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Money & Debt This article explains the basics of the garnishment process as a method for collecting debt after a judgment has been entered. Composed by TexasLawHelp.org • Last Updated on May 10, 2022 Garnishment is a process that creditors use to satisfy debts that you owe. Typically, a creditor must have filed a lawsuit against the debtor and won a judgment. After winning the judgment, the creditor will file a separate court case against a third party (also called a "garnishee") who has your money and ask the court to issue a writ of garnishment. Most of the time, the garnishee is your bank or, sometimes, your employer. The writ of garnishment is sent to the garnishee to let them know about the judgment and ask them to freeze your funds so the judgment can be paid. No, generally creditors will not give a debtor any advance notice that they are seeking a garnishment. A creditor must send notice of the garnishment to the debtor "as soon as practicable" after the writ has been served on the garnishee. Banks usually freeze the account immediately, before notice has been sent, so many people learn their account has been frozen when trying to use their money. They do this to prevent people moving their money or trying to avoid the garnishment, but it often creates problems for debtors who unexpectedly have no access to their money. Creditors usually seek to garnish your bank accounts. Although paychecks cannot be garnished for most debts, once you deposit your paycheck into a bank account, it can be garnished. If your Social Security benefits or other protected benefits are directly deposited into your bank account, the bank must protect 2 months worth of those benefits and allow you access to that amount, even if other money in your account is frozen. Your paycheck cannot be garnished from your employer to pay consumer debts or other types of debt judgments. See Texas Property Code, Chapter 42. Under Texas law, your paycheck (or "current wages") can only be garnished to pay child support, spousal support, alimony, and certain federal debts (like income tax debt, other IRS debt, or federally-backed student loan debt). Once you deposit a paycheck into your bank account, it is no longer considered current wages, and it can be garnished from your bank. Both Texas and federal laws have set limits, called "exemptions," that means certain types of property cannot be taken through garnishment. Exempt property includes things like: Wages (except to pay child support, spousal support, alimony, and federal debts) Social Security Administration benefits, including Social Security Retirement, SSI, and SSDI Veterans Administration benefits Railroad Retirement Board benefits Office of Personnel Management retirement benefits FEMA disaster benefits Workers' compensation benefits Unemployment benefits Child support, alimony, and spousal support Pension, retirement benefits, and retirement accounts like 401(k) and IRA accounts Temporary Assistance for Needy Families ("TANF") funds Proceeds from the sale of a homestead (for up to 6 months after the sale) Other personal property can be protected up to an amount of \$50,000 for an individual (or \$100,000 for a family), including items such as: Unpaid commissions for personal services (up to \$12,500 for a single person or \$25,000 for a family) A full list and more information about these exemptions can be found here. If the amount in your account is less than the amount of the judgment, you will not be able to use any of the money in the account. So if you wrote checks or have other bills that are paid from that account, you will not be able to use the funds to pay those and may face penalties from your bank for insufficient funds. A bank must freeze the amount of the debt judgment, plus it often freezes enough to cover interest and other fees. So if you have more than enough in your account to cover that, you will have access to the additional funds. For example, if you have an account with \$1,500 in it, and you owe a total of \$1,700, you will not be able to access anything in the account. But if you have an account with \$3,000 in it and owe \$1,700, you should be able to access the additional \$1,300. A judgment is valid for 10 years and can be enforced at any time during those that time. It is not uncommon for a creditor to seek to enforce a judgment that is close to ten years old. There are also ways to renew the judgment, so that it can be enforced for even longer than ten years. It is important to remember that a judgment will continue to accrue interest. The garnishment process can last several months. Because it is a separate lawsuit, the bank has to respond to the court to confirm the accounts belong to the debtor. Then the bank has to turn over whatever nonexempt funds are in the account. This process takes some time. If you have money that is going to be direct deposited into your account during this time, it will likely be frozen when it is deposited as well, so it is important to take steps to protect this money. You are not required to respond to the garnishment action because you are not a party to the garnishment suit. But you can respond to and challenge the garnishment. Most debtors cannot afford the sudden loss of access to their money, so it may be best to respond if: - the account garnished has exempt money in it, - you do not owe the debt or the amount