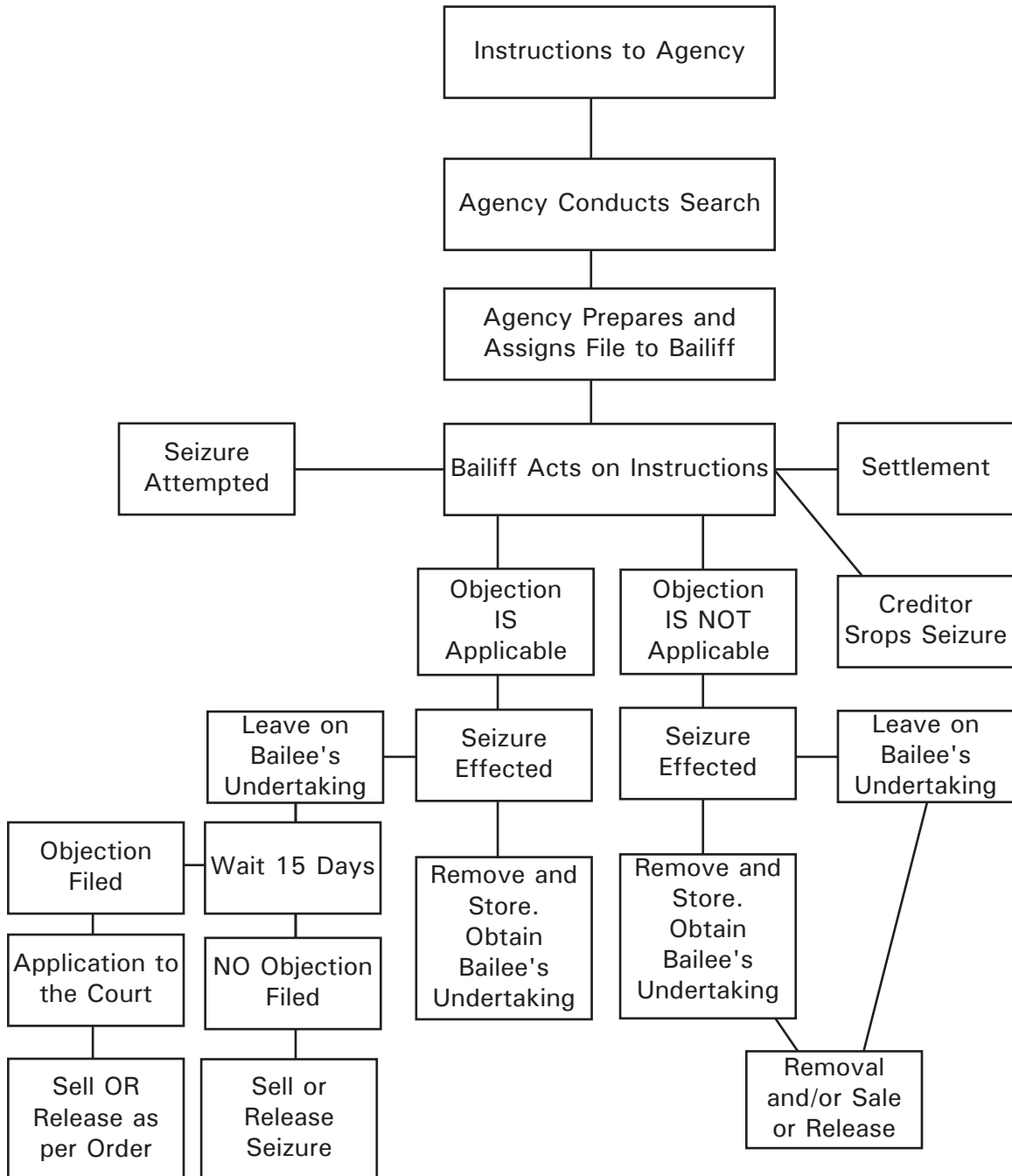


# Statutory Distress Seizure

## Flow Chart



## **Statutory Distress Seizure**

There are several statutes which specifically provide for the right of distress. The most frequently encountered include the following:

### **Agriculture Financial Services Act**

The Agriculture Financial Services Act allows for enforcement for unpaid premiums payable to the Agriculture Financial Services Corporation.

The Notice of Objection to Seizure of Personal Property IS NOT applicable to these seizures.

### **The Bank Act**

The Bank Act (federal) authorizes the Bank through its employees or agents to seize the personal property identified in the Bank Act security document.

The Notice of Objection to Seizure of Personal Property IS NOT applicable to these seizures.

If the Agency is contracted by the Bank to conduct a seizure, the Agency is acting as an agent of the Bank and must comply with Part 2 of the Civil Enforcement Act.

## **Garage Keepers' Lien Act**

Motor/farm vehicles, airplanes, parts and accessories can be seized under this Act. Seizure cannot be made for fuel and oil.

The garage keeper must either have possession of the vehicle OR an acknowledgment of indebtedness and a lien must be registered at the Personal Property Registry before seizure may be made.

You should check the invoice (work order) to ensure that the Acknowledgment of Indebtedness is signed by the debtor. A seizure cannot be done without a signed acknowledgement of indebtedness unless the garage keeper has retained possession of the vehicle, or if otherwise provided in a court order.

