6-27/350.00 Perishable Property

If the court determines that property levied upon is perishable or will greatly deteriorate or greatly depreciate in value, or for other reasons the interest of the parties will be best served, the court may make an order that the levying officer take any action necessary to preserve the value of the property. The order may be made upon application of the judgment creditor, judgment debtor, or a person who has filed a third party claim. (CCP 699.070(a))

If the levying officer determines that property levied upon is extremely perishable or will greatly deteriorate or greatly depreciate in value before a court order can be obtained, the levying, officer may take any action necessary to preserve the value of the property or may sell the property. The levying officer is not liable for a determination under these provisions made in good faith. (CCP 699.070(b)) Since the statutes only allow the levying officer to unilaterally take action to preserve the value of the property in cases where action is necessary to be taken before a court order can be obtained, and the court may hear the matter ex parte, it should be under extremely rare circumstances that the levying officer takes action without a court order.

In the event that the levying officer determines a sale is necessary, or the court orders a sale, unless the court order provides otherwise, the sale shall be conducted in the same manner as sales generally. The posting of sale notices is still required; the only difference is the notices must only be posted and served a reasonable time prior to the sale considering the character and condition of the property, and the sale may take place prior to the expiration of the time during which the judgment debtor may file a claim of exemption. (CCP 699.070(c))

If fruit or vegetables are to be sold, contact Los Angeles County Agricultural Commissioner.

In order to provide an opportunity to file a claim of exemption, a sale of personal property of an individual may not take place until the expiration of 10 days after the date the notice of levy on the property was served on the judgment debtor. If the notice of levy is served by mail, the 10 days is extended by the appropriate mail time pursuant to CCP 684.120. (CCP 701.530)