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This pamphlet is intended for general information only. The circumstances of every case are different and need to be dealt with on a case-by-case basis. This is not a substitute for the advice of a lawyer. Also, the law may change and may be different from county to county.

HC8 03/20



# STOPPING A GARNISHMENT AND PROTECTING YOUR PROPERTY FROM CREDITORS



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Serving Bledsoe, Bradley, Blount, Carter, Cocke, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Polk, Rhea, Sequatchie, Sevier, Sullivan, Unicoi and Washington Counties.

## PROTECTING YOUR PROPERTY

### LIST OF EXEMPTIONS FORM INSTRUCTIONS

When you have been sued in court and lost, you will want to protect your property. To do so, you should file a list of exemptions by giving it to the court clerk. You may file this at any time, but to guarantee protection of your property it should be done within ten (10) days of the judgment. Forms are available at the clerk's office. If the form is filed before the creditor files the appropriate paperwork, the creditor cannot take items on the list or force them to be sold. You can change the list from time to time and you will need to update it if you acquire any new property.

Each individual can protect up to \$10,000 in personal property and earnings of minimum wage times 30 hours a week or \$217.50 at the time of the printing of this brochure. You may protect cash or bank accounts. You do not need to list clothing, trunks, family pictures, the family Bible, and school books. The law says these items can never be taken. You need not list Social Security, VA benefits, or welfare checks because these may not be taken.

Give the original list to the clerk at the courthouse and keep a copy for yourself. There is no charge for filing your list. Remember, you can change the list to protect your property by filing another list. In figuring the value of the goods listed you need to list the value of the item, or in the case of items purchased by making payments on them, the amount of payments you have made on the item.

If you own your home and it is your principal place of residence, the Tennessee homestead exemption allows a single homeowner to exempt \$5,000 from the sale of the home, and \$7,500 for a couple. If you have one or more minor children in your custody, you have a homestead exemption of \$25,000. If you are 62 and single, you have a homestead exemption of \$12,500. If you are married, and one person is 62 or older, you have a homestead exemption of \$20,000. If you are married, and both of you are 62 or over, you have a homestead exemption of \$25,000. You should see an attorney if your creditor tries to sell your home to collect a judgment.



IN THE GENERAL SESSIONS COURT FOR \_\_\_\_\_  
COUNTY, AT \_\_\_\_\_, TENNESSEE

\_\_\_\_\_  
Plaintiff, )  
)  
)  
vs. ) Civil Action No. \_\_\_\_\_  
)  
)  
\_\_\_\_\_  
Defendant. )

MOTION TO COMMUTE JUDGMENT  
TO INSTALLMENT PAYMENTS

COMES NOW the Judgment Debtor, pursuant to T.C.A. §26-2-216, and moves the Court to commute the Judgment against him/her to installment payments and would show as follows:

1. That Judgment was rendered against him/her on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, in the amount of \$\_\_\_\_\_, and that no appeal was filed within the time allowed by law.
2. That this is the first Motion to establish payment for this judgment.
3. That he/she is unable to pay the Judgment with funds other than those earned by him/her as wages or salary by his/her employer, \_\_\_\_\_, That his/her wages are \$\_\_\_\_\_ payable every \_\_\_\_\_, and with said money he/she is the sole support of himself/herself and \_\_\_\_\_ child(ren).

WHEREFORE, JUDGMENT DEBTOR PRAYS:

1. That he/she be allowed to file this Motion pursuant to T.C.A. §26-2-216.
2. That the Court commute this Judgment to a monthly installment basis with payments being made of approximately \$\_\_\_\_\_ per \_\_\_\_\_.

\_\_\_\_\_  
JUDGMENT DEBTOR

Sworn to and subscribed before me, this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
GENERAL SESSIONS CLERK

IN THE GENERAL SESSIONS COURT FOR \_\_\_\_\_  
COUNTY, TENNESSEE

\_\_\_\_\_  
Plaintiff, )  
vs. ) No. \_\_\_\_\_  
\_\_\_\_\_  
Defendant(s) )

NOTICE OF EXEMPTIONS

Being duly sworn, I say that I am a bona fide citizen permanently residing in Tennessee and wish to exercise the exemption in T.C.A. §26-2-102 with regard to the following list of items:

ITEM	VALUE
Automobile: _____	\$ _____
Furniture: _____	\$ _____
Funds on Deposit _____	\$ _____
Household Goods (Kitchen Utensils, sheets, towels, appliances, etc.): _____	\$ _____
Jewelry: _____	\$ _____
Tools: _____	\$ _____
Other: _____	\$ _____
TOTAL (Not to exceed \$10,000).....	\$ _____
All other items in my home belong to others.	

\_\_\_\_\_  
DEFENDANT

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

## **STOPPING A GARNISHMENT MOTION TO PAY BY INSTALLMENTS**

When someone has sued you, and you lost, they received a judgment from the court. If you have a judgment against you and are earning over \$217.50 a week, or have property worth more than \$10,000, you may want to file a motion to pay by installments. There are situations where a motion to pay by installments may be useful to you:

1. If a judgment has been entered against you and you cannot pay all the debt, or you cannot get your creditor to accept payments you can afford to pay, you may petition the court to set the amount of payments. As long as you meet the conditions set by the court, your wages cannot be garnished.

2. If you have already received notice that your wages are being garnished, you may file a motion to pay by installments with the court. Once the motion is filed, the garnishment will be stopped until the date of the hearing. At the hearing, the judge will set the amount you are to pay. As long as you pay as directed by the court, you will not be garnished.

3. With the assistance of the clerk, the date for the hearing will be set, and a copy of your motion and notice of the hearing date must be sent to the person who has the judgment against you.

4. On the date of the hearing, the judge will call your name. You should tell the judge how much you propose to pay and any other information that you feel might help the judge make the decision. Your creditor may object to the amount you propose. Explain to the judge why you cannot pay more. You will want to write down your monthly expenses to show the judge. List the amount of your take-home pay, the number of children you have, and the bills (including rent, utilities, food, clothing, transportation, insurance, medical, child care, etc.) you owe.

5. The judge will set the amount of your payment. There are no fixed guidelines for setting the amounts to be paid. The primary considerations will be your income, your expenses, the size of your family, and the size of the debt you owe. Amounts as low as \$5.00 a month have been approved in some cases.

6. You must make your payments in the amount and at the times fixed by the judge. Payments are usually made to the court clerk. When you make a payment, always list the docket number of your case so that the payment will be credited to the right account. Do not send cash payments through the mail.

7. At the same time you file your motion to pay by installments, you may want to file a list of exemptions to protect your personal property. This is explained on the following pages.

## **WHERE TO FILE A MOTION**

You need to file this motion to pay by installments in the court where the judgment was taken against you.

## **HOW TO COMPLETE A MOTION FOR PAYMENT BY INSTALLMENTS**

1. The clerk of the court in any county has a form which you can use to petition the court.

2. To complete the form, you must provide the following information:

- a. Your name
- b. The employer's name
- c. The amount of your wages
- d. When and how often you are paid
- e. The name of the court where the judgment was entered
- f. The docket number of your case
- g. The name of the person who has a judgment against you
- h. The amount of the judgment
- i. The amount you propose to pay

## **CAUTION**

Consider your budget carefully before you decide what amount to propose. Don't offer more than you're sure you can pay every month. If you miss a payment, it may be difficult to stop a garnishment this way a second time. Therefore, it is very important to propose an amount to pay that will fit within your budget. Should you have the court approve an amount too high for you to handle, you may be stuck with that amount. If you fail to make your payments, you may subject yourself to possible garnishment or seizure of your property.