

STOPPING A GARNISHMENT AND PROTECTING YOUR PROPERTY FROM CREDITORS



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PROTECTING YOUR PROPERTY PERSONAL PROPERTY EXEMPTIONS

If you have been sued and a judgment has been obtained against you, you will want to protect your property from the creditor. 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 which includes vehicles, furniture, other personal items, cash, or bank accounts. You do not need to list clothing, trunks, family pictures, the family Bible, and school books because these items are automatically protected. You also 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. You also need to send a copy to the creditor. 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 that it would sell for, not the amount you paid for it.

REAL PROPERTY EXEMPTIONS

You will also want to protect your real property from your creditor if you own any. Judgment creditors can also place liens on real property and can attempt to sell the property in some situations to satisfy the judgment. Tennessee allows home owners to protect some of the equity in their home. If you own your home and it is your principal place of residence, the Tennessee homestead exemption allows a single homeowner to exempt \$35,000 from the sale of the home and \$52,500 for a couple. You should see an attorney if your creditor tries to sell your home to collect a judgment.

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

Judgment creditors can also garnish wages to satisfy judgments. If you went to court and lost, your income may be at risk. Most income from government sources like Social Security, child support, and veteran's benefits are automatically protected. If your income is from employment, though, and you make more than 30 times minimum wage per week (\$217.50 at the time of publication), you may be subject to garnishment. This can be stopped by what is known as a slow pay motion by following the steps below:

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 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.
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.

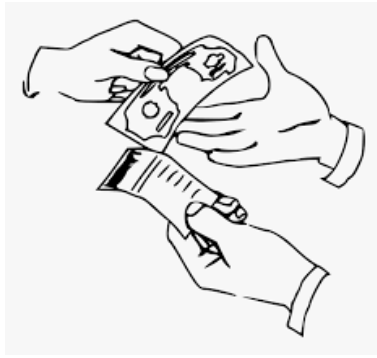
5. The judge will set the amount of your payment. There are no fixed guidelines for setting the amounts to be paid. The primary considerations will be your income, your expenses, the size of your family, and the size of the debt you owe. Remember that judgments accrue interest, though.

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.



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.

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.
2. 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).
- 3.

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

LAET's offices are open from 8:30 a.m. to 5:00 p.m.
Monday through Friday

Knoxville Area

Knoxville, TN
865/637-0484
Fax 865/525-1162

Knoxville
Family Justice Center
865/215-6830

Maryville, TN
865/981-1818

Tri-Cities

Branch House Family Justice
Center
Blountville, TN
423/574-7233

Johnson City, TN
423/928-8311

Morristown, TN
423/587-4850

Johnson City
Family Justice Center
423/722-3720

Chattanooga/Cleveland, TN

Chattanooga, TN
423/756-4013
800/542-7457

Chattanooga
Family Justice Center
423/643-7600

Cleveland, TN
423/303-2266

Linea Gratis en Español 1-866/408-6573

No person in the United States shall, on the grounds of race, color, or national origin, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

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.

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