

WHEN WOULD THE PROCEDURE BE USED?

The debtor must be the registered proprietor (owner) of an interest in real estate in Victoria.

There must also be a current judgment, either obtained in a Victorian Court or alternatively, we can transfer it to a Victorian Court.

Victorian Judgments have a life of 15 years and can be enforced at any time during the 15 years period.

If the amount of the judgment (including awarded costs and interest) is greater than \$5,000.00, we recommend that **Bankruptcy** proceedings be undertaken. However, Bankruptcy action cannot be undertaken where the judgment is for an amount less than \$5,000.00. [*Refer to our detailed Bankruptcy notes.](#)

If the judgment is for less than \$5,000.00 and where the debtor is the proprietor of real estate in Victoria and there is sufficient equity in the property to meet the claim, we recommend **SEIZURE & SALE**.

In summary, the procedure would only be undertaken where you hold a judgment for less than \$5,000.00 and the debtor owns property in Victoria.

PRELIMINARY STAGE

It is not possible to commence the procedure until a Warrant for Seizure and Sale of Chattels (as opposed to real estate) has been issued and has been returned by the Sheriff without recovery of money.

[*Refer to Mendelsons detailed legal enforcement notes for Victoria.](#)

PROCEDURES

The procedures can be summarised as follows:

- Mendelsons will obtain a certified copy of the Magistrates' Court judgment and then lodge this with other documentation with the Supreme Court.
- The Supreme Court will issue a Warrant prepared by Mendelsons who will then send the Warrant to the Sheriff's Office.
- The Sheriff will visit the property and obtain admissions that Judgment Debtor is the registered proprietor of the property.
- If need be, the Sheriff will obtain vacant possession of the property.
- The Sheriff will prepare further documentation which is sent to Mendelsons which will then be lodged at the Land Titles Office. At that stage, the Warrant will be registered on the Title. This means that the debtor will not be able to sell the property until he obtains a release of the Warrant, which he can only do by paying out the debt.
- The Sheriff will obtain a valuation of the property.
- The Sheriff will advertise and schedule an auction for sale of the debtor's property.
- The Sheriff will notify any mortgagees and obtain details of the payout figures on those mortgages.
- If the reserve figure is not reached, the property will be passed in.

MENDELSONS LAWYERS FIXED PRICE FULLY INCLUSIVE COST

The all-inclusive cost of *\$4,520.03 includes **all** attendances by Mendelsons and **all** disbursements and GST.

The fee payable is non-refundable in the event where Mendelsons Lawyers is unable to complete the procedure due to non-co-operation by you.

WHAT IS NOT INCLUDED?

- Investigation, location and skip-tracing fees (\$250.00 inc of GST) – where required.
- The warrant has a life of 12 months. Additional charges will apply should it become necessary to re-new the warrant.

WHAT WILL I RECEIVE BACK?

The Court will award legal costs and interest, which are added to the Judgment Debt. We will account to you for all awarded costs and interest which are recovered, including costs on the initial Judgment and Warrant.

IS THE PROCEDURE SUCCESSFUL?

In the majority of cases, the claim will be settled well prior to the auction date, although there are some debtors who will hold out until the end. However, **as long as there is sufficient equity in the property, the chances of ultimately obtaining recovery are high.**

Our success rate is over 90%.


WHAT HAPPENS IF THE PROPERTY DOESN'T SELL AT AUCTION

It is possible to keep renewing the Warrant every three months (at a cost of \$176.00 per time) and thus keep the Warrant registered on the title. These costs will be added to the Warrant. The Fixed Price includes one extension only.

When the debtor ultimately sells or refinances the property, he will need to pay out the judgment debt (plus accrued costs and interest) at that stage, in order to obtain a clear title.

There is also a procedure for application to be made to the Supreme Court for an Order that the property be sold without a reserve price. The fixed price fee does not extend to making an application. We will discuss applicable costs with you.

HOW DO I PROCEED?



Simply complete and sign the Action Form (which acknowledges that you have been provided with the Engagement Agreement) and send, with payment to Mendelsons Lawyers.

Contact: Sue Stevens
Post: Mendelsons Lawyers
Private Bag 6, Mitcham Vic 3132
Fax: (03) 9872 7250
www.mendelsons.com.au

Call the Legal Team for further details on (03) 9872 7289 or send an email to legal@mendelsons.com.au

Pursuant to Rule 29 of the Professional Conduct and Practice Rules 2005 (Victoria) Mendelsons Lawyers Pty Ltd ACN 125 099 701 discloses that it is associated with and shares common ownership with Prushka Fast Debt Recovery Pty Ltd.