The Garage Keeper's lien terminates on the 21st day after the date on which possession of a vehicle is surrendered to the owner UNLESS the garage keeper registers a Garage Keeper's Lien Financing Statement with Personal Property Registry within that 21 day period.

A Garage Keeper's Lien expires 6 months after it has been registered at the Personal Property Registry. Seizure must be made within this period. The court may grant an order extending the time for a further 6 months and that order must be registered at the Personal Property Registry.

The Notice of Objection to Seizure of Personal Property IS applicable to these seizures.

## **Municipal Government Act**

The Municipal Government Act authorizes distress of personal property of a person owing a business tax to the municipality. "Tax" is described in the Act as:

*437(c) "tax" means a business tax, a well drilling equipment tax or a property tax imposed in respect of a mobile unit in a mobile home park;*

The municipal officer does not have to utilize the services of an Agency. However, if the Agency is contracted by the municipality to conduct a seizure under this Act, the Agency is acting as an agent of the municipality, and must comply with Part 2 of the Civil Enforcement Act.

The Notice of Objection to Seizure of Personal Property IS NOT applicable to these seizures.

## **Workers' Compensation Act**

The Workers' Compensation Act authorizes seizure by distress of personal property in respect of unpaid workers' compensation premiums.

Seizures made on behalf of the Workers' Compensation Board may only be released on the instructions of the Workers' Compensation Board.

The Notice of Objection to Seizure of Personal Property IS NOT applicable to these seizures.

If the Agency is contracted by the WCB to conduct a seizure under the Civil Enforcement Act, the Agency is acting as an agent of the Workers' Compensation Board and must comply with Part 2 of the Civil Enforcement Act.

## **Statutory Distress Seizure Process**

### **Warrant**

The warrant is the document which provides the direction and authority to seize the personal property of the debtor. It must be completed and signed by the instructing creditor or authorized agent. (See example of form in this section).

Upon receipt of the warrant, with the exception of a Garage Keeper's Lien check:

- (1) Personal Property Registration number, (applies to WCB only)
- (2) Type of distress and ensure appropriate code is completed
- (3) That the warrant is directed to your Agency
- (4) Debtor's name and complete address
- (5) Amount owing
- (6) Name of creditor
- (7) Location of personal property if different from debtor's address
- (8) Municipality and date of warrant
- (9) Signature of instructing creditor or authorized agent
- (10) Name, address, telephone number and fax number of instructing creditor or authorized agent.

## **Warrant - Garage Keeper's Lien**

Pursuant to the Garage Keepers' Lien Act, the lien must be registered at Personal Property Registry before seizure can be effected.

The Warrant is the document that provides the direction and authority to seize. It must be completed and signed by the instructing creditor or authorized agent.

Sufficient copies are required to allow service on each debtor and return of the original to the Agency. (See example of form in this section).

Upon receipt of the warrant check:

- (1) That the warrant is directed to your Agency
- (2) For proper identification of the vehicle to be seized, ensuring it matches the description on the work order
- (3) Name and address of owner
- (4) Name and address of party in possession of the vehicle
- (5) Date of registration at Personal Property Registry and Personal Property Registration number
- (6) Amount owing
- (7) Name of creditor
- (8) Description of the service provided that caused the debt
- (9) Date possession of the vehicle was surrendered, if applicable
- (10) Date repairs were provided, if applicable
- (11) Date accessories or parts were furnished, if applicable
- (12) Municipality and date of warrant
- (13) Signature of instructing creditor or authorized agent
- (14) Name, address, telephone number and fax number of instructing creditor or authorized agent.

## Letter of Instructions

In addition to the warrant, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

- (1) Any urgency associated with the file
- (2) Any unusual circumstances which might be anticipated
- (3) Whether removal of the seized personal property is required
- (4) Form of indemnification as requested by the Agency
- (5) Whether the creditor is aware of any legal impediments to seizure such as stays or third party claims as applicable to the specific property.

If removal is instructed, you may wish to consider and discuss with the instructing party the following issues with regard to the removal of seized personal property:

- (1) Since the debtor has 15 days in which to object to the seizure (if applicable), additional costs would be incurred for removal and storage; the debtor may be deprived use of the seized property within the objection period
- (2) The location of the property to be seized, as removal may be costly in a remote area
- (3) The condition or value of the property to be seized, as the cost of seizure may outweigh the money which may be realized from a sale of the property or the money realized may not significantly reduce the debt
- (4) The type of property required to be removed including where and how to conduct the removal of unique or special items
- (5) Any stays that may be in existence. If there is a stay in effect, you may be liable for an improper seizure and for removal costs. A stay is in existence whether or not it has been registered at Personal Property Registry. Therefore, check out any information that may come to light at the time of seizure
- (6) If the removal may put the debtor out of business or cause severe hardship and if there is a responsible person available, you should consider leaving the property with that person (often the debtor) under a Bailee's Undertaking.

## Searches

A distribution seizure ("DS") search should be conducted at Personal Property Registry. (See examples in section 4 - Searches).

