



Should I worry about a seizure if I am a recipient of last resort assistance?

Jasmin has just lost a case before the Régie du logement. He now owes his landlord \$3,000. The landlord has told him he will seize everything he owns, which worries Jasmin, who is a recipient of last resort assistance.

First and foremost, Jasmin should know that the right resulting from a judgment is prescribed by 10 years. Therefore, the landlord will have to carry out a seizure within that deadline to avoid losing his right. After that date, Jasmin will be released from the debt, because the judgment will no longer be legally valid. However, it is crucial that Jasmin not acknowledge owing the debt during that period of time. Otherwise, the 10-year prescription period will begin to run again as of the acknowledgement of the debt.

If Jasmin refuses to pay voluntarily, after a period of time set by law, which is generally 30 days from the date of the judgment, the landlord will be able to proceed with the compulsory execution of the judgment, commonly referred to as a seizure. It should be noted that no one is immune from seizure and everyone has the obligation to repay their debts to their creditors. However, several exceptions set out in the *Code of Civil Procedure of Québec*¹ make it difficult to carry out a seizure against someone with Jasmin's financial means.

Indeed, when carrying out a seizure, the bailiff must deduct up to a market value of \$7,000 of the movable property which furnishes Jasmin's main residence and, if that value has not been reached, the personal objects that Jasmin chooses to keep. In the vast majority of cases, all the property owned by a person who receives last resort assistance does not exceed this amount.

A passenger vehicle is seizable, but may be excluded under certain conditions. The vehicle must be *necessary in order to maintain work income or an active job search. Nor can it be seized if it is necessary in order to meet the basic needs of the debtor and the debtor's dependants or ensure that they receive the care required by their state of health or can pursue their education.* Thus, if Jasmin is actively looking for work or has a child who attends a school where no school transportation is provided, he will be able to oppose the seizure of his vehicle. However, no public transport must be available for him to carry out his job search.

If Jasmin owns a house, he need not worry about the seizure of his immovable property. For a creditor to be able to seize immovable property and have it sold in a judicial sale, the debt must be greater than \$20,000. The creditor will be able to register a legal hypothec on the house, which will guarantee the debt and the interest on that debt. In such a case, he will have to wait until the house is sold or seized by a creditor with a sufficiently large enough debt to have the house sold under judicial authority.

Text prepared by
M^e Jean-Sébastien Faust
Lawyer at the Joliette legal aid
office

Contact Us

Commission des
services juridiques
Communications Department
2 Complexe Desjardins
East Tower
Suite 1404
P.O. Box 123
Succursale Desjardins
Montreal, Québec
H5B 1B3

Telephone: (514) 873-3562
Fax: (514) 864-2351

www.csj.qc.ca

* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.

¹ The relevant articles of the [Code of Civil Procedure of Québec](#) are articles 692 to 721



**Should I worry about a seizure if I am a recipient
of last resort assistance?
(continued)**

Furthermore, the *Code of Civil Procedure* provides that benefits paid pursuant to their originating statute, such as the last resort benefits Jasmin receives under the *Individual and Family Assistance Act*,² are unseizable.

The following benefits are also unseizable:

- Special allowances for children;
- Old Age Security benefits;
- Unemployment benefits.

One of the options often favoured by creditors is the seizure of bank accounts. Here, too, Jasmin's landlord will not be able to do indirectly what he cannot do directly. In other words, if the amounts in Jasmin's bank account are unseizable at their source, such as his last resort financial assistance benefits, Jasmin will be able to oppose the seizure of his bank account. However, in order for the court to allow the opposition, all of the amounts in the bank account must be unseizable under the law or easily identifiable.

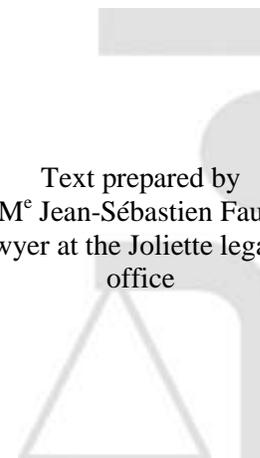
OPPOSITIONS

Sometimes, a creditor who is unfamiliar with the law seizes property that is unseizable. This is why it is important to consult a lawyer from the legal aid office in your region to find out whether the movable property seized by a creditor is, in fact, seizable. However, you must act quickly, because the deadline for opposing a seizure is 15 days after receipt of the minutes of seizure, the notice of sale or the seizure in the hands of a third person, as the case may be. Often, discussions with the creditor can, in and of themselves, lead to a lifting of the seizure before the matter even gets to court.

Don't hesitate to have your eligibility for legal aid evaluated by making an appointment at a legal aid office near you.

To find the contact information for your legal aid office, please visit our website at www.csj.qc.ca.

Text prepared by
M^c Jean-Sébastien Faust
Lawyer at the Joliette legal aid
office



Contact Us

Commission des
services juridiques
Communications Department
2 Complexe Desjardins
East Tower
Suite 1404
P.O. Box 123
Succursale Desjardins
Montreal, Québec
H5B 1B3

Telephone: (514) 873-3562
Fax: (514) 864-2351

www.csj.qc.ca

* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.

² [Individual and Family Assistance Act](#)