution or executions” and substituting “writ or writs of enforcement”;*

(b) in subsection (2) by striking out “the sheriff” and substituting “a civil enforcement agency”.

Amends RSA
1980 cE-2

124 *The Election Act is amended in section 191 by adding “civil enforcement agencies, civil enforcement bailiffs,” after “sheriffs,”.*

Amends RSA
1980 cF-16

125 *The Forests Act is amended in section 33*

- (a)** *in clause (a) by striking out “sheriff or a bailiff” and substituting “civil enforcement agency”;*
- (b)** *by striking out “sheriff, bailiff” wherever it occurs and substituting “civil enforcement agency”.*

Amends RSA
1980 cF-18

126(1) *The Fraudulent Preferences Act is amended by this section.*

(2) *Section 4(1) is amended by striking out “execution” and substituting “writ proceedings”.*

(3) *Section 11 is amended*

(a) *by repealing subsection (3) and substituting the following:*

(3) *When the proceeds are of such a character as to be seizable under writ proceedings, they may be seized under the writ of any creditor and shall be distributed among creditors under the *Civil Enforcement Act*.*

(b) in subsection (4) by striking out “execution” and substituting “writ proceedings”.

Amends RSA
1980 cG-1

127(1) *The Garagemen’s Lien Act is amended by this section.*

(2) *Section 7(2)(a) is repealed and the following is substituted:*

(a) there is delivered to a civil enforcement agency proof satisfactory to the civil enforcement agency that the lien is the subject of a subsisting registration in the Registry and a warrant in the prescribed form addressed to the civil enforcement agency and directing the civil enforcement agency to seize the motor vehicle or farm vehicle in accordance with the requirements of the *Civil Enforcement Act*, and

(3) *Section 9 is repealed and the following is substituted:*

Seizure of
vehicle

9 A civil enforcement agency shall in accordance with the *Civil Enforcement Act* seize the motor vehicle or farm vehicle in respect of which the warrant was issued if the vehicle is found anywhere in Alberta.

(4) *Section 10 is amended*

(a) in subsection (1) by striking out “the Seizures Act” and substituting “Part 5 of the *Civil Enforcement Act*”;

(b) in subsection (2) by striking out “Seizures Act” and substituting “*Civil Enforcement Act*”.

(5) *Section 12(c) is repealed.*

Amends RSA
1980 cH-5

128 *The Health Insurance Premiums Act is amended in section 17(4) by striking out “a certified copy of a writ of execution issued on the registered certificate” and substituting “writ of enforcement”.*

Amends RSA
1980 cI-5

129(1) *The Insurance Act is amended by this section.*

(2) *Section 150 is amended by striking out “execution” and substituting “writ proceedings”.*

(3) *Section 153(1) is amended by striking out “an execution” and substituting “a writ of enforcement”.*

(4) *Section 165 is amended*

(a) *in subsection (2)(b) by striking out “an execution” and substituting “a writ of enforcement”;*

(b) *in subsection (3) by striking out “execution” and substituting “writ of enforcement”.*

(5) Section 219 is amended

(a) *by striking out “an execution” and substituting “a writ of enforcement”;*

(b) *by striking out “execution creditor” and substituting “enforcement creditor”.*

(6) Section 265(2) is amended by striking out “execution or seizure” and substituting “writ proceedings”.

(7) Section 374(2) is amended by striking out “execution or seizure” and substituting “writ proceedings”.