The distribution seizure search should be reviewed and discussed with the instructing creditor for further instructions, prior to effecting seizure to determine other priority registrations and if the seizure will be viable. Also, if the property to be seized is already under seizure then it cannot be seized without a court order.

Examine the search to determine any proceeding which may stay enforcement. The following are proceedings that may stay enforcement action:

### 1. Bankruptcy

If a debtor is in bankruptcy, determine whether a stay of proceedings is in effect.

If the searches show that the debtor is in bankruptcy, contact the Trustee in Bankruptcy to determine if seizure can be effected for the instructing party. Advise the instructing party if unable to effect seizure OR proceed to seizure if the Trustee in Bankruptcy advises, in writing, to do so.

- \* The only way to determine conclusively whether a bankruptcy exists is to conduct a search of the records of the Superintendent of Bankruptcy. For more information on how to request these searches refer to section 4 - Searches.

### 2. Court Ordered Stays

This is an order granted by the Court to stay one or more matters until the time specified in the order.

If the searches show that a court ordered stay that affects the instructing party's action has been registered, the seizure cannot be effected. Advise the instructing party and await further instructions.

If you become aware that a stay has been granted by the court affecting the instructing party's action, even if it is not registered at the Personal Property Registry, you should not proceed with seizure.

## Required Documents for Bailiff

In order to effect seizure, the Bailiff must be provided with a copy of the warrant, a copy of the letter of instructions, and the following documents:

- Notice of Seizure of Personal Property. Sufficient copies to allow service of one on each debtor, one for each bailee and return of the original to Agency.
- Notice of Objection to Seizure of Personal Property (only when it is specified as a requirement pursuant to the Act that authorizes the seizure, e.g. Garage Keepers' Lien Act). Sufficient copies to allow for service of one on each debtor, and return of original to Agency.
- Bailee's Undertaking - sufficient copies to provide a copy to each bailee and return original to the Agency.
- Bailiff's Report
- Other documents as required.

## Notice of Seizure of Personal Property

This form is used to describe in detail the items seized and to notify all affected parties of the seizure of personal property. Sufficient copies are required to allow service of one notice on each debtor, and return of the original to the Agency. (See example of form in this section).

The following must be completed by the Agency:

- (1) Agency file number
- (2) Name and address of debtor
- (3) Amount owing as shown on the warrant
- (4) Name and address of creditor
- (5) "NO" box completed for Notice of Objection to Seizure of Personal Property applicable to this seizure, with the exception of seizures where a Notice of Objection is specified as a requirement pursuant to the Act that authorizes the seizure. Strike out applicable section on the form.
- (6) Agency's name, address, telephone number and fax number.

## **Notice of Objection to Seizure of Personal Property**

If you are requested to conduct a seizure under any statute other than the Civil Enforcement Act, review the appropriate legislation or consult your legal advisor to determine if a Notice of Objection is applicable.

In situations where a Notice of Objection is applicable, this form is used by the debtor if he wishes to object to the seizure. The Bailiff must be provided with sufficient copies to serve one on each debtor. In the case of multiple debtors, each debtor is entitled to object. (See example of form in this section).

The following must be completed by the Agency:

- (1) Agency file number
- (2) Agency's name, address, and fax number.

## **Bailee's Undertaking**

This form is used when the Bailiff leaves the seized personal property with a responsible person who agrees to keep the seized property and is responsible for its safekeeping and delivery to the Civil Enforcement Agency when requested. Sufficient copies are required: one for the bailee, and return of the original to the Agency. (See example of form in this section).

The following must be completed by the Agency:

- (1) Agency file number
- (2) Agency's name, address, telephone number and fax number.

**Change of Bailee**

If circumstances require a change of bailee, the new bailee must have the undertaking responsibilities explained. He must enter into the new Bailee's Undertaking by signing it and having it witnessed by an Agency employee or a Bailiff. Sufficient copies are required: one for the bailee, one for the creditor and the original for the Agency. At the discretion of the Agency, the condition of the personal property may be verified.

The following must be completed by the Agency:

- (1) Prepare a new Bailee's Undertaking. Have the undertaking signed by the new bailee and witnessed. Attach the original to the original of the Notice of Seizure of Personal Property and give the new Bailee a copy of the new Bailee's Undertaking with a copy of the Notice of Seizure of Personal Property attached.
- (2) Advise the original bailee in writing of his release from the undertaking.

**Bailiff's Report**

- \* This form is the Bailiff's certification of the action he has taken. (See example of form in this section).

**Other Documents**

Other documents that may be required would include relevant court orders,

- \* Addendum to Notice of Seizure of Personal Property and Seizure Stickers.

The Addendum to Notice of Seizure of Personal Property may be required by the Bailiff if he runs out of space on the Notice of Seizure of Personal Property. It is suggested that the Bailiff keep a supply of these with him at all times.

For seizures pursuant to the Garage Keepers' Lien Act, you will also require information such as:

- (1) Proof that the Garage Keeper's Lien is registered at Personal Property Registry. This could be in the form of a verification statement or search result from the Personal Property Registry.
- (2) Copy of invoice/work order with an Acknowledgement of Indebtedness signed by the debtor. The signed indebtedness may not be necessary if the garage keeper is still in possession of the vehicle.

