

STEPS TO FILE A GARNISHMENT OF WAGES

If you know where the judgment debtor is employed, you may garnish his or her non-exempt wages. Garnishments may be filed through this court if the debtor's employer is located in Ohio.

Once the garnishment order takes effect, the garnishment will remain in effect until the amount of the judgment is paid, or for at least six months. The debtor's employer makes regular deductions from the debtor's wages and sends the non-exempt portion (up to 25%) to the Clerk of Courts. The Accounting/Finance Division then will send the proceeds to you in two to three weeks.

If another creditor has pending garnishment against the same debtor when you file, you may be required to wait for up to six months for your garnishment to begin. If there are two creditors ahead of you, the wait may be longer. If another creditor files a garnishment while yours is in effect, your garnishment will remain in effect for at least six months ahead of all others.

Step One: Mail the Judgment Debtor a "Fifteen-Day-Demand"

Obtain two (2) copies of the form entitled "Notice of Court Action to Collect Debt" or, as it is commonly referred to, THE FIFTEEN-DAY-DEMAND. This form is available in the Civil Division on the 3rd floor, and at www.fmcclerk.com.

Complete this form and mail one copy of the form to the judgment debtor at his or her last known address by ordinary U.S. mail. When you mail the Fifteen-Day-Demand, obtain a Certificate of Mailing from the Post Office (Form 3817). This is a receipt you will get from the postal clerk – do not confuse this with *certified mail* which, although permissible, is more expensive and unnecessary. Your mailing costs are approximately \$1.10, are *not* recoverable as court costs.

Step Two: Waiting Period

After mailing the Fifteen-Day-Demand, wait at least 15 days but not more than 45 days before filing the garnishment order.

Step Three: File the Garnishment with the Clerk of Courts

Next, obtain the forms required (See "Instructions for Filing a Garnishment") to file a Garnishment from the Clerk of Courts office on the 3rd floor or at www.fmcclerk.com. Complete all forms (remember-you must sign the affidavit under oath either before the deputy clerk in the Clerk's office or before a Notary Public) and file with the Civil Division on the 3rd floor together with,

- a copy of your Fifteen-Day-Demand
- the Certificate of Mailing or copy, and
- a fee of \$85.00 payable to "Franklin County Municipal Court"

The garnishment order will be hand delivered by the court's service bailiff (in the City of Columbus or in Franklin County) or served by certified mail (out of the City of Columbus or Franklin County) upon the debtor's employer. The employer will have 15 days to answer the order by revealing if the debtor is in its employ and, if so, payroll information. You may call the Clerk of Courts office at 614/645-7220 to check the information supplied in the employer's garnishment return or go to www.fmcclerk.com to view the garnishment return on the Docket.

If the debtor challenges the validity of the garnishment, a hearing will be scheduled and all parties will be notified of the location, date and time of the hearing.

NOTICE OF COURT PROCEEDING TO COLLECT DEBT

Date of Mailing or Service by the Court: _____

TO: _____ (Name of Judgment Debtor) _____ (Last Known Address of Judgment Debtor)

You owe the undersigned _____ the sum of \$ _____, including interest and court costs, for which a judgment in Case No. _____ CV _____ was obtained against you or certified in the Franklin County Municipal Court on _____, payment of which is hereby demanded.

If you do not do one of the four things listed below within fifteen (15) days of the date of the mailing of this notice or of its service by the Court, we will go to Court, unless we are otherwise precluded by law from doing so, and ask that your employer be ordered to withhold money from your earnings until the judgment is paid in full or, if applicable, is paid to a certain extent and to pay the withheld money to the court in satisfaction of your debt.

YOU CAN AVOID THE GARNISHMENT BY DOING ONE OF THESE FOUR THINGS WITHIN THE FIFTEEN-DAY PERIOD:

- (1) Pay to us the amount due;
(2) Complete the attached form entitled "Payment To Avoid Garnishment" and return it to us with the payment, if any, shown due on it; or
(3) Apply to your local municipal or county court or, if you are not a resident of Ohio, to the municipal or county court in whose jurisdiction your place of employment is located, for the appointment of a trustee to receive the part of your earnings that is not exempt from garnishment, and notify us that you have applied for the appointment of a trustee.
(4) You also may contact a budget and debt counseling service described in division (D) of Section 2716.03 of the Ohio Revised Code for the purpose of entering into an agreement for debt scheduling.