Amends RSA
1980 cl-7

130 The Interpretation Act is amended in section 25(1)

(a) *by adding the following after clause (b.1):*

(b.2) “civil enforcement agency” means a civil enforcement agency under the *Civil Enforcement Act*;

(b.3) “civil enforcement bailiff” means a civil enforcement bailiff appointed under the *Civil Enforcement Act*;

(b.4) “civil enforcement proceedings” means civil enforcement proceedings as defined in the *Civil Enforcement Act*;

(b) *by adding the following after clause (e):*

(e.01) “enforcement creditor” means an enforcement creditor as defined in the *Civil Enforcement Act*;

(e.02) “enforcement debtor” means an enforcement debtor as defined in the *Civil Enforcement Act*;

(c) *by adding the following after clause (y):*

(y.1) “writ of enforcement” means a writ of enforcement under the *Civil Enforcement Act*;

(y.2) “writ proceedings” means writ proceedings as defined in the *Civil Enforcement Act*;

Amends RSA
1980 cl-11

131(1) *The Irrigation Act is amended by this section.*

(2) *Section 132(g) is amended by striking out “executions” and substituting “writs of enforcement”.*

(3) *Section 150(2) is amended by striking out “Seizures Act and the Exemptions Act” and substituting “Civil Enforcement Act”.*

(4) *Section 189 is amended*

(a) *in subsection (1) by striking out “writ of execution is filed with a sheriff” and substituting “writ of enforcement is filed in the Personal Property Registry”;*

(b) *in subsection (3) by striking out “under section 6 of the Seizures Act” and substituting “as provided for pursuant to section 50 and Division 2 of Part 6 of the Civil Enforcement Act”.*

Amends RSA
1980 CJ-1

132 *The Judicature Act is amended by repealing section 44.*

Amends SA
1982 CJ-2.1

133 *The Jury Act is amended in section 1 by repealing clause (k) and substituting the following:*

(k) “sheriff” means a person designated as a sheriff by the Minister of Justice and Attorney General;

Amends RSA
1980 cL-5

134(1) *The Land Titles Act is amended by this section.*

(2) *Section 16(6)(b) is amended by striking out “sheriff” and substituting “civil enforcement agency”.*

(3) *Section 17.1 is amended*

(a) *by striking out “of execution” wherever it occurs and substituting “of enforcement”;*

(b) *by adding the following after subsection (12):*

(13) Any reference in this section to a writ of enforcement includes a reference to a writ of execution with respect to any writ of execution that was entered in the general register or registered against land before the coming into force of the *Civil Enforcement Act*.

(4) *Section 17.2 is amended*

(a) *by striking out “writ of execution” wherever it occurs and substituting “writ of enforcement”;*

(b) *by adding the following after subsection (4):*

(5) Any reference in this section to a writ of enforcement includes a reference to a writ of execution with respect to any writ of execution that was entered in the general register or registered against land before the coming into force of the *Civil Enforcement Act*.

(5) *Section 38(1) is amended by repealing clause (c) and substituting the following:*

(c) a printed search result showing that no writ of enforcement has been registered in the Personal Property Registry against the applicant.

(6) *Section 49 is amended by striking out “writ of execution” and substituting “writ of enforcement”.*

(7) *Section 86(1)(d) is amended by striking out “writ of execution” and substituting “writ of enforcement”.*

(8) *The heading preceding section 122 is struck out and the following is substituted:*

Enforcement

(9) *Section 122 is amended*

(a) *by repealing subsection (1) and substituting the following:*

Writ of
enforcement

122(1) The Registrar may register a writ of enforcement or other writ affecting land.

(b) *in subsection (2)*

(i) *in clause (a) by striking out “execution debtor” and substituting “enforcement debtor” and by striking out “the execution” and substituting “the writ”;*

(ii) *in clause (b) by striking out “execution debtor” and substituting “enforcement debtor” and by striking out “execution creditor” and substituting “enforcement creditor”;*

(c) *by repealing subsection (3);*

(d) by repealing subsection (4);

(e) in subsection (5)

(i) by striking out “judgment creditor” and substituting “enforcement creditor”;

(ii) by striking out “writ of execution” and substituting “writ of enforcement”;

(f) in subsection (6) by striking out “A judgment creditor” and substituting “An enforcement creditor”;

(g) by repealing subsection (7) and substituting the following:

(7) A writ of enforcement a copy of which is transmitted to a Registrar is effectual with respect to land belonging at any time during the currency of the writ to the enforcement debtor and situated anywhere within the land registration district.