## Procedure for Effecting Seizure

The Bailiff should:

- (1) Carefully read the warrant and any other instructions received from the instructing party or the Civil Enforcement Agency.
- (2) Review the file to see if there are any arrangements that should be made ahead of time which may assist in effecting seizure (e.g. attendance of a veterinarian, tow truck arrangements, etc.)
- (3) Proceed to the location given in the warrant or letter of instructions.

For street addresses, a good city / town map may be helpful if you are unfamiliar with the area. For locating property identified by legal land description, you should know how to read the section, township, range and meridian shown on a district map. Ensure that you have access to various district maps.

### Arrival at Location

- (1) Upon arriving at the location, identify yourself to the debtor. If the debtor is not present, advise the person present who you are and why you are there. Every attempt should be made to contact the debtor if his whereabouts are known.
- (2) Ensure the warrant is available for inspection by the debtor, if requested.
- (3) Entry by Force - Pursuant to section 13(2)(c)(iii) of the Civil Enforcement Act, do not enter by force into any residence without a court order. An attached garage is considered part of the residence. (See Circular #1/2010 in "Circulars" section.)

\*

Forced Entry - At any location or premises belonging to the debtor, other than a residential premises, you have the authority to force entry using the services of a locksmith. Where you have to use force to gain entry, you must reasonably secure the premises before leaving.

If denied access to the premises belonging to someone other than the debtor, you have no authority to enter without a Court Order.

Before entering buildings equipped with an alarm system, notify the alarm company or the police providing full particulars on the nature of your call, location and time, etc.

**Caution:**

Upon arrival at the location, the Bailiff may be informed by the debtor that

- he had filed for bankruptcy
- there is a stay under the Farm Debt Mediation Act, or
- there is a stay ordered by the Court.

In these situations the Bailiff should contact the Civil Enforcement Agency for further instructions before proceeding.

**Offer of Settlement**

- (1) If the debtor offers settlement, the Bailiff should contact the Civil Enforcement Agency to confirm the exact amount of the outstanding debt and costs, and whether he is authorized to accept payment.

Unless the entire debt is collected or the instructing party instructs you to stop action, seizure should be effected.

- (2) Settlement should always be in the form of cash, certified cheque, bank draft or money order unless the instructing party agrees otherwise.
- (3) If the debtor tenders cash, the bailiff should issue a receipt to the debtor. If the bailiff is unable to submit the cash to the Agency, at the first opportunity he should obtain a money order payable to the Civil Enforcement Agency. The bailiff should attach a copy of the money order to his receipt book. If there is a fee for purchasing the money order, it may be charged back as an expense.
- (4) If the debtor tenders non-certified funds and the instructing party has not consented to this form of payment, seizure of personal property must still be effected.
- (5) DO NOT accept postdated cheques unless instructed to do so by the instructing party.

**Negotiated Settlement**

If the debtor and instructing party negotiate some other form of settlement, any directions to discontinue the seizure action must be received directly from the instructing party.

**Seizure**

If settlement is not made, proceed to seize the personal property in accordance with the warrant/letter of instructions. The Bailiff must physically see and be able to lay his hands on the personal property being seized in order to effect a proper seizure.

**Complete the Notice of Seizure of Personal Property**

The Bailiff should:

- (1) Describe the personal property seized on the Notice of Seizure of Personal Property and an Addendum, if necessary. The description should include the quantity, serial number, make, model, year and colour, if applicable, and any other information to help identify the property.
- (2) Ensure the form indicates whether a Notice of Objection to Seizure of Personal Property was applicable to the seizure.
- (3) Date and sign his name at the bottom before serving or attaching. (See example of form in this section).
- (4) If an addendum is used, indicate so by checking the box Addendum Attached and number the pages 1 of \_\_ , 2 of \_\_, etc.
- (5) Ensure that the following are indicated on the addendums:
  - Civil Enforcement Agency file number, and
  - date and signature.(See example of form in this section).

## Seizure Stickers

To be attached to the personal property seized only when the property cannot be readily identified, e.g. because it has no serial number. (See example of form in this section).

Do not use the stickers on property obviously exempt or likely belonging to a third party. Careless or improper use of the stickers would defeat their purpose.

- (1) Write an identification number on the sticker.
- (2) Write the Civil Enforcement Agency file number on the sticker.
- (3) Ensure all blanks are properly completed.
- (4) The Bailiff **MUST** sign the sticker.
- (5) Note the following in the Bailiff report:
  - the sticker identification number,
  - the personal property it was attached to, and
  - where on the personal property it was attached.

Other cases where stickers might be used are where -

- (a) no one is available to sign a Bailee's Undertaking and immediate removal is not possible;
- (b) the debtor or person in charge refuses to sign a Bailee's Undertaking and immediate removal is not possible
- (c) the personal property is difficult to accurately describe
- (d) there is some suspicion that the seized personal property might later be substituted or removed, possibly by someone not aware of the seizure.

