

HOW TO FILE A CHALLENGE TO GARNISHMENT

The law says that some property, wages, and money are **exempt** from collection - this means they cannot be taken from you to pay unpaid consumer debts. See page 12 for a list of exempt wages, money, and property. If you believe that the creditor is garnishing exempt wages or money or is taking exempt property, you may file a Challenge to Garnishment so you can keep the money or property. You should only file a Challenge to Garnishment if you have good reason to believe that one of the exemptions listed on page 12 applies to your wages, money or property.

After you file a Challenge to Garnishment there will be a hearing in court and a judge will decide if you will be able to keep the money or property.

Where Do I Get a Challenge to Garnishment Form?

You will get the Challenge to Garnishment papers when your wages or bank account are garnished (see page 7) or when the sheriff takes your property (page 8).

When Should I File a Challenge to Garnishment?

To challenge a garnishment of your wages or salary, you must file the Challenge to Garnishment form within 120 days of receiving the papers. For a garnishment of any other money or property, you must file the Challenge to Garnishment form within 30 days of getting the papers. You should file the form as soon as you can.

How Do I File a Challenge to Garnishment?

- Fill out the Challenge to Garnishment form. The creditor's name should be written on the line for the "plaintiff" and write your name on the "defendant" line. List the property or money that you believe is exempt and should not be taken. To explain why the property is exempt, look at the list on page 12 and copy the exemption that applies.
- 1. Make a copy of the completed form for you to keep. Take the original to the court clerk at the courthouse or mail the claim to the clerk at the address listed on the garnishment papers.
- 2. Ask the court clerk when your court hearing will be held.
- 3. Get ready for the hearing by making sure you can give evidence about the value of the things you are claiming and which exemptions apply. You write notes to use at the hearing.
- 4. Go to the hearing on time. If you can, bring someone with you for personal support.
- 5. Present your information to the judge clearly and briefly. Answer questions politely. Keep calm.
- 6. Give the order signed by the judge to the sheriff or person holding your things and claim them. You should argue that you do not owe storage costs because that would defeat the purpose of the exemptions, which is to make sure that you can keep your basic necessities of life.

EXEMPT WAGES, MONEY, PROPERTY

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| <p>1. Exempt wages: If you are paid weekly, \$183 per week of your disposable income, or 75% of disposable wages, whichever is more. On January 1, 2009, the \$183 will change to \$196. Wages paid every two weeks - \$366. On January 1, 2009, this amount will change to \$392. Wages paid twice each month - \$394. On January 1, 2009, this amount will change to \$420. Wages paid once a month - \$786. On January 1, 2009, this amount will change to \$840.</p> | <p>17. Provisions (food) and fuel for your family for 60 days.</p> |
| <p>2. Social security (including SSI).</p> | <p>18. One rifle or shotgun and one pistol to \$1000.</p> |
| <p>3. Public assistance (welfare).</p> | <p>19. Public or private pensions.</p> |
| <p>4. Unemployment benefits.</p> | <p>20. Veterans benefits and loans.</p> |
| <p>5. Disability benefits.</p> | <p>21. Medical assistance benefits.</p> |
| <p>6. Workers' compensation benefits.</p> | <p>22. Health insurance proceeds and disability proceeds of life insurance policies.</p> |
| <p>7. Exempt wages, Social Security, welfare, unemployment benefits, disability benefits, and other specific types of government benefits when placed in a checking or savings account (up to \$7,500).</p> | <p>23. Cash surrender value of life insurance policies not payable to your estate.</p> |
| <p>8. Spousal support, child support, or other support if necessary to support you or your dependents.</p> | <p>24. Federal annuities.</p> |
| <p>9. A house with land you own and that you or certain family members live in up to \$30,000 (\$39,600 if more than one owner owes the debt). Includes proceeds from sale for (1) year (if you intend to use funds to buy another home).</p> | <p>25. Other annuities to \$250 per month, excess over \$250 per month subject to same exemption as wage.</p> |
| <p>10. A mobile home and land you own and you or certain family members live in up to \$23,000 (\$30,000 if more than 1 owner owes the debt). A mobile home or houseboat you own and that you or certain family members live in with no land owned up to \$20,000 (\$27,000 if more than one owner owes the debt). Includes proceeds from sale for (1) year (if you intend to use funds to buy another home).</p> | <p>26. Professionally prescribed health aids for you or your dependents.</p> |
| <p>11. Household goods, furniture, radios, 1 television set, and utensils to \$3,000.</p> | <p>27.* Your right to receive, or property traceable to:</p> <p style="margin-left: 20px;">a. An award under any crime victim reparation law.</p> <p style="margin-left: 20px;">b. A payment, not exceeding \$10,000, on account of personal bodily injury, (not including emotional pain & suffering or compensation for actual monetary loss) of you or an individual of whom you are a dependent.</p> <p style="margin-left: 20px;">c. A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.</p> |
| <p>12.* Automobile, truck, trailer or other vehicle to \$2,150.</p> | <p>28.* Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.</p> |
| <p>13. Tools, implements, apparatus, team, harness or library necessary to carry on your occupation to \$3000.</p> | <p>29. The difference between what you actually owe the creditor and the total amount due listed in the writ of garnishment, if the amount listed in the writ is larger.</p> |
| <p>14.* Books, pictures and musical instruments to \$600.</p> | <p>30. Your right to receive the federal earned income tax credit.</p> |
| <p>15.* Clothing, jewelry and other personal items to \$1800.</p> | <p>31. Elderly rental assistance payments received from the Oregon Department of Revenue.</p> |
| <p>16. Domestic animals and poultry for family use to \$1,000 and their food for 60 days.</p> | <p>32. Equitable interests in property.</p> |
| | <p>33. Security deposits or prepaid (last month's) rent payments held by your landlord.</p> |

* If two or more people in your household owe the judgment, each may claim the exemptions marked by *. Note: The values listed represent your **equity** in the property.