(h) in subsection (9) by striking out “execution debtor” and substituting “enforcement debtor”.

(10) *Section 122.2(1) is amended by striking out “judgment creditor” and substituting “enforcement creditor”.*

(11) *Section 123 is amended*

(a) in clause (b) by striking out “sheriff” and substituting “clerk of the Court”;

(b) in clause (c) by striking out “judgment creditor” and substituting “enforcement creditor”.

(12) *Section 124 is amended*

(a) in subsection (3)

(i) by striking out “execution creditor” wherever it occurs and substituting “enforcement creditor”;

(ii) by striking out “the execution filed” and substituting “the writ filed”;

(iii) by striking out “the execution” wherever it occurs and substituting “the writ”;

(b) in subsection (4) by striking out “execution” wherever it occurs and substituting “writ”;

(c) in subsection (5)

(i) by striking out “execution creditor” and substituting “enforcement creditor”;

(ii) by striking out “execution no longer” wherever it occurs and substituting “writ no longer”;

(d) in subsection (6)

(i) by striking out “execution creditor” wherever it occurs and substituting “enforcement creditor”;

(ii) by striking out “execution no longer” and substituting “writ no longer”;

(e) by repealing subsection (8) and substituting the following:

(8) A notice of any change of solicitors, in respect of a writ of enforcement against land, that is certified by the clerk of court may be filed with the Registrar of the land registration district in which the writ is filed and on the notice being filed with the Registrar, the Registrar shall note the change in the general register.

(f) in subsection (11) by striking out “an execution” and substituting “a writ”.

(13) *The heading preceding section 125 and sections 125, 126 and 127 are repealed.*

(14) *Section 171(c) is amended by striking out “the sheriff has certified that he” and substituting “a civil enforcement agency has certified that the civil enforcement agency”.*

(15) *Section 182 is amended*

(a) in subsection (3)

(i) by striking out “the sheriff of any judicial district” and substituting “a peace officer”;

(ii) by striking out “the sheriff shall” and substituting “the peace officer shall”;

(b) by repealing subsection (4);

(c) in subsection (5) by striking out “execution” and substituting “a writ of enforcement”.

Amends SA
1988 c27 **135** *The Land Titles Amendment Act, 1988 is amended in section 23 as to section 49 of the Land Titles Act by striking out “writ of execution” and substituting “writ of enforcement”.*

Amends SA
1990 cL-9.1 **136(1)** *The Legal Profession Act is amended by this section.*

(2) *Section 91 is amended*

(a) in subsection (1) by striking out “the sheriff of a judicial district” and substituting “a civil enforcement agency by means of a civil enforcement bailiff”;

(b) by repealing subsection (2) and substituting the following:

(2) *A civil enforcement agency executing an order under subsection (1) has all the powers of a person lawfully charged with the execution of a writ of enforcement or a distress warrant under the Civil Enforcement Act.*

(3) *Section 92(2) is amended*

(a) by striking out “the sheriff of any judicial district within Alberta” and substituting “a civil enforcement agency”;

(b) by striking out “the sheriff to” and substituting “a civil enforcement bailiff to”.

Amends SA
1983 cL-10.1 **137** *The Legislative Assembly Act is amended in section 14(3) by striking out “sheriff or”.*

Amends RSA
1980 cL-17 **138** *The Liquor Control Act is amended by repealing section 66 and substituting the following:*

Sale of liquor
under Civil
Enforcement
Act

66 *A civil enforcement agency may seize liquor in accordance with the Civil Enforcement Act, and the Board may, subject to any terms and conditions it considers advisable and notwithstanding anything in this Act or the regulations, authorize the civil enforcement agency to sell the liquor so seized.*

Amends RSA
1980 cL-27 **139(1)** *The Local Authorities Board Act is amended by this section.*

