

170.0086

## Memorandum

To: Mr. Wes Hamiel  
Collection Section (MIC:55)

Date: May 31, 1995

From: Thomas J. Cooke  
Staff Counsel

Subject: Minimum Bids Cited in C.C.P. § 701.620

Gary Jugum has requested that I respond to your memorandum to him dated May 11, 1995 concerning the above subject.

In your memorandum, you state that the Sacramento District Office requests a legal opinion on the ramifications of C.C.P. Section 701.620.

C.C.P. Section 701.620 provides that property seized by levy may not be sold at a sheriff's sale unless the highest bid received exceeds the total of certain enumerated legal exemptions and obligations. The code section further provides:

“(c) If a minimum bid required for the sale of property pursuant to this section is not received, the levying officer shall promptly release the property.”

C.C.P. Section 701.620 protects certain interests (including the judgment debtor's particular exemption for the property to be sold) from a sheriff's sale for an inadequate highest bid.

If the Board is the “judgment creditor” (i.e., it has requested the sheriff to seize and sell property to satisfy a “judgment debtor's” tax liability), the property cannot be sold at a sheriff's sale unless the highest bid received by the sheriff exceeds 1) the amount of all preferred labor claims that are required by Section 1206 to be satisfied from the sale proceeds, 2) if the purchaser at the sale is not the Board, the amount of any deposit made pursuant to C.C.P. Section 720.260 and 3) the taxpayer's exemption for motor vehicles, household furnishings or tools of trade if applicable to the property to be sold.

If the sheriff does not receive a bid at the sale that exceeds these amounts, the sheriff is required by C.C.P. Section 701.620(c) and C.C.P. Section 699.060 to release the seized property to the “person from whom it was taken.”

The Legislature has determined that a judgment debtor's property should not be seized and sold at a sheriff's sale unless the proceeds of the sale are sufficient to justify the disruption to the judgment debtor's property interests.

Normally, if the Board is requesting the sheriff to seize and sell a motor vehicle, the minimum bid submitted by the Board should at least exceed the \$1,200.00 exemption provided by C.C.P. Section 704.010.

TJC:plh

cc: Mr. Rick Slater - MIC:55