## Bailee's Undertaking

- (1) If a Bailee's Undertaking is used, the bailiff must explain it to the bailee, ensuring that the following is included in the explanation:
  - the bailee is responsible to the Civil Enforcement Agency for the personal property, preservation of its present condition and value until relieved of this responsibility by the Civil Enforcement Agency. The bailee agrees to keep seized property and is responsible for its safekeeping and delivery to the Agency when requested.
  - the bailee shall advise the Civil Enforcement Agency of a change in address or incidents involving the personal property that would change their value.
  - if the bailee is the debtor, he may use the personal property.
  - the bailee may request that the Civil Enforcement Agency relieve him of his responsibility in the event that he no longer wishes to be responsible for the personal property, e.g. if he is planning to move.
- (2) Advise the bailee of the penalty for non-compliance with the Bailee's Undertaking.
- (3) Complete the Bailee's Undertaking.
- (4) Ensure that there is a correct address where the personal property is to be kept.
- (5) The bailee must sign the undertaking and print his name and mailing address. If the bailee has any questions regarding non-compliance, explain the provisions to him. The Bailiff may suggest that the Bailee obtain legal advice if he is still concerned or has questions.
- (6) The witness, normally the Bailiff, will date and sign the undertaking and print his name, as well as the name and address of the Agency.
- (7) A copy of the Bailee's Undertaking along with a copy of the Notice of Seizure of Personal Property must be provided to the bailee.
- (8) Include the details of the Bailee's Undertaking in the Bailiff's report.

A bailee, as agent for the Civil Enforcement Agency, should be a responsible person who keeps seized personal property until it is required by the Agency.

The Bailee's Undertaking must be signed and witnessed.

If a responsible person is not available to sign the Bailee's Undertaking, the Bailiff should consider removal and storage of the seized property to ensure its safekeeping. If this is the case, the Bailiff may want to contact the Civil Enforcement Agency for further instructions.

Consideration should be given to obtaining a Bailee's Undertaking from the person making removal to protect the property in transit.

There are pros and cons to using a Bailee's Undertaking. A few have been listed for consideration when determining if a Bailee's Undertaking is appropriate.

### **Pros**

A Bailee's Undertaking assigns responsibility for the care and control of seized property to a specific individual.

If the bailee is the debtor, storage costs are generally eliminated.

If it is the debtor who enters into the Bailee's Undertaking, he may continue to use the seized items. This is especially important when you are dealing with the debtor's livelihood, e.g. farmer.

### **Cons**

There is a risk that the bailee, or other individual, will abscond with the property. Although the option of criminal or civil proceedings exists, the personal property may not be recovered.

## Excerpts from the Criminal Code

### *Theft by Bailee of Things Under Seizure*

324. *Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or on demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.*

### *Punishment for Theft*

334. *Except where otherwise provided by law, every one who commits theft*  
(a) *is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years, where the property stolen is a testamentary instrument or where the value of what is stolen exceeds five thousand dollars; or*

(b) *is guilty*

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

(ii) *of an offence punishable on summary conviction,*

*where the value of what is stolen does not exceed five thousand dollars.*

## Removal

- (1) If the bailiff cannot obtain a Bailee's Undertaking at the time of seizure, contact the Civil Enforcement Agency to determine if you should remove and store the property. Ensure that the person removing and storing the property signs a Bailee's Undertaking.
- (2) If a party is claiming a possessory lien on seized property, do not remove the property. Leave the property with that party on a Bailee's Undertaking until the issue of the lien is dealt with by the instructing party.
- (3) When removing a vehicle, the Bailiff should never drive or tow it away himself. Always have removal done by a licensed and approved towing company.
- (4) If the debtor or someone representing the debtor is not present at the time of removal of the seized property, the bailiff should advise the local police agency that the property has been removed in the event the property is later reported stolen.

## Service of Seizure Documents

- (1) Serve a copy of the Warrant, Notice of Seizure of Personal Property, and, if applicable, Notice of Objection to Seizure of Personal Property on each debtor, an adult occupant at the location of the seizure, or the person who has possession or control over the property.
- (2) For Garage Keeper's Lien seizures only, if the bailiff is unable to serve the debtor or other adult occupant, attach the Warrant, Notice of Seizure of Personal Property and Notice of Objection to Seizure of Personal Property for each debtor in a conspicuous place at the seizure location or to the property seized. This meets the seizure requirements, however, it does not meet the service obligation. Ensure that the fact service was not effected is indicated in the Bailiff's Report.

## Complete the Bailiff's Report

The Bailiff's Report should be clear, concise and factual. As this document may be used in court, it is extremely important that the bailiff not speculate or offer opinions. Specific details should be included.

- (1) If seizure is effected, indicate how the Warrant, Notice of Seizure of Personal Property and, if applicable, Notice of Objection to Seizure of Personal Property were served. This is important because, in Garage Keeper's Lien seizures only, if these documents were not served, the Civil Enforcement Agency must serve them on each debtor as soon after effecting seizure as is practicable. \*
- (2) If the bailiff is unable to personally serve the Warrant, Notice of Seizure of Personal Property and, if applicable, Notice of Objection to Seizure of Personal Property, he may
  - post the documents in a conspicuous place, or
  - attach the documents to the seized property, or
  - affix the seizure stickers to the seized property.

For Garage Keeper's Lien seizures only, this meets the seizure requirements, however, it does not meet the service obligation. Ensure that the fact service was not effected is indicated in the Bailiff's Report.

