



AFTAB PUREVAL
HAMILTON COUNTY CLERK OF COURTS

NOTICE TO ALL EMPLOYERS

Effective August 29, 2000 the laws for the State of Ohio regarding garnishment of personal earnings have been modified. These changes are intended to simplify and clarify the garnishment process. The changes that will affect the way you process your wage garnishments are as follows.

The first thing you will notice is a new look to the Order and Affidavit of Garnishment as well as the Interim Report Form. The most noticeable change is that the "work sheet" for computing the amount of deduction to be withheld from the debtor's pay is no longer on the back of the Order and Affidavit of Garnishment form but has been incorporated into the Interim Report Form. **It is mandatory that an Interim Report Form be sent in with each payment.**

One of the biggest changes in the new garnishment law is the restructuring of the formula for calculating the amount to be withheld from the judgment debtor's pay. With the implementation of the new law you are now required to deduct a uniform 25% from the judgment debtor's pay, regardless of the frequency of their pay period. In the past, you had to calculate a different percentage depending upon the frequency of the judgment debtor's pay period (6 ¼% if paid weekly, 12 ½% if paid bi-weekly or semi-monthly, etc). **You now simply deduct 25% from the debtor's net pay after all allowable deductions are taken out.**

Another change you will readily notice is the absence of the \$10.00 check made payable to you. The new law replaces the one time garnishee fee of \$10.00 with a garnishee-processing fee of up to \$3.00 per withholding period. **This fee may be deducted from the amount withheld from the debtor's disposable earnings for each pay period where there was an amount withheld.** You may not deduct a processing fee for any pay period in which **no amount of money withheld from the debtor's pay.** For example, if you process the garnishment weekly for an employee you can take up to \$3.00 from the amount withheld for a processing fee. This means you could get up to \$12.00 in processing fees in a month with 4 pay periods. **The amount you deduct from the debtor's pay is entirely up to you, but you can deduct no more than \$3.00 per withholding period.**

A new form that you will be seeing at some point in the garnishment process is the **Notice and Affidavit of Current Balance Due.** This new form is required to be filed by the judgment creditor, or their attorney, once a year and may be filed at any time. The purpose of this form is to clarify the amount still due and owing after the garnishment has been processed for a period of time. The "total probable amount due" that was specified on the Order and Affidavit of Garnishment that you first received could be different than the "current amount now due", especially after you have been processing the garnishment for a period of months. The purpose of this form is to let you and the debtor know what the creditor feels is the "current balance" that is now due, adding accrued interest and other costs if applicable. On the bottom of this form there is a space wherein the debtor may request a hearing if the debtor feels that the "current balance due" is incorrect. The court will then conduct a hearing and make a determination as to the correct balance.

The new law specifies that the amount of personal earnings to be withheld from the judgment debtor's pay shall commence with the first full pay period beginning after the employer (garnishee) receives the order. **In other words, don't start a garnishment in the middle of a pay period; wait until the beginning of a full pay period.**

The new law provides that the employer (garnishee) is no longer required to file an Interim Report **if the employer did not withhold any earnings from the judgment debtor during a pay period.** However, it might be prudent if you, the employer, notify the creditor that no withholding was made for a particular pay period and the reason why nothing was withheld, sickness, leave of absence, etc. This might prevent a citation for contempt from being issued against you. Notification could be by interim report, or a phone call to the creditor, or the creditor's attorney. Again, you do not have to file an interim report if nothing was withheld from the employee's pay, but there is nothing to say that you can't. As always, if there were withholdings deducted from the debtor's pay, you **must** file an interim report.

Please Note: If you are currently processing a garnishment that was filed prior to the enactment of the new garnishment reforms, you will continue to process those garnishments under the old laws. You will process those garnishments using the old formula of 6 ¼%, 12 ½%, or 25% depending upon the frequency of the debtor's pay, and you cannot deduct a processing fee from the debtor's wages, as you would have already received the \$10.00 garnishee fee. If you have "stacked" garnishments that were received prior to the new modifications, those garnishments shall be processed using the old garnishment formula.

DISCLAIMER

We are not permitted to dispense legal advice in our office. This notice is merely offered to help explain the new garnishment reforms. For full disclosure and content of the garnishment reform bill see Sub. H.B. No. 294 or consult your attorney.