

WHAT SHOULD I DO IF A LEVY IS PLACED ON EXEMPT PROPERTY?

If a levy is placed on exempt property, you should object right away. You do this by filing a Motion to Quash Levy with the court that issued the levy. You may be able to do this by yourself, but it is not recommended. You may lose property if you don't know the law. You should get legal help. You should get a court hearing as soon as possible to object to the levy. At the hearing, you have a chance to explain why the levy isn't proper. If the Judge agrees, the levy is released.

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GARNISHMENTS ATTACHMENTS AND LEVIES

This pamphlet contains general information about your rights. Consult a lawyer if you have specific questions.

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CVLAS is a non-profit organization providing free legal advice, and representation to low income or elderly people in Central Virginia. Contact us Monday - Thursday 9-12 to see if you qualify for services.

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A person or business you owe money to is called a creditor. If a creditor wants to force you to pay a debt, they first must ask the court for a judgment. Many people feel that having a judgment against them is the worst possible thing. A judgment simply is a piece of paper at the local courthouse that says you owe someone a certain sum of money. This allows the creditor to use legal actions to collect the judgment. However, the creditor first must get a judgment. A creditor with a judgment is called a "judgment-creditor." The judgment-creditor can get a garnishment on your wages. The judgment creditor can also levy your property (sell your property to pay the debt).

WHAT IS A GARNISHMENT?

Garnishment means that wages, bank accounts, and other money payable to you gets paid to the judgment-creditor instead.

WHAT TYPES OF MONEY CAN'T BE GARNISHED?

Government benefits can't be garnished. This includes:

- Social Security,
- Supplemental Security Income (SSI),
- Temporary Assistance for Needy Families (TANF),
- Black Lung benefits,
- unemployment compensation,
- workers' compensation, and
- Veterans' benefits.

These benefits can't be garnished if you keep them separate from any other money you have (for example, in a separate bank account).

Child support can't be garnished. Child support legally is the property of your child, and is not your property. Child support can't

be taken to pay your judgment.

Wages can't be garnished unless gross wages minus amounts that must be withheld by law are at least \$154.50 per week. Amounts that must be withheld by law include federal and state taxes. They don't include optional deductions from wages. A judgment-creditor may garnish the smaller of the following amounts.

- The amount by which gross wages minus amounts that must be withheld by law exceed \$154.50 per week.
- 25% of gross wages minus amounts that must be withheld by law.

WHAT HAPPENS WHEN I GET GARNISHED?

If you get garnished, you and your employer (or you and your bank) will receive a Garnishment Summons. Your employer can't fire you the first time your wages are garnished. A garnishment is good for 30, 60 or 90 days, at the choice of the judgment-creditor. The garnished money is under the control of the court until the garnishment period is over.

The garnishment period ends at what is called the "return date." This gives you a chance to object and claim that the money can't be garnished.

HOW DO I OBJECT TO A GARNISHMENT?

You do this by filing a Garnishment Exemption Claim Form with the court that issued the garnishment. You may be able to do this by yourself, but it is not recommended. You may lose income or property if you don't know the law. You should get legal help. You must get a court hearing on or before the return date to object to the garnish-

ment. At the hearing, you have a chance to explain why the money can't be garnished. If the Judge agrees, the money is released to you.

WHAT IS A LEVY (OR ATTACHMENT)?

A levy is when a Sheriff or Deputy comes to your home and makes a list of property that can be sold to pay your judgment.

WHAT TYPES OF PROPERTY CAN'T BE ATTACHED OR LEVIED UPON?

A judgment-creditor can levy on only some of your personal property. A levy can't be placed on the following items, which are exempt (free) from levy.

- Up to \$5,000 worth of household goods.
- Up to \$1,000 worth of clothing.
- Medically prescribed health aids.
- Up to \$10,000 worth of tools and equipment you need for work or school.
- Up to \$2,000 "equity" value in a motor vehicle. "Equity" means the fair market value minus the amount you still owe on the vehicle.
- Up to \$5,000 worth of additional property, if you have listed it in a Homestead Deed filed with the Circuit Court.

A levy can't be placed on property that you don't own.

WHAT HAPPENS WHEN A LEVY IS PLACED ON MY PROPERTY?

If a levy is placed on your property, the judgment-creditor can ask the Sheriff to take it and sell it. You then would receive a notice of sale.