- (3) If the seized property was removed, indicate \*
- where it was removed to,
- the name and address of the person with whom the personal property was left, and
- the name and address of the person who signed the Bailee's Undertaking.

### *Storage Expenses*

*The bailiff must ensure that he does not incur excessive storage costs in relation to the value of the personal property. Advise the storage company that the Civil Enforcement Agency must receive an invoice for storage at least monthly. Ensure that the storage details, including costs, are referred to in the comments section of the Bailiff's Report.* \*

- (4) Complete and sign the Report. \*

- \* (5) If the bailiff is unable to effect the seizure, he should complete the Report stating the reasons and any useful information about the debtor or the personal property. Complete and sign the Report.
- .
- (6) Return the completed documents to the Civil Enforcement Agency. This should be done promptly as the agency must register the details of the seizure within 3 days after the date of seizure.

### **Review of Bailiff's Report**

- \* The Agency will review the completed Bailiff's Report and accompanying documents to determine if seizure was effected. Also review the Report for any errors, omissions, or irregularities.

### **Seizure NOT Effected**

- \* If seizure was not effected, forward a copy of the Report to the instructing party and await further instructions.

### **Seizure Effected**

- \* If seizure was effected and if the Report and applicable documents are in order, forward a copy of the Report to the instructing party along with a copy of the Notice of Seizure of Personal Property, and Bailee's Undertaking (if applicable).

## **Service of Seizure Documents - Garage Keeper's Lien**

If the Warrant, Notice of Seizure of Personal Property and the Notice of Objection to Seizure of Personal Property were not served on the debtor or an adult member of the debtor's household, the Civil Enforcement Act requires that the Agency must serve the seizure documents on the debtor as soon after effecting seizure as is practicable.

## **Service of Seizure Documents - Other**

Check the Act under which the seizure was effected as requirements for service of seizure documents may vary from statute to statute.

## **Register Seizure**

Pursuant to the provisions of the Civil Enforcement Regulation, the Agency must register details of all seized property and pertinent information such as the condition/location of the seized property at Personal Property Registry within 3 days of seizure being effected.

## **Notice of Objection to Seizure of Personal Property, Received After Seizure Effected (If Applicable)**

Only the debtor or his agent has the right to object to seizure. Therefore, you must ensure that the party objecting to the seizure is the debtor or a person who has the right to act for a debtor.

A Notice of Objection is void and shall be disregarded if the Notice of Objection is not served on the Agency within 15 days from the date of service of the seizure documents.

Upon receipt of a valid Notice of Objection to Seizure of Personal Property the file must be flagged with a note that a sale of the property cannot proceed without a court order.

Send a copy of the Notice of Objection to Seizure of Personal Property to the instructing party.

If the seized personal property is accruing storage costs pending the disposition of the objection, you may wish to discuss this with the instructing party.

## **Third Party Claims, Received After Seizure Effected**

A third party is someone, other than the debtor or the creditor, who claims to be the owner of the seized property or who has some other interest in the personal property that would, without the consent of the third party, preclude sale of the seized property. (See example on following page of a letter which would be a third party claim.)

A third party claim must be in writing and contain an address for service for the third party.

Upon the third party serving a claim on the Agency, proceed as follows:

- (1) Serve written notice of the third party's claim on the instructing party and on all other holders of related writs. (See example on page 25).
- \* (2) Diarize the file for 20 days plus 7 days if served by recorded mail.

### **\* After 20 Days, or 27 Days Where Applicable**

If the Agency has not been served with written notice disputing the third party claim, the Agency may release the seizure and return the property to the person from whom the property was seized.

A third party dispute may result in the commencement of interpleader proceedings. This is a complex area of law; you should contact your legal advisor for direction. Depending on arrangements made with the creditor, it may be the creditor's lawyer who commences interpleader proceedings.

If the instructing party disputes the claim, the seizure shall continue, subject to the appropriate fees and conditions imposed by the Agency. If the instructing party does not dispute the claim, but another related writ holder does, that writ holder may instruct the Agency to continue the seizure. On receiving such instructions, the Agency shall continue the seizure if the other person pays the appropriate fees, if any, and meets any other conditions that may be imposed by an Agency on an instructing party, e.g. indemnification.

You must accept a third party claim up to the time proceeds are distributed. Therefore, if a sale has been set up you must cancel it with respect to those items referred to in the third party claim. If the items have been sold the third party may be entitled to the proceeds of the sale. Consult your legal counsel for direction.

7777 - 11 Avenue  
Edmonton, Alberta  
T6K 1Z1

January 16, 1996

We Seize Ltd.  
406 Replevin Road  
Edmonton, Alberta  
T5J 2N5

To Whom It May Concern:

Yesterday someone from your office went to my brother's place and seized my Red Camaro. My brother borrowed it from me. My brother's name is Joe Debtor. The location of the seizure was 13 Badluck Road, Edmonton, Alberta. The car was removed and I want it returned to me.

I am enclosing the bill of sale proving that the car was purchased by me and a copy of the statement from the car dealership showing that the final payment on the car was made on June 16, 1994. I have not at any time sold or transferred ownership to any other person, particularly my brother. Besides, he would never have enough money to buy it.

I need the car back so I can get to work. If I don't get it back within a week, I will have to rent a car and forward the bill to you.