the creditor claims, or - you did not receive notice of the underlying debt lawsuit. But, sometimes, not responding may be fine, especially if you actually owe the debt, none of the property taken was exempt, and you do not need the money taken for basic living expenses. There are several different ways to respond to and challenge a writ of garnishment. If you have exempt money or property that has been taken, you should file a Protected Property Claim Form with the court. You should have received a copy of this form from the creditor shortly after your account was garnished. This will notify the court and the creditor that this property is exempt and should not be garnished. You should complete this document and turn it in to the court as soon as possible. For more information on the Protected Property Claim Form and how to fill it out, read the Exempt Property guide. You can also file a motion to dissolve or a motion to modify the writ of garnishment. In this motion, you must admit or deny each fact included in the writ of garnishment and list the ground for dissolving or modifying the writ. This can be used if you do not owe the debt, the amount is different from what you owe, you were not served notice of the lawsuit leading to the judgment, or there are other problems with the facts included in the writ of garnishment. Another option is to file a "replevy bond," which means that you can get your property back if you give the court money or some other security that is equal in value to the money or property that has been garnished. This is very hard to get and is rarely used. If you are considering a motion to dissolve or a replevy bond, it's a good idea to contact an attorney for help with the process. Use our Legal Help Directory to search for a lawyer referral service, legal aid organization, or self-help center serving your area. Yes, if you have unprotected income or property, you can try to negotiate a payment plan or settle the debt for a lower amount with the creditor, even if they have already filed for garnishment. It is important to get any such agreement in writing. If the creditor offers a payment plan, make sure you understand the terms and how much more you will have to pay, including the interest. If all of the income and property garnished is exempt, you may be "judgment proof." Read more about What It Means to be Judgment Proof. If this is the case, it may not be to your benefit to negotiate with the creditors. This guide explains what property is protected (or "exempt") from creditors and what you need to do if your exempt money or property has been taken... This article discusses the types of property that are protected (or "exempt") from being taken by creditors to pay debt judgments. This article explains what to do when your bank account is frozen because of a debt collection judgment. This article explains receivership and how it is used to collect debts after a judgment has been entered. We hope you enjoy our new and improved forms page! While we have tried to make the organization user-friendly, one trick is to click "Expand" below, which will expose all of the form titles, then click Ctrl-F which will open up a "find" box where you can type a keyword to help you find the form you are looking for. Important Note: The Supreme Court has mandated use of a specific form in appointing a receiver in justice court cases, as well as provided new language for all money judgments and writs of garnishment. You can find these forms in sections marked Updated May 2022. Read the Supreme Court Order. Expand All Content NOTE: Be sure to use the proper forms for the type of dangerous dog hearing being filed. For more information, see Chapter 2 of the Administrative Proceedings Deskbook, as well as the Dangerous Dog Flowcharts. Forms in "General Forms" apply to all types of dangerous dog hearings. General Forms Dangerous Dog Hearing Notice - Updated April 2021 Notice of Appeal and Appeal Bond - Updated April 2021 Dog Causing Serious Bodily Injury/Death Complaint - Dog Caused Serious Bodily Injury or Death - Updated April 2021 Order After Hearing on Dog Causing Serious Bodily Injury or Death - Updated April 2021 Warrant - Dog Causing Serious Bodily Injury or Death - Updated April 2021 Determination if Dog is a Dangerous Dog: Based on Direct Report to Justice Court (only applicable in certain counties, see Administrative Proceedings Deskbook Chapter 2, Section E) or Owner Appeal of Animal Control Determination to Justice Court. Appeal to Justice Court of Determination of Dangerous Dog by Animal Control Authority - Updated April 2021 Notice of Dangerous Dog Report Filed with Justice Court - Updated April 2021 Order - Determination if Dog is Dangerous Dog - Updated April 2021 Report of Potential Dangerous Dog - Updated April 2021 Seizure Warrant - Alleged Dangerous Dog - Updated April 2021 Owner of Dangerous Dog Not Complying with Requirements Application - Dangerous Dog Owner Failing to Comply With Requirements - Updated April 2021 Order after Hearing on Compliance with Dangerous Dog Owner Requirements - Updated April 2021 Order of Destruction of Dog or Return Within 11 Days for Compliance with Requirements of Owner of Dangerous Dog - Updated April 2021 Seizure Warrant - Owner Not Following Dangerous Dog Requirement - Updated April 2021 Hearing Notice - Updated April 2021 Order - Updated April 2021

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