(Name of Judgment Creditor or Attorney) X _____ (Signature of Judgment Creditor or Attorney)

(Address of Judgment Creditor)

PAYMENT TO AVOID GARNISHMENT

To: _____ (Name of Judgment Creditor) _____ (Address of Judgment Creditor)

To avoid the garnishment of personal earnings of which you have given me notice, I enclose \$ _____ to apply toward my indebtedness to you. The amount of the payment was computed as follows:

- 1. Total amount of indebtedness demanded: (1) \$ _____
2. Enter the amount of your personal earnings after deductions required by law, earned by you during the current pay period (that is, the pay period in which this demand is received by you): (2) \$ _____
3. (A) Enter your present pay period (weekly, bi-weekly, semi-monthly, monthly): (3) (A) \$ _____
(B) Enter the date when your pay period ends: (3) (B) \$ _____
4. Enter an amount equal to 25% of the amount on line 2: (4) \$ _____
5. (A) The current federal minimum hourly wage is \$ 7.25. (You should use the above figure to complete this portion of the form.) If you are paid weekly, enter thirty (30) times the current federal minimum hourly wage; if paid bi-weekly, enter sixty (60) times the current federal minimum hourly wage; if paid semi-monthly, enter sixty-five (65) times the current federal minimum hourly wage; if paid monthly, enter one hundred thirty (130) times the current federal minimum hourly wage: (5A) \$ _____
(B) Enter the amount by which the amount on line 2 exceeds the amount on line 5A: (5B) \$ _____
6. Enter the smallest of the amounts on lines 1, 4, or 5(B). Send this amount to the judgment creditor along with this form after you have signed it: (6) \$ _____

I certify that the statements contained above are true to the best of my knowledge and belief.

(Print Name and Residence Address of Judgment Debtor) X _____ (Signature of Judgment Debtor)

(To verify that the amount shown on line (2) is a true statement of your earnings, you must either have your employer certify below that the amount shown on line (2) is a true statement of your earnings or you may submit copies of your pay stubs for the two pay periods immediately prior to your receiving this notice.)

I certify that the amount shown on line (2) is a true statement of the judgment debtor's earnings.

(Print name of Employer) _____ (Signature of Employer of Agent)

I certify that I have attached copies of my pay stubs for the two pay periods immediately prior to my receiving this notice.

(Signature of Judgment Debtor)

FRANKLIN COUNTY MUNICIPAL COURT **CASE NO:** _____

INSTRUCTIONS FOR SERVICE OF GARNISHMENT

To: Clerk, Franklin County Municipal Court, please issue garnishment for:

Bailiff Service
In Franklin County

Certified Mail

To Server, you are instructed to serve the following garnishee(s) and at the address(s) listed below:

Special instructions for server:

DATE: _____

(Signed) _____
Signature of Requesting Party

WAGE

(JUDGMENT CREDITOR)

vs.

(JUDGMENT DEBTOR)

CASE NO: _____

Date of Judgment: _____

THIS COMMUNICATION IS FROM A DEBT COLLECTOR

SSN LAST FOUR DIGITS (OPTIONAL): _____

Having first been duly sworn or solemnly affirmed to do so, I hereby state that I am the judgment creditor or the attorney for the judgment creditor in the above referenced case against the named judgment debtor; that there is good reason to believe, and do believe, that the garnishee named in section (A) below may be an employer of the judgment debtor and may have personal earnings owing to the judgment debtor. The written demand on judgment debtor required by section 2716.02 of the Revised Code has been made at least 15 days and not more than 45 days before the date of the filing of this affidavit; that the payment demanded in said written demand has not been made, and sufficient portion of the payment has not been made to prevent the garnishment of personal earnings as described in said section; that I have no knowledge of any application by the judgment debtor for the appointment of a trustee, or that the debtor is the subject of a debt scheduling agreement, either of which would preclude the garnishment of the judgment debtor's personal earnings.

FURTHER AFFIANT SAYETH NOT.

SIGNATURE: JUDGMENT CREDITOR/ATTORNEY (SIGNATURE ON ORIGINAL ONLY)

SWORN TO & SUBSCRIBED BEFORE ME ON _____

NOTARY PUBLIC (SIGNATURE ON ORIGINAL ONLY)

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

TO: Garnishee _____
(Name, Address, City, State and Zip Code)

The judgment creditor in the above case has filed the above affidavit, satisfactory to the undersigned; in this court stating that you may owe the judgment debtor money for personal earnings.

