

J. Y. Interpretation No.55 (October 24, 1955) \*

**ISSUE:** Should a pledgee obtain an enforcement title prior to filing a petition with the court for auction?

**RELEVANT LAWS:**

Article 893 of the Civil Code (民法第八百九十三條); Article 14 of the Enforcement Act of the Obligations of the Civil Code (民法債編施行法第十四條); Article 4 of the Compulsory Enforcement Act (強制執行法第四條).

**KEYWORDS:**

Pawnee (質權人), foreclosure (抵押權之實施), collaterals (質物／抵押物), enforcement title (執行名義).\*\*

**HOLDING :** When a pawnee forecloses collaterals under the circumstance related in Article 893 of the Civil Code, the pawnee should conduct the process according to the ruling of J.Y. Interpretation No. 98. If the pawnee does not auction the collateral by himself/herself but instead files for auction with the court, he or she should first receive the enforcement title.

**解釋文：**質權人因有民法第八百九十三條情形而拍賣質物者，仍應依照本院院字第九八零號解釋辦理，如不自行拍賣而聲請法院拍賣時，即應先取得執行名義。

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\* Translated by Lawrence L. C. Lee.

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