



TRACY WINKLER HAMILTON COUNTY CLERK OF COURTS

Employer's Guide to Processing Hamilton County Continuous Garnishment Orders Effective August 29, 2000, pursuant to ORC 2716.05

The employer will be served with **3 copies** of the Affidavit and Order and Notice of Garnishment and Answer of Employer, **2 copies** of the Notice to the Judgment Debtor and Request for Hearing, and **1 copy** of the Interim/Final Report and Answer of Garnishee.

The employer has **5 business days** from receipt of the garnishment to respond to the court. A copy goes to the court, the employer keeps a completed and signed copy for their files, and a like copy goes to the employee. At the same time, the employer shall give the two copies of the Notice to the Judgment Debtor and Request for Hearing form to the employee.

The Interim/Final Report and Answer of Garnishee **must** accompany the payment that the employer sends to the court. Use the work sheet on the form to calculate the amount to be withheld from the employee's pay. The payment and a copy of the Interim/Final Report shall be made to the court within 30 days after the end of each employee pay period. The employer shall commence withholding wages **with the 1st full pay period** after the employer receives the garnishment. The amount to be deducted from the employee's wages is 25% after all allowable deductions are taken out, regardless of the frequency of pay. The employer is not required to file an Interim/Final Report if the employee did not have any earnings withheld for that pay period. However, the employer may still file an Interim/Final Report stating the reason why no earnings were withheld to prevent a possible citation being issued. The employer shall file an Interim/Final Report with the court when the garnishment ceases to remain in effect. The employer shall also keep one for his records, and give one to the employee.

Garnishments 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 occurs: **1)** The total amount is paid in full, **2)** The creditor terminates the garnishment, **3)** The court appoints a trustee and halts the garnishment, **4)** Bankruptcy filed, **5)** A garnishment of higher priority is received (however, if the higher priority garnishment does not take the maximum amount that can be withheld, the remainder should be used to satisfy the other garnishment.), **6)** Another garnishment is received from a different creditor and the old garnishment has been processed for at least 182 days.

Employers receiving more than one garnishment on an employee are required to stack the garnishments in the sequence in which they are received. Subsequent garnishment received shall be placed in its proper order on the stack. Each garnishment is to be processed for at least 182 days, or less if the amount due on the garnishment is paid in full before then. If the amount due on the garnishment is not paid in full by 182 days, the employer shall begin processing the next garnishment from the stack for the prescribed period of time and so on and so on. When an employer is working on the last garnishment in the stack, and no other garnishment has been received, that garnishment may be processed for longer than 182 days, or until paid in full, or until another garnishment is received. **An employer may not discharge an employee solely because of a garnishment by only one creditor within any one year.**

The employer may deduct up to, but no more than, a \$3.00 fee for processing the garnishment. This fee may be deducted from the amount withheld from the employee's disposable earnings for each pay period where there was an amount withheld. If no money was withheld from an employee's pay, this fee may not be deducted.

At some point in the garnishment process the employer and the debtor will receive The Notice and Affidavit of Current Balance Due. This form is used to clarify the amount still due and owing after the garnishment has been processed for a period of time. The purpose of this form is to let the employer and debtor know what the creditor feels is the "current balance" now due, adding accrued interest, and other applicable costs. If the debtor feels that the amount stated is incorrect, he may fill in the bottom portion of the form and request a hearing. The court will then conduct a hearing and make the determination as to the correct balance.

An employer who acts, or attempts to act, in accordance with the garnishment provisions in Chapter 2716 of the Ohio Revised Code, 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.

DISCLAIMER

We are not permitted to dispense legal advice. This notice is merely offered to help explain the garnishment process. For full disclosure and content of the garnishment procedure refer Chapter 2716 of the Ohio Revised Code, or consult your attorney.