

§ 5233. Sale of personal property. (a) Public auction. The interest of the judgment debtor in personal property obtained by a sheriff pursuant to execution or order, other than legal tender of the United States, shall be sold by the sheriff at public auction at such time and place and as a unit or in such lots, or combination thereof, as in his judgment will bring the highest price, but no sale may be made to that sheriff or to his deputy or undersheriff. The property shall be present and within the view of those attending the sale unless otherwise ordered by the court.

(b) Public notice. A printed notice of the time and place of the sale shall be posted at least six days before the sale in three public places in the town or city in which the sale is to be held, provided however, in the city of New York, in lieu of posting such notice may be advertised in the auction columns of any morning newspaper published daily and Sunday in such city an edition of which appears on the newsstands the previous night and has a circulation of not less than three hundred thousand. An omission to so post or advertise notice, or the defacing or removal of a posted notice, does not affect the title of a purchaser without notice of the omission or offense.

(c) Order for immediate sale or disposition. The court may direct immediate sale or other disposition of property with or without notice if the urgency of the case requires.

(d) Unsaleable material. If property seized by the sheriff is considered by him to be material which, by law, may not be sold, he shall apply to the court for a determination whether the property can legally be sold. Reasonable notice of such application shall also be given to the owner of such property. If the court decides the property may not be legally sold, it shall order appropriate disposition of the property which may include its destruction.