You are therefore ordered to complete the "ANSWER OF EMPLOYER (GARNISHEE)" in section B of this form. Return one completed AND SIGNED copy of this form to the clerk of this court within five (5) business days after you receive this order of garnishment. Deliver one completed and signed copy of this form, and the accompanying documents entitled "NOTICE TO THE JUDGMENT DEBTOR" and "REQUEST FOR HEARING," to the judgment debtor. Keep the other completed and signed copy of this form for your files.

Total Probable Amount Now Due includes the unpaid portion of the Judgment which is: \$ _____

Judgment Interest and, if applicable, pre-judgment interest relative to the Judgment at: _____ % per annum payable until Judgment is satisfied

Court Costs in the amount of: \$ _____

Total Probable Amount Now Due on Judgment Is: \$ _____

This order of garnishment of personal earnings is a continuous order that generally requires you to withhold a specified amount, calculated each pay period at the statutory percentage, of the judgment debtor's personal disposable earnings during each pay period, as determined in accordance with the "INTERIM REPORT AND ANSWER OF GARNISHEE," from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor commencing with the first full pay period beginning after you receive the order until the judgment in favor of the judgment creditor and the associated court costs, judgment interest, and, if applicable, prejudgment interest awarded to the judgment creditor as described above have been paid in full. You generally must pay that specified amount calculated each pay period at the statutory percentage to the clerk of this court within thirty (30) days after the end of each pay period of the judgment debtor and must include with that specified amount calculated each pay period at the statutory percentage an "INTERIM REPORT AND ANSWER OF GARNISHEE" substantially in the form set forth in section 2716.07 of the Ohio Revised Code. A copy of the "INTERIM REPORT AND ANSWER OF GARNISHEE" is attached to this order of garnishment of personal earnings, and you may photocopy it to use each time you pay the specified amount to the clerk of this court. You are permitted to deduct a processing fee of up to three dollars from the judgment debtor's personal disposable earnings for any pay period of the judgment debtor that an amount was withheld for that order (the processing fee is not a part of the court costs). You are not required to file with the court the INTERIM REPORT AND ANSWER OF GARNISHEE for any pay period of the judgment debtor for which an amount from the judgment debtor's personal disposable earnings during that pay period was not withheld for that order.

This order of garnishment of personal earnings generally will remain in effect until one of the following occurs:

(1) The total probable amount due on the judgment as described above is paid in full as a result of your withholding of the specified amount, CALCULATED EACH PAY PERIOD AT THE STATUTORY PERCENTAGE, from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor that commenced with the first full pay period beginning after you receive the order.

(2) The judgment creditor or the judgment creditor's attorney files with this court a written notice that the total probable amount due on the judgment as described above has been satisfied or the judgment creditor or the judgment creditor's attorney files a written request to terminate this order of garnishment and release you from the mandate of this order of garnishment.

(3) A municipal or county court appoints a trustee for the judgment debtor and issues to you an order that stays this order of garnishment of personal earnings.

(4) A federal bankruptcy court issues to you an order that stays this order of garnishment of personal earnings.

(5) A municipal or county court or a court of common pleas issues to you another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor, and Ohio or federal law provides the other order with a higher priority than this order.

(6) A municipal or county court or a court of common pleas issues to you another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor and that does not have a higher priority than this order.

(7) The judgment creditor or the judgment creditor's attorney files with this court a written request to terminate and release the order or garnishment, as a result, the order of garnishment will cease to remain in effect.

Under any of the circumstances listed above, you are required to file with this court a "FINAL REPORT AND ANSWER OF GARNISHEE" substantially in the form set forth in section 2716.08 of the Ohio Revised Code. A copy of the "FINAL REPORT AND ANSWER OF GARNISHEE" is attached to this order of garnishment of personal earnings. Under the circumstances listed in (5) and (6) above, you must cease processing this order of garnishment after the expiration of the full pay period within which the one hundred eighty-second (182) day after you began processing it falls.

Special stacking, priority of payment, and manner of payment rules apply when a garnishee receives multiple orders of garnishment with respect to the same judgment debtor. These rules are set forth in section 2716.041 of the Ohio Revised Code An employer guide to processing continuous orders of garnishment is included with this order of garnishment. YOU SHOULD BECOME FAMILIAR WITH THESE RULES.

