



UNIVERSITY OF CALGARY
FACULTY OF LAW



Canadian Institute of Resources Law

Saturday Morning at the Law School

Sponsored by Alberta Law Foundation

December 4, 2021, 10:00 a.m.-12:00 noon (MT)

Online event

Protection for Debtors in Alberta Legislation

Prepared and presented by

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Disclaimer: The presentation is general information only and **not** legal advice. It is intended to generate an appreciation of the subject matter. It is a consumer-orientated perspective on selected aspects of the topic. To the extent practical, questions about the topic will be responded to at the conclusion of the presentation. Real situations affecting persons or things will not be discussed.

Notice to Individuals Suffering Serious Financial Hardship: Go to the Government of Alberta website (<https://www.alberta.ca>) to find Alberta government services and information you need.

PROGRAM*

1. **Seizure and Sale** to enforce a *purchase-money security interest in personal property* (not land).
2. **Foreclosure action** on a conventional versus an insured *high ratio mortgage*.

Break Time

3. **Exempt property** in *writ proceedings* to enforce a *money judgment* or a landlord *distress* for unpaid rent.
4. **Recent and ongoing law reform**, e.g., Alberta Law Reform Institute (ALRI).

*Terms in italics in the **PROGRAM** above are defined in the applicable **LEGISLATION** below.

BIBLIOGRAPHY

LEGISLATION

Bankruptcy and Insolvency Act, RSC 1985, c B-3 (BIA), s 244 Advance notice, BIA Form 86 Notice of Intention to Enforce a Security.

Civil Enforcement Act, RSA 2000, c C-15 (CEA), s 1(1) Interpretation (definitions), Part 5 Seizure of Personal Property, Part 10 Exemptions & Part 12 Distress.

Civil Enforcement Regulation, Alta Reg 276/1995 (CE Reg), s 2 Definitions re the Act, s 3 Forms, Part 2 Exemptions & Schedule 4 Forms.

Constitution Act, 1867 (UK), 30 & 31 Vict, c 3, ss 91-92, reprinted in RSC 1985, App II, No 5.

Law of Property Act, RSA 2000, c

L-7, Part 5 Enforcement of Mortgages and Agreements for Sale of Land & Part 6 Enforcement of Purchase-Money Security Agreements.

Law of Property Regulation, Alta Reg 89/2004, s 1(2) definition “high ratio mortgage”.
Personal Property Security Act, RSA 2000, c P-7 (PPSA), s 1(1) Interpretation (definitions), Part 5 Rights and Remedies on Default & Part 6 Miscellaneous.

Legislation (statutes and regulations), online: Canadian Legal Information Institute (**CanLII**) <<https://www.canlii.org/>> accessed 14 Nov. 2021.

CanLII is a free online source for federal, provincial, and territorial legislation (not official).

CanLII is a non-profit organization managed by the Federation of Law Societies of Canada. Its goal is to make Canadian law freely accessible on the Internet. But CanLII is not free. CanLII is funded by the members of Canada’s 14 provincial and territorial law societies - with the Law Society of Alberta budgeting \$426,000 (about \$42 for each Alberta lawyer) to CanLII in 2021. The CanLII website provides access to court judgments, tribunal decisions, and legislation from all Canadian jurisdictions.

SECONDARY MATERIAL: BOOKS

Ronald CC Cumming & Roderick J Wood, *Alberta Personal Property Security Act Handbook*, 4th ed (Scarborough, Ont: Carswell, 1998).

CRB (Dick) Dunlop & Tamara M Buckwald, *Debt Recovery in Alberta* (Toronto: Carswell, 2012).

Richard H McLaren, *Secured Transactions in Personal Property in Canada*, 3rd ed, loose leaf, (Toronto: Carswell, 2019).

Francis CR Price & Marguerite J Trussler, *Mortgage Actions in Alberta* (Calgary: Carswell, 1985).

SECONDARY MATERIAL: ARTICLES

Jonnette Watson Hamilton, “A Trap for the Unwary: Assuming High Ratio Mortgages” (June 16, 2015), online: ABlawg

<<https://ablawg.ca/?s=A+Trap+for+the+Unwary%3A+Assuming+High+Ratio+Mortgages>> accessed 14 Nov. 2021.

SECONDARY MATERIAL: REPORTS

Alberta Law Reform Institute (**ALRI**), Rules of Court Project, *Enforcement of Judgments and Orders*, Consultation Memorandum No. 12.11, August 2004, online: **ALRI**

<<https://www.alri.ualberta.ca/>> accessed 14 Nov. 2021.

— Rules of Court Project, *Motions and Orders*, Consultation Memorandum No. 12.10, July 2004, online: **ALRI**.

— *Enforcement of Money Judgments*, two volumes, 1991, online: **ALRI**.

ALRI is the official law reform agency for the Province of Alberta. It provides independent, comprehensive advice to the Government of Alberta and other agencies to ensure that the law and administration of justice are up to date and serve Albertans to best extent possible. ALRI advocates for just and effective laws through independent legal research, consultation, and analysis. ALRI delivers law reform proposals through specific projects.

Personal Insolvency Task Force, *Final Report* (Ottawa: Industry Canada, August 2002) (Chair: Yoine Goldstein) at 24-27, III Optional Federal Exemptions [recommendations of the Task Force].

SECONDARY MATERIAL: WEBSITES

Resolution and Court Administration Services (RCAS) provides a range of resolution and court supports (guidance) for people involved in legal disputes, online: Alberta <<https://www.alberta.ca/rcas.aspx>> accessed 14 Nov. 2021.

Office of the Sheriff - Civil Enforcement regulates the civil enforcement industry by overseeing its activities, responding to complaints about it, overseeing its training, creating its procedures, and preparing reports about it, online: Alberta <<https://www.alberta.ca/office-of-sheriff-civil-enforcement.aspx>> accessed 14 Nov. 2021.

OTHER MATERIAL

Alberta, *Getting and Enforcing Your Judgment in Alberta*, online: Alberta Courts <<https://albertacourts.ca/docs/default-source/pc/getting-and-enforcing-your-judgment-in-alberta.pdf?sfvrsn=580ead80-4>> accessed 14 Nov. 2021.

About the Presenter - Cliff Shaw



Cliff is a member of the Alberta and Nova Scotia Bars and a Queen's Counsel (QC). He obtained a Bachelor of Arts (BA) from St. Francis Xavier University, a Bachelor of Laws (LLB) from Dalhousie University, and a Master of Laws (LLM) from Osgoode Hall Law School at York University. Cliff taught the *Unsecured Creditors' Remedies* and the *Bankruptcy and Restructuring Law* courses in the Faculty of Law at the University of Calgary. He taught the *Business Law* course in the Bissett School of Business at Mount Royal University. Cliff is a regular consultant to the Canadian Centre for Professional Legal Education (CPLED), a non-profit organization that offers the Bar admission program in Alberta, Saskatchewan, Manitoba, and Nova Scotia.

Cliff's recent book is titled *Aspects of Banking and Financial Services Law* (Toronto: LexisNexis Canada, 2021) and available at the [LexisNexis Online Bookstore](#).

Quoting from the publisher's factsheet: The main objective of this book, writes author and lawyer C.J. Shaw, "is to inspire more lawyers to do legal writing for publication and professional and personal enjoyment." Although this is Shaw's primary goal, the fact is, *Aspects of Banking and Financial Services Law* accomplishes more by providing an enlightened look at a wide variety of intriguing issues in banking and financial services law. Clearly, the chapter about lawyering and the chapter on teaching and learning demonstrate Shaw's motivation for doing this book.