Yours truly,

Sam J. Debtor

Enclosure

**Third Party Claim**

**Letter to Instructing Party about Third Party Claim**

WE SEIZE LTD.  
406 Replevin Road  
Edmonton, Alberta T5J 2N5

OUR FILE: EW 09766  
YOUR FILE: 9-11,586

January 25, 1996

REGISTERED

Lawyers Incorporated  
Barristers and Solicitors  
1 Legal Square  
Edmonton, Alberta  
T2N OXO

Dear Sir:

RE: IMA CREDITOR v. JOE DEBTOR

Enclosed is a copy of a third party claim completed by Sam J. Debtor which is self-explanatory.

- \* In view of the information contained therein, I would refer you to the Alberta Rules of Court that require you to inform me within 20 days of being served with the notice whether you dispute the claim.
- \* If you do not respond within 20 days of being served with this notice, we shall release the seizure and return the property to the person from whom it was seized.

Yours truly,

Manager  
We Seize Ltd.

Enclosure

Form 2  
Civil Enforcement Regulation

\_\_\_\_\_  
Previous P.P.R. Registration Number (W.C.B. only)

00-00000  
Civil Enforcement Agency File Number

**Warrant**  
(DISTRESS)

\_\_\_\_\_  
Municipal Government Act  
Type

\_\_\_\_\_  
MGA  
Code

(Select Code from table on reverse.)

TO: \_\_\_\_\_  
We Seize Ltd.  
406 Replevin Road, Edmonton Alberta T5J 2N5  
\_\_\_\_\_  
Name and Address of Civil Enforcement Agency

You are hereby instructed to seize the personal property of

\_\_\_\_\_  
Joe Debtor  
13 Badluck Road, Edmonton Alberta  
\_\_\_\_\_  
Name and Address of Debtor

in order to satisfy an outstanding debt in the amount of \$ 375.00  
owing to \_\_\_\_\_  
City of Edmonton plus costs.  
\_\_\_\_\_  
Name of Creditor

\_\_\_\_\_  
Location of personal property if different from the debtor's address

Dated at \_\_\_\_\_  
Edmonton, Alberta, on \_\_\_\_\_  
January 12, 1996

\_\_\_\_\_  
*J.B. Anne Officer*  
Signature of Instructing Creditor or Authorized Agent

\_\_\_\_\_  
I.B. Anne Officer  
Print Name of Instructing Creditor or Authorized Agent

\_\_\_\_\_  
City Hall  
Address of Instructing Creditor or Authorized Agent

\_\_\_\_\_  
Edmonton  
City

\_\_\_\_\_  
Edmonton T5J 1R1 426-4444 426-5555  
Province Postal Code Telephone Number Fax Number

Jan 1/03

Form 2 - Warrant (Distress)

**TABLE OF SEIZURES**

<b>DESCRIPTION</b>	<b>TYPE</b>
Agriculture Financial Services Act	AFS
Bank Act	BAN
Landlord Distress	LRO
Municipal Government Act	MGA
Woodmen's Lien Act	WLA
Workers' Compensation Act	WCB
Other	OTH

Form 3  
Civil Enforcement Regulation

00-00000

Civil Enforcement Agency File Number

# Warrant

(Garage Keepers' Lien Act)

TO: We Seize Ltd.

406 Replevin Road, Edmonton, Alberta

Name and Address of Civil Enforcement Agency

You are hereby instructed to seize the following vehicle:

Make 1979 Model Camero, Red

Serial Number 1GM54C761MOG59 Licence Number BLJ 327

the property of Joe Debtor

13 Badluck Road, Edmonton, Alberta

Name and Address of Owner

now in the possession of Pete's Auto Repair

11473 - 67 Street, Edmonton, Alberta

Name and Address of Party in Possession

This vehicle is subject to a garage keeper's lien registered in the Personal Property Registry on the 5 day of

August, 1995 as Registration Number 950805-000011 Seizure is instructed to realize

the sum of \$ 295.85 plus costs claimed by Pete's Auto Repair for

Name of Creditor

(Please indicate with an X the reason for the claim.)

- storage of motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle
- repair of a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle
- maintenance of a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle
- price of accessories or parts furnished for a motor vehicle or farm vehicle or a part of a motor vehicle or a farm vehicle
- Possession of the motor vehicle or farm vehicle was surrendered to the owner or owner's agent on \_\_\_\_\_.
- Repairs were completed to the motor vehicle, farm vehicle or part of a motor vehicle or a farm vehicle where the vehicle was not at the time of repair in the possession of the garage keeper on \_\_\_\_\_.
- Accessories or parts were furnished to the motor vehicle or farm vehicle on \_\_\_\_\_.