Witness my hand & seal of this Court this _____ (Date)

JUDGE FRANKLIN COUNTY MUNICIPAL COURT

Judgment Creditor/Attorney ATTY I.D.

Address

DEPUTY CLERK

City, State, Zip Code Phone Number

SECTION B. ANSWER OF EMPLOYER (GARNISHEE)

(An employer is one who is required to withhold payroll taxes out of payments of personal earnings made to the judgment debtor.)
(Answer all pertinent questions)

Now comes _____, the employer (GARNISHEE) herein, who says:

- 1. This order of garnishment of personal earnings was received on _____ (date).
- 2. The judgment debtor is in my/our employ: 2. Yes No

If answer is "No," give date of last employment: _____ (date)

3. (A) Is the debt to which this order of garnishment of personal earnings pertains the subject of an existing agreement for debt scheduling between the judgment debtor and a budget and debt counseling service and has the judgment debtor made every payment that was due under the agreement for debt scheduling no later than forty-five days after the date on which the payment was due? If the answer to both parts of this question is "Yes," give all available details of the agreement, sign this form, and return it to the court.

3.(A) Yes No 3. (A) Details: _____

(B) Were you, on the date that you received this order of garnishment of personal earnings, withholding moneys from the judgment debtor's personal disposable earnings pursuant to another order of garnishment of personal earnings that Ohio or federal law provides with a higher priority than this order of garnishment of personal earnings (such as a support order or Internal Revenue Service levy)? If the answer to this question is "Yes," give the name of the court that issued the higher priority order, the associated case number, the date upon which you received that order, and the balance due to the relevant judgment creditor under that order.

3.(B) Yes No 3. (B) Details: _____

(C) Did you receive, prior to the date that you received this order of garnishment of personal earnings, one or more other orders of garnishment of personal earnings that are not described in question 3(B), and are you currently processing one or more of those orders for the statutorily required time period or holding one or more of those orders for processing for a statutorily required period in the sequence of their receipt by you? If the answer to this question is "Yes," give the name of the court that issued each of those previously received orders, the associated case numbers, the date upon which you received each of those orders, and the balance due to the relevant judgment creditor under each of those orders. List first the previously received order(s) that you are currently processing, and list each of the other previously received orders in the sequence that you are required to process them.

3.(C) Yes No 3. (C) Details: _____

I certify that the statements above are true. _____
(Print Name of Employer)

(Print Name and Title of Person Who Completed Form On Behalf of the Employer)

Signed: _____ Dated this _____ day of _____, 20____
(Signature of Employer or Employer's Agent)

THE STATE OF OHIO
FRANKLIN COUNTY
CITY OF COLUMBUS

THE FOLLOWING FOR COURT USE ONLY
FOR BAILIFF OR SHERIFF RETURN

I certify this to be a true copy of the original order with all endorsements thereon. Pursuant to the within command, I served the within "Order and Notice of Garnishment and Answer of Employer" upon the within named garnishee by leaving three (3) true and certified copies thereof, with all endorsements thereon, along with two (2) copies of the "Notice to Judgment Debtor" and "Request for Hearing" forms, one (1) copy of the "Interim Report and Answer of Garnishee", "Final Report and Answer of Garnishee" and "Employer Guide To Processing Continuous Orders of Garnishment" forms attached thereto, at the office and usual place of business of said garnishee.

AT _____ M., On _____ with
in charge thereof. The president or other chief officer not found in my bailiwick.

BAILIFF, BY: _____
DEPUTY BAILIFF/SHERIFF

**FRANKLIN COUNTY MUNICIPAL COURT LORI M. TYACK, CLERK
375 S. HIGH ST 3RD FLOOR COLUMBUS, OH 43215**

_____, Judgment Creditor

Vs.

Case Number: _____

_____, Judgment Debtor

NOTICE TO THE JUDGMENT DEBTOR

You are hereby notified that this court has issued an order in the above case in favor of the above named judgment creditor in this proceeding, directing that some of your personal earnings be used in satisfaction of your debt to the judgment creditor instead of being paid to you. This order was issued on the basis of the judgment creditor's judgment against you that was obtained in the Franklin County Municipal Court in the above referenced case number on _____.

The law of Ohio provides that you are entitled to keep a certain amount of your personal earnings free from the claims of creditors. Additionally, wages under a certain amount may never be used to satisfy the claims of creditors. The documents entitled **"ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER"** that are enclosed with this notice show how the amount proposed to be taken out of your personal earnings was calculated by your employer.

