

OFFICE HOURS AND LOCATIONS

Legal Aid of East Tennessee offices are open from 8:30 A.M. to 5:00 P.M. Monday through Friday.

Executive Director - David Yoder
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| 311 W. Walnut Street Johnson City, TN 37604 (423)928-8311 1(800)821-1312 Fax (423)928-9488 | 1001 W 2nd North St. Morristown, TN 37814 (423)587-4850 1(800)821-1309 Fax (423)587-4857 |
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Associate Director - Debra House

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No person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

This pamphlet is intended for general information only. The circumstances of every case are different and need to be dealt with on a case-by-case basis. This is not a substitute for the advice of a lawyer. Also, the law may change and may be different from county to county.



Con 8/07

LEGAL AID OF EAST TENNESSEE



STOPPING A GARNISHMENT AND PROTECTING YOUR PROPERTY FROM CREDITORS



Serving Bledsoe, Bradley, Blount, Carter, Cocke, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Polk, Rhea, Sequatchie, Sevier, Sullivan, Unicoi and Washington Counties.

PROTECTING YOUR PROPERTY

LIST OF EXEMPTIONS FORM INSTRUCTIONS

When you have been sued in court and lost, you will want to protect your property. To do so, you should file a list of exemptions by giving it to the court clerk. You may file this at any time, but to guarantee protection of your property it should be done within ten (10) days of the judgment. Forms are available at the Courthouse. Once the list is filed the creditor cannot take items on the list or force them to be sold. You can change the list from time to time and you will need to update it if you acquire any new property.

You can protect up to \$4,000.00 worth of your personal property. You may protect cash or bank accounts. You do not need to list clothing, trunks, family pictures, the family Bible, and school books. The law says these items can never be taken. You need not list Social Security, VA benefits or Welfare checks because these may not be taken.

Give the original list to the General Sessions Clerk at the Courthouse and keep a copy for yourself. There is no charge for filing your list. Remember you can change the list to protect your property by filing another list. In figuring the value of the goods listed you need to list the value of the item, or in the case of items purchased by making payments on them, the amount of payments you have made on the item.

If you own your home, the Tennessee Homestead Exemption allows a single homeowner to exempt \$5,000 from the sale of their home, and \$7,500 for a couple. If you are 62 and single you can exempt \$12,000. If you are married and one person is 62 or older you can exempt \$20,000. If you are married and both of you are over 62 you can exempt \$25,000. You should see an attorney if your creditor tries to sell your home to collect a judgment.



IN THE GENERAL SESSIONS COURT FOR _____
COUNTY, AT _____, TENNESSEE

Plaintiff,)
)
vs.) Civil Action No. _____
)
)

Defendant.)

MOTION TO COMMUTE JUDGMENT
TO INSTALLMENT PAYMENTS

COMES NOW the Judgment Debtor, pursuant to T.C.A. §26-2-216, and moves the Court to commute the Judgment against him/her to installment payments and would show as follows:

1. That Judgment was rendered against him/her on the _____ day of _____ 20__, in the amount of \$ _____, and that no appeal was filed within the time allowed by law.
2. That this is the first Motion to establish payment for this judgment.
3. That he/she is unable to pay the Judgment with funds other than those earned by him/her as wages or salary by his/her employer, _____ That his/her wages are \$ _____ payable every _____, and with said money he/she is the sole support of himself/herself and child(ren).

WHEREFORE, JUDGMENT DEBTOR PRAYS:

1. That he/she be allowed to file this Motion pursuant to T.C.A. §26-2-216.
2. That the Court commute this Judgment to a monthly installment basis with payments being made of approximately \$ _____ per _____.

JUDGMENT DEBTOR

Sworn to and subscribed before me, this
____ day of _____, 20____.

