

Laws of Her Majesty's Province of United Canada, passed in the year 1854. Quebec: Stewart Derbyshire and George Desbarts, 1854.

18 Victoria – Chapter 110

An Act to regulate the Proceedings on Forced Licitations, and to give them the effect of Sheriff's Sales (*Décrets*.) Assented to 30th May, 1855.

Whereas it is necessary to provide a more simple and less expensive mode of proceeding to the forced licitation of immoveables held *par indivis* in Lower Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

- I. In any case in which a licitation shall be ordered, the party prosecuting the same, and who shall have obtained such order, shall cause to be inserted three times during the space of four months in the *Canada Gazette* published by authority, a public notice setting forth that the immoveables subject to licitation will be put up to auction and adjudged to the highest bidder, at a sitting of the Superior Court held after the expiration of four months from the date of the first insertion of the said notice in the *Canada Gazette*; which said notice may be in the form of the Schedule A to this Act annexed.
- II. The above-mentioned notice shall in like manner be published on the three Sundays immediately preceding the day fixed for the sale and adjudication, at the door of the Church of the Parish in which the said immoveables shall lie, and if there be no Church, or if the said immoveables be situate without the limits of any Parish, then in the most public place of the locality; and the said notice shall be posted up at the door of the said Church or at die said most public place, on the first Sunday on which it shall have been so published.
- III. The adjudication which shall be made after the above prescribed formalities have been complied with, shall have all the effect of a *décret*, and shall purge the property from all charges, privileges, hypothecs and vested rights (*droits ouverts*) in the same manner as adjudication upon execution against immoveables, excepting the charges entered in the register of charges, as regards the said licitation.
- IV. Every opposition *afin d'annuler, afin de charge, or afin de distraire* in respect of immoveables under licitation, shall be filed in the office of the Court by which the licitation has been ordered, at least fifteen days before the day fixed for the public sale thereof; and on failure to file such opposition, the legal recourse of the party who shall have neglected to file his opposition, shall be converted into an opposition *afin de conserver* on the moneys arising from the adjudication.

V. In all cases in which any opposition *afin d'annuler, afin de charge, or afin de distraire* so filed, cannot be tried before the day fixed for the sale, the licitation shall be suspended until judgment shall have been rendered thereon, and the Court may appoint another day for the sale and adjudication, notice being given by the parties interested, in the said Canada. Gazette, of the day so appointed, which said notice shall be published once at least ten days before that appointed by the Court as aforesaid.

VI. The adjudication shall be made in accordance with the conditions contained in the list of charges approved by the Court after hearing the parties thereupon, and the purchase money shall be disposed of in the manner provided for the disposing of moneys arising from execution against the immoveables of any debtor by virtue of a judgment.

VII. The purchaser of any immoveables sold as aforesaid shall, in default of payment of the price of sale, be subject to the same penalties and obligations as any other purchaser of property sold under execution.

VIII. All oppositions *afin de consumer* must be filed before the expiration of the six days next after the adjudication.

Schedule A.

Lower Canada,
District of _____ }
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Licitation.

Public notice is hereby given that under and by virtue of a judgment of the Superior Court sitting at _____, in the District of _____, on the _____ day of _____, one thousand eight hundred and _____, in a cause in which A. B. (description at length) is Plaintiff and C. D. (description at length) is Defendant, ordering the licitation of certain immoveables described as follows, to wit.: (here insert the description of the property to be sold) the property above described will be put up to auction and adjudged to the last, and highest bidder on the _____ day of _____ next, sitting the Court, in the Court Room of the Court House in the said city (or town) of _____ subject to the charges, clauses and conditions contained in the list of charges deposited in the Office of the Clerk of the said Court; and any opposition *afin de annular, afin de charge or afin de distraire*, to the said fication, must be filed in the Office of the Clerk of the said Court fifteen days at least before the day fixed as aforesaid for the sale and adjudication, and oppositions *afin de conserver* must be filed within the six days next alter the adjudication, and failing the parties to file such oppositions within the delays hereby limited, they will be foreclosed from so doing.

(Date.)