If you dispute the judgment creditor's right to garnish your personal earnings and believe that you are entitled to possession of the personal earnings because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, supplied herewith, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your personal earnings in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing. **NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.** The hearing will be limited to a consideration of the amount of your personal earnings, if any, that can be used in satisfaction of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted no later than twelve days after your request is received by the court, and the court will send you notice of the date, time, and place. You may indicate in the form that you believe that the need for the hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received and will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, some of your personal earnings will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court at 614-645-7220. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association at 614-221-4112.

LORI M. TYACK, Clerk

By _____
Deputy Clerk

FRANKLIN COUNTY MUNICIPAL COURT LORI M. TYACK, CLERK
375 S. HIGH ST 3RD FLOOR COLUMBUS, OH 43215

Date _____

Case Number _____

REQUEST FOR HEARING

I dispute the judgment creditor's right to garnish my personal earnings in the above case and request that a hearing in this matter be held no later than twelve days after delivery of this request to the court.

I _____ feel that the need for a hearing is an emergency.
(insert "do" or "do not")

I dispute the judgment creditor's right to garnish my personal earnings for the following reasons:

(Optional)

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE CONSIDERED AT THE HEARING.

(Name of Judgment Debtor)

(Address of Judgment Debtor)

(Signature of Judgment Debtor)

(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO HAVE TO A HEARING, AND SOME OF YOUR PERSONAL EARNINGS WILL BE PAID TO THE JUDGMENT CREDITOR IN SATISFACTION OF YOUR DEBT.

FRANKLIN COUNTY MUNICIPAL COURT LORI M. TYACK, CLERK

WAGE

GARNISHEE: PLEASE MAKE COPIES OF THIS FORM PRIOR TO COMPLETING.

_____, Judgment Creditor

Vs.

Case Number: _____

_____, Judgment Debtor

INTERIM REPORT AND ANSWER OF GARNISHEE

The garnishee, in the above case states as follows:

- 1. The date that the garnishee received the order of garnishment of the judgment debtor's personal earnings was _____ .
2. The total probable amount due on the judgment, including court costs, judgment interest, and, if applicable, prejudgment interest, as stated in either section A of the order of garnishment of the judgment debtor's personal earnings or in the Affidavit of Current Balance due on garnishment order if that affidavit has been received subsequent to the order of garnishment, is \$ _____.
3. The pay period of the judgment debtor is _____ (Enter weekly, biweekly, semimonthly, or monthly. Do not enter a pay period of more than a month).
4. The disposable earnings of the judgment debtor earned during the judgment debtor's present pay period is ("Disposable Earnings" means earnings after deductions required by law. "Present Pay Period" means the pay period for which you are completing this Interim Report and Answer of Garnishee.) \$ _____.
5. The amount equal to Twenty-Five Percent (25%) of the judgment debtor's disposable earnings set forth in section 4 of this form is \$ _____.
6. _____ Times the current federal minimum hourly wage (if the judgment debtor is paid weekly , enter thirty above, if paid biweekly, enter sixty, if paid semimonthly, enter sixty-Five, if paid monthly, enter one hundred thirty, then calculate the amount.) \$ _____.
7. The amount by which the amount in section 4 of this form exceeds the amount in section 6 of this form is _____.
8. The smallest of either the amount entered in section 5 of this form, the amount entered in section 7 of this form, or the amount entered in section 2 of this form, is \$ _____.
9. The amount entered in section 8 of this form, plus or minus (as appropriate) the garnishee's processing fee is \$ _____ (if the amount entered in section 8 of this form equals the amount entered in section 2 of this form, then add up to three dollars (\$3); otherwise subtract up to \$3
10. Other deductions \$ _____
11. The calculated amount that has been withheld from the judgment debtor's personal earnings during the judgment debtor's present pay period and that is submitted with this "INTERIM REPORT AND ANSWER OF GARNISHEE" IS \$ _____.