(2) *Section 44 is amended by striking out “Sheriffs, deputy sheriffs” and substituting “Civil enforcement bailiffs”.*

(3) *Section 57 is amended*

(a) *in subsection (1) by striking out “the sheriff of any judicial district” and substituting “a civil enforcement agency”;*

(b) *in subsection (2)*

(i) *by striking out “sheriff” and substituting “civil enforcement agency”;*

(ii) *by striking out “his costs” and substituting “its costs”;*

(iii) *by striking out “an execution” and substituting “a writ of enforcement”.*

(4) Section 58 is amended

(a) *in subsection (2) by striking out “an execution” and substituting “a writ of enforcement”;*

(b) *in subsection (3) by striking out “execution” and substituting “writ of enforcement”.*

Amends SA
1983 cL-27.5

140(1) *The Local Authorities Election Act is amended by this section.*

(2) *Section 114 is repealed and the following is substituted:*

Payment of
costs

114 The payment of any costs ordered by the judge may, on the filing of the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of non-payment, be enforced by writ proceedings taken pursuant to a writ of enforcement issued in respect of that order.

(3) *Section 142(2) is amended by striking out “writ of execution” and substituting “writ of enforcement”.*

Amends SA
1985 cM-0.5

141 *The Maintenance Enforcement Act is amended by repealing section 16 and substituting the following:*

Filing of
maintenance
order

16(1) The Director or a creditor may register a maintenance order in the Personal Property Registry.

(2) If a maintenance order is registered under subsection (1), the order is deemed to be a writ of enforcement for the amount that the payment ordered is in arrears from time to time.

(3) Notwithstanding any other Act, a maintenance order registered under this section takes priority over any other writ of enforcement.

Amends RSA
1980 cM-1

142 *The Maintenance Order Act is amended in section 8 by striking out “the sheriff” and substituting “a civil enforcement agency”.*

Amends RSA
1980 cM-8

143 *The Masters and Servants Act is amended in section 7*

(a) *in subsection (1) by striking out “Seizures Act” and substituting “Civil Enforcement Act”;*

(b) *in subsection (2) by striking out “writ of execution” and substituting “writ of enforcement”;*

(c) *by repealing subsections (3) and (4) and substituting the following:*

(3) *On registering the writ of enforcement in the Personal Property Registry, the employee is entitled to the same rights and priorities as those provided for wages under section 113(2) of the *Employment Standards Code*.*

(4) *When a seizure is made pursuant to a writ of enforcement under this section, the debtor is entitled only to the exemptions allowed under the *Civil Enforcement Act* in respect of a distress for rent by a landlord.*

Amends RSA
1980 cM-21

144 *The Motor Vehicle Accident Claims Act is amended in section 7*

(a) *in subsection (7) by adding “, and the clerk of the court may issue to the Administrator a writ of enforcement in respect of that judgment” after “judgment creditor”;*

(b) *by repealing subsection (8).*

Amends RSA
1980 cM-26

145(1) *The Municipal Government Act, RSA 1980 cM-26, is amended by this section.*

(2) *Section 270(2) is repealed.*

(3) *Section 289(1) is amended by striking out “and the costs chargeable are those payable under the *Seizures Act*”.*

Writ of
enforcement

(4) Section 309(2) is amended by striking out “Seizures Act” and substituting “Civil Enforcement Act”.

(5) Section 318 is amended by striking out “execution” and substituting “writ proceedings under the Civil Enforcement Act”.

(6) Section 424 is amended

(a) by repealing subsection (1) and substituting the following:

424(1) A writ of enforcement against a municipality may be endorsed with a direction to a civil enforcement agency to levy the amount of the writ by rate.

