



Can Creditors Take My Benefits and Assets?

I'VE BEEN SUED AND THERE IS A JUDGMENT AGAINST ME. CAN MY CREDITORS TAKE MY PAYCHECKS?

Yes. If you owe money and the creditor(s) have received permission from the court, they can arrange to have your paychecks "garnished", meaning they can have up to 10% of your paycheck removed and sent to your creditor(s) before it gets to you.

Note: If you already have child-support, alimony or support payments taken out of your paycheck, the total amount garnished cannot exceed 25%.

CAN MY CREDITORS TAKE MY SOCIAL SECURITY OR SSI CHECKS?

No. Federal law prohibits creditors from taking or garnishing these benefits. If your only source of income is a combination of SSI or Social Security, you are "judgment-proof," meaning they cannot collect any of your income.

CAN MY CREDITORS TAKE MY VETERAN'S BENEFITS?

No. Veteran's benefits (including Survivor's Benefits if your spouse was a veteran) are exempt from attachment or garnishment by creditors.

I RECEIVE UNEMPLOYMENT BENEFITS. CAN MY CREDITORS GARNISH THEM?

No. Unemployment benefits are not subject to garnishment by creditors.

WHAT ABOUT MY PUBLIC ASSISTANCE BENEFITS, DISABILITY BENEFITS, WORKERS' COMPENSATION BENEFITS OR PUBLIC AND PRIVATE PENSIONS?

No. None of these benefits is subject to garnishment by creditors.

I OWN MY HOME. CAN IT BE SEIZED BY A CREDITOR TRYING TO COLLECT ON A JUDGMENT AGAINST ME?

No, a creditor cannot seize or forcibly sell your home. However if you own real estate and a judgment is outstanding against you, your creditor can get a "lien" on your house, which means if you sell it the unpaid debt will be taken out of the proceeds. If you acquired your home after the judgment against you was issued, your home is not subject to a lien.

ARE THERE EXCEPTIONS TO THESE RULES?

The exceptions to the above rules are garnishment for purposes of child support and owed federal taxes. There are also some exceptions for student loans. If you owe child support, federal taxes, or student loans, you should contact an attorney to find out how these debts may affect your benefits.

I RECEIVED A PACKET IN THE MAIL FROM THE SHERIFF'S DEPARTMENT AND THE FORMS ASK LOTS OF QUESTIONS ABOUT MY SOURCES OF INCOME AND MY ASSETS. DO I HAVE TO FILL THIS OUT?

YES. These documents allow the court to determine what income and assets your creditors can seize or garnish. These documents are not optional. If you ignore them and fail to fill them out and mail them back (you should send them via Certified Mail, Return Receipt Requested), you may be found in contempt of court and subject to fine and even jail time. It is important to fill these forms out completely and accurately and mail them back promptly as instructed.

HOW LONG WILL A JUDGMENT AGAINST ME BE IN EFFECT?

Generally the length a judgment is collectable is twenty years, after which the court presumes that the debt has been paid, even if it hasn't.

Note: Creditors are entitled to charge 9% annual interest on unpaid judgments, so the amount you owe will go up every year it remains unpaid.