

## The Regulation on Granting the Debtor the Right to Sell pursuant to the Enforcement and Bankruptcy Law was published by the Ministry of Justice

*27 Jul 2022*

The Regulation on Granting the Debtor the Right to Sell in accordance with the Enforcement and Bankruptcy Law ("**Regulation**") was published in Official Gazette dated 28 May 2022 and numbered 31849 and entered into force on the same date.

Pursuant to article 111/a added to Enforcement and Bankruptcy Law numbered 2004 ("**EBL**") with article 12 of the Law numbered 7343 on the Amendments to the Enforcement and Bankruptcy Law and Certain Laws, a regulation allowing debtors to sell their seized properties themselves was introduced. The details of the implementation are regulated by the relevant Regulation. The rules and procedures regarding the application of granting sales authorization to the debtor within the scope of the Regulation are as follows:

- The debtor shall apply to the execution office within 7 days from the notification of the report prepared by the expert regarding the appraisal of the value of the seized property and request authorization for the sale of the property.
- The director of enforcement shall suspend sales operations after final appraisal of the property is complete, and then shall grant the debtor a 15-day extension. This period starts from the notification of the authorization certificate to the debtor. In cases where appraisal has not been conducted, the debtor can also choose to request an appraisal.
- Starting from the beginning of the period given to the debtor for the sale to the decision of the enforcement court regarding the sale, the period for the sale request will not run for the creditor. The director of enforcement will not be able to make any sales transactions regarding the seized property until the court decision. The creditor, who puts a lien on the debtor's property, has no right to object to the debtor's own sale of her/his property.
- In this procedure, the sale price cannot be less than the total of all costs made during the enforcement proceedings and either 90% of the appraised value or the total amount guaranteed with the good in question and the amount of privileged receivables, whichever is higher.
- The debtor must notify the name and surname of the buyer, the Republic of Turkey identity number, the title if it is a legal entity, the tax identification number, the trade registry number, the central registration system number (MERSIS number), the agreed price and the distinctive features of the goods to the enforcement office within the given 15-day period.
- The buyer is obliged to pay the amount agreed with the debtor to the bank account of the enforcement office within the 15-day period given to the debtor, if it is not less than the determined minimum consent sales price.
- If the director of enforcement determines that the conditions of the sale are fulfilled, he or she shall send the file to the enforcement court immediately to approve the sale and to decide on transfer and delivery of the goods.
- The court shall deliver a final judgment regarding acceptance or rejection of the request to conduct examination of the file within 10-days at the latest. The decision made by the court is notified to the

relevant execution office via the National Judiciary Informatics System. (UYAP)

- If the court decides to accept the sale request with consent, the ownership of the goods passes to the buyer. All liens are removed by the enforcement office and the transfer and delivery of the goods are carried out.
- In case the goods subject to sale are registered in the registry, the executive director sends the registration document to the relevant institution or organization, adding the court decision, for the purpose of registration. The buyer pays the transfer and delivery costs. Unless the subject of sale is delivered to the buyer or made ready for delivery with his consent, the price deposited by the buyer in the file is not paid to the creditors of the execution file.
- If the court decides to reject the sales request, the sales price is returned to the bank account notified by the buyer within 3 working days after the decision is sent to the execution office. In addition, the director of enforcement takes the necessary actions for the cancellation of the annotation.

In summary, within the scope of the Regulation; if the debtor is authorized to sell the lien, the debtor cannot receive the price of the sold goods directly from the creditor. The creditor must deposit the money into the account of the enforcement office.

Even if the debtor is authorized to sell the seized goods, it is not possible for the debtor to remove the attachment. If the debtor sells the goods and the buyer deposits the sale price into the bank account of the execution office, the lien on the goods will not be lifted. After the sales transactions are completed, upon the application of the enforcement office, if the enforcement court decides to carry out the transfer and delivery of the goods with the approval of the sale, the lien on the goods is lifted by the execution office.

Details of the Regulation can be found through this [link](#). (Only available in Turkish)

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