(b) in subsection (2)

(i) by striking out “the sheriff” and substituting “a civil enforcement agency”;

(ii) by striking out “he shall” and substituting “it shall”;

(iii) by striking out “the execution” and substituting “the writ”;

(iv) by striking out “sheriff’s” and substituting “civil enforcement agency’s”;

(c) in subsection (3)

(i) by striking out “sheriff” wherever it occurs and substituting “civil enforcement agency”;

(ii) by striking out “his” and substituting “the civil enforcement agency’s”;

(d) in subsection (4)

(i) by striking out “sheriff shall” and substituting “civil enforcement agency shall”;

(ii) by striking out “under his hand and seal of office”;

(iii) by striking out “by him” and substituting “by the civil enforcement agency”;

(e) in subsection (5)

(i) by striking out “headed “Execution” and substituting “headed “Enforcement””;

- (ii) *by striking out “executions” and substituting “writs of enforcement”;*
- (iii) *by striking out “execution rate” and substituting “enforcement rate”;*
- (iv) *by striking out “sheriff” and substituting “civil enforcement agency”;*
- (v) *by striking out “his percentage” and substituting “the civil enforcement agency’s percentage”;*
- (f) *in subsection (6) by striking out “sheriff, after satisfying the execution” and substituting “civil enforcement agency, after satisfying the writ”;*
- (g) *in subsection (7)*
 - (i) *by striking out “sheriff” and substituting “civil enforcement agency”;*
 - (ii) *by striking out “execution” and substituting “writ of enforcement”;*
 - (iii) *by striking out “from which the writ issued.”*

Amends SA
1994 cM-26.1

146(1) *The Municipal Government Act, SA 1994 cM-26.1, is amended by this section.*

(2) *Section 440(1) is amended by striking out “the sheriff” and substituting “a civil enforcement agency”.*

(3) *Section 451 is amended by striking out “The Exemptions Act” and substituting “Part 10 of the Civil Enforcement Act”.*

(4) *Section 502 is amended*

- (a) *by striking out “at any sheriff’s office” and substituting “in the Personal Property Registry”;*
- (b) *by striking out “writ of execution” and substituting “writ of enforcement”.*

Amends RSA
1980 cM-31

147(1) *The Municipal Taxation Act is amended by this section.*

(2) *Section 128(c)(i) is amended by striking out “execution” and substituting “writ proceedings”.*

(3) *Section 137(1) is amended*

(a) by striking out “the sheriff or by a bailiff” and substituting “a civil enforcement agency”;

(b) by striking out “sheriff, bailiff” wherever it occurs and substituting “civil enforcement agency”.

(4) Section 138(1) is amended by striking out “execution” and substituting “writ proceedings”.

(5) Section 141 is repealed.

Amends SA
1988 cP-4.05

148(1) *The Personal Property Security Act is amended by this section.*

(2) Sections 17 and 18 are amended by striking out “sheriff” wherever it occurs and substituting “civil enforcement agency”.

(3) Section 20(1)(a) is repealed.

(4) Section 21 is amended

(a) by striking out “an execution creditor under section 21(1)(a) or”;

(b) by striking out “seizure of the leased or consigned goods or the”.

(5) Section 35(5) is repealed and the following is substituted:

(5) A perfected security interest that would otherwise have priority over a writ of enforcement issued under the *Civil Enforcement Act* has that priority only to the extent of

(a) advances made before the secured party acquires knowledge of the writ within the meaning of section 32 of the *Civil Enforcement Act*,

(b) advances made pursuant to an obligation owing to a person other than the debtor entered into by the secured party before acquiring the knowledge referred to in clause (b), and

(c) reasonable costs incurred and expenditures made by the secured party for the protection, preservation or repair of the collateral.

(6) Sections 36(5) and 37(4) are amended by striking out “writ of execution” and substituting “writ of enforcement”.

(7) Section 38(5) and (6) are repealed.