GENERAL SESSIONS CLERK

IN THE GENERAL SESSIONS COURT FOR _____
COUNTY, TENNESSEE

Plaintiff,)
vs.) No. _____

Defendant(s))

NOTICE OF EXEMPTIONS

Being duly sworn, I say that I am a bona fide citizen permanently residing in Tennessee and wish to exercise the exemption in T.C.A. §26-2-102 with regard to the following list of items:

| ITEM | VALUE |
|---|----------|
| Automobile: | \$ _____ |
| Furniture: | \$ _____ |
| Household Goods (Kitchen Utensils, sheets, towels, appliances, etc.): | \$ _____ |
| Jewelry: | \$ _____ |
| Tools: | \$ _____ |
| Other: | \$ _____ |
| TOTAL (Not to exceed \$4,000)..... | \$ _____ |
| All other items in my home belong to others. | |

DEFENDANT

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public
My Commission Expires: _____

STOPPING A GARNISHMENT MOTION TO PAY BY INSTALLMENTS

When you have been sued in court and lost, and are earning over \$175.50 a week or have property worth more than \$4,000, you may want to file a Motion to Pay by Installments. There are situations where a Motion to Pay by Installments may be useful to you:

1. If a judgment has been entered against you and you cannot pay all the debt or you cannot get your creditor to accept payments you can afford to pay, you may petition the court to set the amount of payments. As long as you meet the conditions set by the court, your wages cannot be garnished.
2. If you have already received notice that your wages are being garnished, you may file a Motion to Pay by Installments with the court. Once the Motion is filed, the garnishment will be stopped until the date of the hearing. At the hearing, the Judge will set the amount you are to pay. As long as you pay as directed by the court, you will not be garnished.
3. The date for the hearing will be set, usually about one week after you fill out the Motion.
4. The court will send a copy of your Motion and notice of the hearing date to the person who has the judgment against you.
5. On the date of the hearing, the Judge will call your name. You should tell the Judge how much you propose to pay and any other information that you feel might help the Judge make the decision. Your creditor may object to the amount you propose. Explain to the Judge why you cannot pay more. You will want to write down your monthly expenses to show the Judge. List the amount of your take-home pay, the number of children you have and the bills (including rent, utilities, food, clothing, transportation, medical, child care, etc.) you owe.
6. The Judge will set the amount of your payment. There are no fixed guidelines for setting the amounts to be paid. The primary considerations will be your income, your expenses, the size of your family, and the size of the debt you owe. Amounts as low as \$5.00 a month have been approved in some cases.
7. You must make your payments in the amount and at the times fixed by the Judge. Payments are usually made to the General Sessions Court Clerk. When you make a payment always list the docket number of your case so that the payment will be credited to the right account. Do not send cash payments through the mail.
8. At the same time you file your Motion to Pay by Installments,

you may want to file a List of Exemptions to protect your personal property. This is explained on the following pages.

WHERE TO FILE A MOTION

You need to file this Motion to Pay by Installments in the General Sessions Court where the judgment was taken against you.

HOW TO COMPLETE A MOTION FOR PAYMENT BY INSTALLMENTS

1. The clerk of the General Sessions Court in any county has a form which you can use to petition the court. The Clerk may help you fill out the form.
2. To complete the form you must provide the following information:
 - a. Your name
 - b. The employer's name
 - c. The amount of your wages
 - d. When and how often you are paid
 - e. The name of the court where the judgment was entered
 - f. The docket number of your case
 - g. The name of the person who has a judgment against you.
 - h. The amount of the judgment
 - i. The amount you propose to pay.

IMPORTANT

Consider your budget carefully before you decide what amount to propose. Don't offer more than you're sure you can pay every month.

CAUTION

Under Tennessee law generally only one Motion to Pay by Installments may be filed for each judgment that you have entered against you. Therefore, it is very important to propose an amount to pay that will fit within your budget. Should you have the court approve an amount too high for you to handle, you will be stuck with that amount. If you fail to make your payments, you may subject yourself to possible garnishment or seizure of your property.