Dated at Edmonton Alberta, on January 12 1996

*Pete Mechanic*

Signature of Instructing Creditor or Authorized Agent

Pete Mechanic, Pete's Auto Repair  
Print Name of Instructing Creditor or Authorized Agent

11473 - 67 Street Edmonton  
Address of Instructing Creditor or Authorized Agent City

Alberta T5M 2P4 423-3333 424-6666  
Province Postal Code Telephone Number Fax Number

Oct 5/04

Form 3 - Warrant (Garage Keepers' Lien Act)

Form 5  
Civil Enforcement Regulation

00-00000  
Civil Enforcement Agency File Number

### Notice of Seizure of Personal Property

TO: Joe Debtor  
13 Badluck Road, Edmonton Alberta  
Name and Address of Debtor

Take notice that to satisfy a claim against you for the sum \$279.85 plus costs and related Writs, if applicable  
Pete's Auto Repair  
11473 - 67 Street, Edmonton, Alberta  
Name and Address of Creditor

has caused the following personal property and personal property listed in the addendum to be seized:

1	1979 Camaro, Red S/N 1GM54C761M0G59

Addendum attached listing additional property.  Yes  No

Notice of Objection applicable to this seizure.  Yes  No

\* **STRIKE OUT IF NOT APPLICABLE** If you object to the seizure, you must deliver the Notice of Objection to the Civil Enforcement Agency listed below within 15 days from the days that the seizure documents were served.

Dated at Edmonton, Alberta, on January 15, 1996

P. Bailiff P. Bailiff  
Bailiff's Signature Print Name

We Seize Ltd.  
Name of Civil Enforcement Agency  
406 Replevin Road Edmonton  
Address of Civil Enforcement Agency City  
Alberta T5J 2N5 422-2696 422-7777  
Province Postal Code Telephone Number Fax Number

Notice: If you have concerns about the way that this seizure was conducted, contact the Civil Enforcement Agency listed above. If you are unable to resolve your concerns with the Civil Enforcement Agency, you may contact the Sheriff - Civil Enforcement at (780) 422-2481.

\* Jun 8/05





Form 8  
Civil Enforcement Regulation

00-00000  
Civil Enforcement Agency File Number

### Bailee's Undertaking

In consideration of the seized personal property listed in the attached Notice of Seizure of Personal Property being left in my possession, I agree to act as Bailee for the Civil Enforcement Agency and keep the said personal property in good condition at:

11473 - 67 Street  
Edmonton, Alberta  
Address or Land Location Where Personal Property Will Be Stored.

and deliver it to the Civil Enforcement Agency whenever and wherever it may be required.

**I understand that non-delivery or conversion of the personal property may result in a conviction under the Criminal Code for which a term of imprisonment may be imposed.**

Dated at Edmonton, Alberta, on January 15, 1996

**Bailee:** Pete Mechanic Signature of Bailee Pete Mechanic Print Name

11473 - 67 Street Address of Bailee Edmonton City Alberta Province

T5M 2P4 Postal Code 422-2696 Telephone Number 422-7777 Fax Number

P. Bailiff Signature of Witness P. Bailiff Print Name

406 Replevin Road Address of Witness Edmonton City Alberta Province

T5J 2N5 Postal Code 422-2696 Telephone Number 422-7777 Fax Number

We Seize Ltd. Name of Civil Enforcement Agency

406 Replevin Road Address of Civil Enforcement Agency Edmonton City

Alberta Province T5J 2N5 Postal Code 422-2696 Telephone Number 422-7777 Fax Number

NOTE: ATTACH TO EACH COPY OF THE NOTICE OF SEIZURE OF PERSONAL PROPERTY.

Oct.01/95

Form 8 - Bailee's Undertaking

Form 9  
Civil Enforcement Regulation

Civil Enforcement Agency File Number

### Bailiff's Report

CREDITOR \_\_\_\_\_

DEBTOR \_\_\_\_\_

I, \_\_\_\_\_, of the City/Town of \_\_\_\_\_, Alberta  
Name of Bailiff

report as follows:

*(Describe in detail the action taken, including dates, times, addresses, name(s), documents completed, persons served and with what documents, where personal property was removed to, storage location and cost, changes to the original instructions, and any other factual information that may be important to the instructing party or the civil enforcement agency.)*

Is there an Addendum attached? Yes  No

If yes, \_\_\_\_\_ Addendum pages attached. (Each page forms part of this Report.)  
Number

I hereby certify that the information contained in this Report is true and complete. I understand that any false information may lead to charges under the *Criminal Code* (Canada) and could result in the suspension or cancellation of my appointment as a bailiff.

Dated at \_\_\_\_\_, Alberta, on \_\_\_\_\_, 20\_\_\_\_.  
City/Town Date

\_\_\_\_\_  
Signature of Bailiff

\_\_\_\_\_  
Print Name of Instructing Party

\_\_\_\_\_  
Print Name of Civil Enforcement Agency

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/Town Province Postal Code

\_\_\_\_\_  
City/Town Province Postal Code

\_\_\_\_\_  
Toll-Free Telephone Number Toll-Free Fax Number

\*

Seizure Sticker

IDENTIFICATION NO. <b>0001</b>	CIVIL ENFORCEMENT AGENCY FILE NO. <b>00-00000</b>
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## UNDER SEIZURE

THIS ITEM IS UNDER SEIZURE BY

***We Seize Ltd.***

Name of Civil Enforcement Agency

**406 Replevin Road, Edmonton      422-2696**

Address

Telephone No.

**422-7777**

**January 15, 1996**

Fax No.

Date

*P. Bailiff*

**P. Bailiff**

Bailiff's Signature

Print Name