(8) Section 58 is amended

(a) in subsection (1)

(i) by striking out “subsection (2)” and substituting “Part 2 of the Civil Enforcement Act”;

(ii) by striking out “sheriff” wherever it occurs and substituting “civil enforcement agency”;

(b) by repealing subsections (2), (3), (4) and (5);

(c) in subsections (6) and (7) by striking out “sheriff” wherever it occurs and substituting “civil enforcement agency”;

(d) by repealing subsection (8);

(e) in subsection (9)

(i) by striking out “referred to in subsection (2) occurs, a sheriff” and substituting “occurs, a civil enforcement agency”;

(ii) by striking out “the sheriff” and substituting “the civil enforcement agency”;

(f) in subsection (10) by striking out “referred to in subsection (2), a sheriff” and substituting “, a civil enforcement agency”;

(g) in subsections (11), (12) and (13) by striking out “sheriff” wherever it occurs and substituting “civil enforcement agency”;

(h) by repealing subsection (15).

(9) Sections 59(3) and (4) and 62(1)(d) are amended by striking out “sheriff” wherever it occurs and substituting “civil enforcement agency”.

(10) Section 64 is amended by adding “, civil enforcement agency” after “sheriff”.

(11) Section 65(4) is amended by adding “civil enforcement agency,” after “sheriff.”

Amends RSA
1980 cP-18

149 *The Proceedings Against the Crown Act is amended in section 15 by striking out “notwithstanding that the application for relief is made by a sheriff or bailiff or other like officer”.*

Amends RSA
1980 cP-20

150(I) *The Provincial Court Act is amended by this section.*

(2) *Section 19 is amended by adding “civil enforcement bailiffs,” after “deputy sheriffs.”*

(3) *Section 58(4) is repealed and the following is substituted:*

(4) *The person in whose favour judgment is given may file the certificate of judgment in the Court of Queen’s Bench and on its being filed*

(a) *the judgment becomes a judgment of the Court of Queen’s Bench, and*

(b) *writ proceedings may be taken pursuant to the Civil Enforcement Act.*

Amends RSA
1980 cP-36

151(I) *The Public Trustee Act is amended by this section.*

(2) *Section 11(6) is amended by striking out “writ of execution” and substituting “writ of enforcement”.*

(3) *Section 18(1)(b) is amended by striking out “the sheriff” and substituting “a civil enforcement agency”.*

Amends RSA
1980 cP-37

152(I) *The Public Utilities Board Act is amended by this section.*

(2) *Section 45 is amended by adding “civil enforcement bailiffs,” after “deputy sheriffs.”*

(3) *Section 58 is amended*

(a) *by striking out “the sheriff of any judicial district” and substituting “a civil enforcement agency”;*

(b) *by striking out “sheriff receiving” and substituting “civil enforcement agency receiving”;*

(c) *by striking out “his” and substituting “its”;*

(d) *by striking out “an execution” and substituting “a writ of enforcement”.*

(4) *Section 59 is amended*

(a) *in subsection (2) by striking out “an execution” and substituting “a writ of enforcement”;*

(b) *in subsection (3) by striking out “and by similar proceedings as the amount of a registered execution of the Court of Queen’s Bench” and substituting “as a writ of enforcement may be realized”.*

Amends RSA
1980 cR-4

153 *The Railway Act is amended in section 120*

(a) *in subsection (1) by striking out “the sheriff of the judicial district or to a bailiff” and substituting “a peace officer”;*

(b) *in subsection (2) by striking out “sheriff or bailiff” and substituting “peace officer”.*

Amends RSA
1980 cR-7.1

154 *The Reciprocal Enforcement of Maintenance Orders Act is amended in section 5(2) by striking out “it would” and substituting “that provided for”.*

Amends SA
1981 cS-6.1

155 *The Securities Act is amended in section 65(1)(a) by repealing subclause (vii) and substituting the following:*

(vii) *by a civil enforcement agency under the Civil Enforcement Act;*

Amends SA
1983 cS-27.1

156 *The Surface Rights Act is amended by repealing section 36(2) and substituting the following:*

(2) *A right of entry order filed under subsection (1) may be enforced by a civil enforcement agency in the same manner as a writ of possession issued on the order of the Court of Queen’s Bench.*