FINAL REPORT AND ANSWER OF GARNISHEE

The garnishee, _____, in the above case states as follows:

- 1. The date that the garnishee received the order of garnishment of the judgment debtor's personal earnings was _____ .
2. The total probable amount due on the judgment, including court costs, judgment interest, and, if applicable, prejudgment interest, as stated in section A of the order of garnishment of the judgment debtor's personal earnings, is \$ _____.
3. The total amount that has been withheld from the judgment debtor's personal disposable earnings and paid to the court while the order of garnishment of the judgment debtor's personal earnings remained in effect is \$ _____.
4. (When Applicable) the total probable amount due on the judgment (as stated in 2 above) is not equal to the total amount that has been withheld (as stated in 3 above), and the reason for that difference is that the order of garnishment of the Judgment debtor's personal earnings ceased to be in effect for the following statutorily prescribed reason(s) (check whichever apply):
(A) ___ A municipal or county court appointed a trustee for the judgment debtor and issued an order that stays the order of garnishment of the judgment debtor's personal earnings.
(B) ___ A federal bankruptcy court issued an order that stays the order of garnishment of the judgment debtor's personal earnings.
(C) ___ A municipal or county court or a court of common pleas issued another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor, and Ohio or Federal law provides the other order a higher priority. (Set forth the name of the court that issued the higher priority order, the associated case number, the date that the higher priority order was received, and the balance due to the relevant judgment creditor under that order): _____
(D) ___ A municipal or county court or a court of common pleas issued another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor and that is not described in 4(c) above. (Set forth the name of the court that issued the subsequently received order, the associated case number, the date that the subsequent order was received, and the balance due to the relevant judgment creditor under that order): _____
(E) ___ The judgment creditor or judgment creditor's attorney has issued a request that the order of garnishment be terminated and the garnishee released from the mandates of the order of garnishment.
(F) ___ Judgment debtor's employment terminated on _____
(G) ___ Other _____

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE. _____

(Print Name of Employer)

(Print Name and Title of Person Who Completed Form)

Signed: _____
(Signature of Person Who Completed Form)

Date _____

THE EMPLOYER'S GUIDE TO PROCESSING CONTINUOUS ORDERS OF GARNISHMENT

Developed by The Ohio Judicial Conference
(Based on Am. Sub. H.B. 294 - effective August 29, 2000)

WAGE

THE PROCESS

Step 1. What will I receive?

The employer, or “garnishee,” will be served, in the same manner as with a summons, with several forms:

1. Three copies of the *Order and Notice of Garnishment and Answer of Employer*.
2. Two copies of the *Notice to the Judgment Debtor*.
3. One copy of the *Request for Hearing*.
4. One copy of the *Interim Report and Answer of the Garnishee*. **(Make extra copies prior to completing)**
5. One copy of the *Employer Guide to Processing Continuous Orders of Garnishment*.
6. One copy of the *Final Report and Answer of Garnishee*.

Additionally, the employer will be served by the Court Clerk with a copy of the affidavit filed against the judgment debtor, the employee.

Step 2. How and when will I reply?

The employer has **FIVE** (5) business days from the date on which it receives the *Order and Notice of Garnishment and Answer of Employer* form to respond to the court. Of the three copies of this form received by the employer, only one completed and signed copy goes to the court. The employer may keep a signed and completed copy and shall deliver the other signed and completed copy to the employee.

The copy of the *Order and Notice of Garnishment and Answer of Employer* form shall be delivered to the employee no later than the time that the employer otherwise would have paid the employee the personal earnings that are now being paid to the court. At the time of this delivery to the employee, the employer shall also give the two copies of the *Notice to the Judgment Debtor* form and the one copy of the *Request for Hearing* form to the employee.

The *Interim Report and Answer of the Garnishee* **MUST** accompany the payment that the employer makes to the court. The payment and the *Interim Report and Answer of the Garnishee* shall be made to the court within 30 days after the end of each employee pay period. This begins with the first full pay period after the employer receives the *Order and Notice of Garnishment and Answer of Employer*. The amount sent to the court is a statutory percentage specified within the order (a maximum of 25%) and is to be calculated at each pay period.

The percentage remains the same regardless of whether the employee is paid weekly, bi-weekly or monthly. This is different from the law prior to H.B. 294. Garnishment orders issued under the old provisions are legally binding and still in effect.

The employer is not required to file an *Interim Report and Answer of the Garnishee* for any pay period in which no amount was withheld for that order. If the employer files this form with the court, then one completed and signed copy shall be kept for the employer's records and another copy shall be delivered to the employee. If permitted by the court, the employer may file the interim report and/or transfer the amount withheld by electronic means.

The employer shall file the *Final Report and Answer of Garnishee* with the court when the garnishment ceases to remain in effect. Two completed and signed copies of the *Final Report and Answer of Garnishee* shall be made. One shall be for the employer's records and another shall be delivered to the employee.

