

personal property

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Security Interests in Personal Property

Personal property consists of tangible property such as automobiles, furniture, and jewelry as well as intangible property such as securities, patents, and copyrights. The law provides for various types of security interests and liens in personal property by sellers of goods and providers of service.



Entrepreneur and the Law

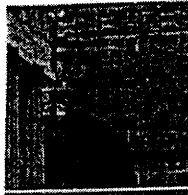
Artisan's Lien

If a worker in the ordinary course of business works on or provides materials to another person with respect to goods, most states have statutes that grant an artisan's lien on the goods until the work or materials are paid for. For example, if an owner takes his or her car into an automobile service department or body shop for repairs, the mechanic who repairs the car has an *automatic lien* on the car in the amount of the services and materials provided to repair the car. If the car owner refuses or fails to pay the bill, the mechanic can sell the car to pay off the lien.

The following rules apply to artisan's liens:

- The owner of an automobile or other good authorizes an artisan to repair the good.

- The artisan does the work and provides the materials as requested.
- The owner does not pay for the services rendered and materials provided.
- The artisan gives the required notices and sells the automobile or other good pursuant to the requirements of the relevant state statute.
- If the sale proceeds exceed the amount of the artisan's lien, the balance is paid to other lien holders in the goods, and then to the owner.
- Artisan's liens are given priority over any existing lien on the goods. Artisan's liens are therefore called *super-priority liens*.



Contemporary Business Environment

Collection Remedies

When a debt is past due, the creditor may bring a legal action against the debtor. If the creditor is successful, the court will award a **judgment** against the debtor. The judgment will state that the debtor owes the creditor a specific sum of money. The amount usually consists of principal and interest past due on the debt, other costs resulting from the debtor's default, and court costs.

The most common collection remedies are:

1. **Attachment** A pre-judgment court order that permits the seizure of the debtor's property while the lawsuit is pending. To obtain a *writ of attachment*, a creditor must follow the procedures of state law, give the debtor notice, and post a bond with the court.
2. **Execution** A post-judgment court order that permits the seizure of the debtor's property that is in the possession of the debtor. Certain property is exempt from levy (e.g., tools of trade, clothing, homestead exemption). A *writ of execution* is a court order directing the sheriff to seize the debtor's property and authorizing a

judicial sale of that property. The proceeds are used to pay the creditor the amount of the final judgment. Any surplus must be paid to the debtor.

3. **Garnishment** A post-judgment court order that permits the seizure of the debtor's property in the possession of third parties. The creditor (also known as the **garnishor**) must go to court to seek a *writ of garnishment*. The third person is called the **garnishee**. Common garnishees are employers who possess wages due a debtor, banks in possession of funds belonging to the debtor, and other third parties in the possession of property of the debtor.

To protect debtors from abusive and excessive garnishment actions by creditors, Congress enacted Title III of the Consumer Credit Protection Act [15 U.S.C. § 1601 et seq.]. This law allows debtors who are subject to a writ of garnishment to retain the greater of (1) 75 percent of their weekly disposable earnings (after taxes) or (2) an amount equal to 30 hours of work paid at federal minimum wage. State law limitations on garnishment control are more stringent than federal law.