Amends RSA
1980 cS-28

157 *The Surrogate Court Act is amended in section 7*

(a) *by striking out “The sheriff in each judicial district” and substituting “A civil enforcement agency”;*

(b) *in clause (a) by striking out “for which he is appointed” and substituting “in respect of which the civil enforcement agency may carry out its functions”.*

Amends SA
1982 cT-6.5 **158** *The Transportation of Dangerous Goods Control Act is amended in section 8(7) by striking out “under execution” and substituting “by enforcement proceedings under the Civil Enforcement Act”.*

Amends RSA
1980 cT-9 **159(1)** *The Trust Companies Act is amended by this section.*

(2) *Section 45 is amended*

(a) in subsection (2) by striking out “execution” and substituting “a writ of enforcement”;

(b) by repealing subsection (3) and substituting the following:

(3) *If a writ of enforcement has been issued, the amount recoverable against the director is the amount remaining unsatisfied on the writ of enforcement.*

(3) *Section 53(2) and (3) are amended by striking out “an execution” and substituting “a writ of enforcement”.*

(4) *Section 60 is amended by striking out “execution” and substituting “a writ of enforcement”.*

(5) *Section 90(b) is amended by striking out “the sheriff of any judicial district in which they may be found” and substituting “a civil enforcement agency”.*

(6) *Section 188(8)(c) is amended by striking out “execution” and substituting “writ proceedings”.*

Amends RSA
1980 cW-2 **160** *The Warehouse Receipts Act is amended in section 16 by striking out “under an execution” and substituting “pursuant to writ proceedings under the Civil Enforcement Act”.*

Amends RSA
1980 cW-6 **161** *The Weed Control Act is amended in section 20(6)(c) by striking out “the sheriff, the sheriff’s bailiff and any other persons under the written direction of the sheriff” and substituting “a civil enforcement bailiff”.*

Amends RSA
1980 cW-14 **162(1)** *The Woodmen’s Lien Act is amended by this section.*

(2) *Section 13 is amended by striking out “the sheriff, commanding the sheriff” and substituting “a civil enforcement agency, directing the civil enforcement agency”.*

(3) Section 14 is amended by striking out “execution” and substituting “writ proceedings”.

(4) Section 17 is amended by striking out “No sheriff shall” and substituting “A civil enforcement agency shall not”.

(5) Section 18 is amended

(a) by striking out “sheriff” and substituting “civil enforcement agency”;

(b) by striking out “he shall” and substituting “it shall”.

(6) Section 23 is amended by striking out “sheriff” and substituting “civil enforcement agency”.

(7) Section 24 is amended

(a) in subsection (1)

(i) by striking out “sheriff” and substituting “civil enforcement agency”;

(ii) by striking out “execution” and substituting “writ proceedings”;

(b) in subsection (2) by striking out “sheriff” and substituting “civil enforcement agency”.

(8) Section 25(2) is amended by striking out “execution” and substituting “a writ of enforcement”.

Amends SA
1981 cW-16

163(1) *The Workers’ Compensation Act is amended by this section.*

(2) *Sections 124 and 125 are repealed and the following is substituted:*

Certificate of
default

124(1) Where default is made in the payment of all or part of a contribution owing pursuant to an assessment or any other money due to the Board under this Act, the Secretary may

(a) issue a certificate or certified statement setting out the basis of the payment to be made, the amount remaining unpaid, the person by whom it is payable and directing the payment of the amount by that person, and

Prohibition
from carrying
on business

(b) register a financing statement in the Personal Property Registry in respect of the charge arising under section 126.

(2) In addition to any other rights or remedies provided under this Act, the registration of a financing statement entitles the Board to conduct civil enforcement proceedings as if it were an enforcement creditor and the person in respect of whom the financing statement was registered was an enforcement debtor.

(3) Nothing in subsection (2) affects the priority of the Board under section 126.

