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The Act on the Amendment to the Civil Procedure Code (No. 30) B.E. 2560 (2017)

20 October 2017

The Act on the Amendment to the Civil Procedure Code (No. 30) B.E. 2560 was published in the Government Gazette on 6 July 2017 and became effective on 5 September 2017. There are a number of amendments to the current Civil Procedure Code (CPC) as part of its legal execution. The major parts of the amendment can be summarized, with some examples, as follows:

(i)   *Prescribing methods of seizure for any properties to be more obvious and comprehensive;*
For example, in section 272 of the CPC, it is now more clear regarding what to do when a defendant is absent on the date of the court's hearing. Now, the absent defendant will be deemed to have acknowledged the court's seizure order, whereas before, such defendant could plead ignorance of such order and thus have their non-compliance justified.

(ii)   *Sale by auction can be proceeded on holidays or out of normal working hours without the court's permission;*
(section 331 of the CPC)
Previously, the law was silent on the hours of the sale by auction. So in practice, it was expected that the sale by auction occurred during normal working hours, or during a normal working day. The new amendment aims to shorten the time period for that procedure, thereby making the whole process more flexible and less time-consuming.

(iii)   *Submission of a petition to prescribe or object to a sale by auction methods – an interested person in compulsory execution shall submit a petition to the legal execution officer within three (3) days from the date of acknowledgement of the sale by auction methods (Section 333 of the CPC)*
Before the amendment, the exact timeframe during which an interested person could submit his/her petition was not mentioned. The CPC has now added the 3-day timeframe, which is consistent with the Legal Execution Department's practice.

(iv)   *An interested person in a compulsory execution has the right to bid in a sale by auction for their own satisfied price or to find another person to bid instead. (section 288 of the CPC)*
Before, the right of an interested person was limited to only ensuring that a compulsory execution process was in place. An interested person was allowed to be present when the sale by auction took place, but was prohibited from acting in any way which could be considered 'obstructive' to the auctioning process. Now, an interested person can bid in the sale by auction himself/herself or can find another person to bid instead.

(v)   *The legal execution official has the authority to issue an attachment of a claim (Section 316 of the CPC)*

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Formerly, if a judgment debtor had a claim against a third party for paying money or delivering or transferring any asset, a judgment creditor would file a petition request to the court to issue an order for attachment of the claim. Now, the legal execution official is able to issue an order for attachment of a claim by himself/herself.

There are other interesting amendments to the current Civil Procedure Code. Please do not hesitate to contact us; our staff will be pleased to assist you if any clarification is required.