Step 3. How long must I withhold?

Part A. Single Garnishment Orders: If an *Order and Notice of Garnishment and Answer of Employer* has been served upon an employer, then it must be processed continuously until paid in full or until the court issues an order that changes or ends the garnishment. The employer must withhold funds until one of the following events occurs, ending the garnishment:

- 1) The total amount due is paid in full.
- 2) The creditor files a written notice of termination with the court.
- 3) The court appoints a trustee and halts the order of garnishment.
- 4) A bankruptcy court issues an order of stay to the employer.
- 5) Another creditor obtains a garnishment order, which has a higher priority (e.g. child support order or an IRS lien) and the maximum amount is already being withheld pursuant to the higher priority order. However, if a high priority order does not take the maximum amount that can be withheld per each pay period, then the remainder can be used to satisfy other existing and subsequent orders.

6) Another creditor obtains a garnishment order, and 182 days have passed since the employer began withholding funds pursuant to the first garnishment order.

Part B. Multiple Garnishment Orders: Employers receiving more than one garnishment order on an employee are required to stack the garnishments in the sequence in which they are received. If an employer is currently garnishing wages of an employee and receives a garnishment order from a different creditor, the employer is required to place the new garnishment in its proper order of the stack. One of four things will occur:

- 1) If the first garnishment is paid in full before 182 days expire, the employer should begin processing the next garnishment from the stack.
- 2) If the first garnishment is not paid in full and 182 days have passed since the employer began withholding funds pursuant to the first garnishment order, the garnishment ceases to be in effect and the employer is required to take the next garnishment from the stack.
- 3) If no additional garnishments have been filed, the employer will continue withholding on the second garnishment as in Part 1.
- 4) If one or more other garnishment orders have been received on the employee, and if the second garnishment is not paid in full and 182 days have passed since the employer began withholding funds pursuant to the second garnishment order, the garnishment ceases to be in effect and the employer is required to take the next garnishment from the stack. This process continues for each succeeding garnishment order on the employee received by the employer in the sequence in which they are received.

If a garnishment order ceases to be in effect and the debt has not been fully paid off, then the creditor must start the process over again from the beginning. The creditor may not re-file a garnishment on a specific judgment while its garnishment is either being processed or is being held in the stacking procedure.

An Employer may not discharge an employee solely because of a garnishment by only one creditor within any one-year.

BACKGROUND

In House Bill 294 of the 123rd Ohio General Assembly, the Ohio Judicial Conference was requested to create a guide to help employers with the processing of continuous order of garnishment.

In 1999, the Ohio General Assembly created the continuous order of garnishment of personal earnings. This revised order enabled a garnishment to continue until either the total amount due was paid in full, or the order was no longer in effect. A “stacking” mechanism was created that allows garnishment orders to be stacked in order of when they were filed, or by priority, as determined by statute. Also, the fee paid to the employer was increased to compensate for complying with the new continuous orders. These changes replaced proceedings that were inefficient and costly.

However, H.B. 294 contains further revisions, improving the continuous order of garnishment. This simple guide describes the process for employers and should help answer questions regarding the operation of the new law.

WAIVER OF LIABILITY

An employer who acts, or attempts to act, in accordance with Chapter 2716 of the Ohio Revised Code, the provisions for garnishment, is not liable for damages in any civil action for any action taken pursuant to that chapter in good faith or any omission made in good faith. However, failure to comply could be grounds for contempt proceedings.

EMPLOYER PROCESSING FEE

The employer **may** deduct a \$3 dollar fee for processing from the amount withheld from the judgment debtor’s personal disposable earnings for each pay period that an amount of earnings was withheld for that order **and** for which an *Interim Report and Answer of the Garnishee* was filed. If no money is withheld and/or a report is not filed, then no fee may be deducted out by the employer. The employer is never required to deduct this fee for processing.

TERMS

Garnishment - a legal proceeding where a creditor seeks to satisfy a debt by claiming money owed to a debtor, usually in the possession of the debtor’s employer.

Garnishee - the person whom has possession of money owed to a debtor, which has been claimed or attached by a creditor. The garnishee is the employer. An employer is defined as a person who is required to withhold taxes out of payments of personal earnings made to a judgment debtor.

Garnishor - the person who initiates or begins a garnishment proceeding in order to reach the debtor’s money held by another person, usually the debtor’s employer. The Garnishor is the creditor.