125 If

(a) an employer defaults in the payment of a contribution owing pursuant to an assessment and a person on behalf of a civil enforcement agency states by way of affidavit that the civil enforcement agency was unable to wholly satisfy the default through remedies taken under this Act or the *Civil Enforcement Act*, and

(b) that employer continues to carry on business in an industry to which this Act applies in which workers are employed,

a judge of the Court of Queen's Bench, on application made on behalf of the Board by originating notice may, without the issue of any writ or the commencement of any action, restrain that employer from carrying on business in an industry to which this Act applies until the contribution, together with the costs of the application, is paid.

(3) *Section 127.1 is repealed.*

(4) *Section 131 is amended*

(a) *in subsection (1) by striking out "Seizures Act" and substituting "Civil Enforcement Act";*

(b) *by repealing subsection (2) and substituting the following:*

(2) If any person fails to pay to the Board any money that the person is liable to pay under this Act within the time provided for that payment, the secretary may by himself or his agent or by a civil enforcement agency collect the amount owing with costs by distress of the goods of that person.

(c) *in subsection (13)*

(i) *by striking out “sheriff, assistant sheriff, deputy sheriff or sheriff’s bailiff” wherever it occurs and substituting “civil enforcement agency”;*

(ii) *by striking out “by him” and substituting “by the civil enforcement agency”;*

(d) *by repealing subsection (14).*

Amends SA
1984 cY-1

164 *The Young Offenders Act is amended in section 24*

(a) *in subsection (4) by striking out “the sheriff of each of the judicial districts where the principal or any of his sureties resides, carries on business or has property” and substituting “a civil enforcement agency”;*

(b) *by adding the following after subsection (7):*

(8) A civil enforcement bailiff has the powers of a sheriff under section 772 of the *Criminal Code* (Canada).

Consequential
amendments

165 *The following provisions in the following enactments are amended by striking out “sheriff” wherever it occurs and substituting “civil enforcement agency”:*

Marketing of Agricultural Products Act, section 46(1) and (5);
Mobile Home Sites Tenancies Act, section 28(12);
Residential Tenancies Act, section 24(12).

Consequential
amendments

166 *The following provisions in the following enactments are amended by striking out “writ of execution” wherever it occurs and substituting “writ of enforcement”:*

Constitution of Alberta Amendment Act, 1990, section 4;
Law of Property Act, section 49(3);
Metis Settlements Act, section 101;
Partnership Act, section 25;
Petroleum Incentives Program Act, section 16(3);
School Act, section 238.

Consequential amendments **167** *The following provisions in the following enactments are amended by striking out “execution or otherwise as a judgment of the Court” wherever it occurs and substituting “a writ proceedings under the Civil Enforcement Act” :*

Rural Electrification Long Term Financing Act, section 22;
Rural Electrification Loan Act, section 22;
Rural Utilities Act, section 41(4).

Consequential amendments **168** *The following provisions in the following enactments are amended by adding “civil enforcement bailiffs,” after “sheriffs,” wherever it occurs:*

Court of Appeal Act, section 14;
Dairy Board Act, section 9.

Consequential amendments **169** *The following provisions in the following enactments are amended by striking out “Seizures Act” wherever it occurs and substituting “Civil Enforcement Act” :*

Public Auctions Act, section 2(1)(a);
Public Lands Act, section 44(2).

Consequential amendments **170** *The following provisions in the following enactments are amended by striking out “the sheriff of any judicial district in Alberta” and substituting “a civil enforcement agency by means of a civil enforcement bailiff” and by striking out “sheriff to enter” and substituting “civil enforcement bailiff to enter”.*

Certified General Accountants Act, section 100(2);
Certified Management Accountants Act, section 100(2);
Chartered Accountants Act, section 100(2).

Division 3 Repeal and Commencement

Repeal **171** *The following Acts are repealed on Proclamation:*

- (a) the Execution Creditors Act;*
- (b) the Exemptions Act;*
- (c) the Seizures Act.*

Coming into force **172** *This Act comes into force on Proclamation.*