

Colorado Legal Services

Legal help for low-income Coloradans seeking assistance with civil legal needs

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Garnishment type unk

Garnishment

Income protected from garnishment is listed [here](#).

How much income can be garnished? [Click here](#) for information. Learn more [by clicking here](#).

Faced with a garnishment?

1. In a case of continuing garnishment where the judgment debtor objects to the calculation of the amount of exempt earnings, the judgment debtor shall have 7 days from receipt of the copy of the Writ of Continuing Garnishment to resolve the issue of such miscalculation, by agreement with the garnishee (you - if you are being garnished), during which time the garnishee (you) shall not pay any money to the clerk of the court.

If such objection is not resolved within seven days and after good faith effort, the judgment debtor may file a written objection with the clerk of the court in which the judgment was entered setting forth with reasonable detail the grounds for such objection. Such objection must be filed within 14 days from receipt of the copy of Writ of Garnishment or calculation of the amount of exempt earnings for subsequent pay periods.

The judgment debtor shall, by certified mail, return receipt requested, deliver immediately a copy of such objection to the judgment creditor or his or her attorney of record. CRS 13-54.5-108 (1)(a)

2. In a case, where garnishee, pursuant to writ of garnishment, holds any personal property of the judgment debtor other than earnings which the judgment debtor claims to be exempt, said judgment debtor within 14 days after being served with the notice of exemption and pending levy, shall make and file with the clerk of the court in which the judgment was entered a written claim of exemption setting forth with reasonable detail a description of the property claimed to be exempt, together with the grounds of such exemption.

The judgment debtor shall, by certified mail, return receipt requested, deliver immediately a copy of such claim to the judgment creditor or his or her attorney of record. CRS 13-54.5-108 (b)

3. Upon the filing of an objection or the filing of a claim of exemption, the court in which the judgment was entered shall set a time for the hearing of such objection or claim, which shall be not more than fourteen days after filing. The clerk of the court where such objection or claim is

filled shall immediately inform the judgment creditor or his or her attorney of record and the judgment debtor or his or her attorney of record by telephone, by email, or in person of the date set for such hearing. CRS 13-54.5-109 (1)(a)

4. No employer shall discharge an employee due to a garnishment against the employee. If an employee is fired due to a garnishment, within ninety-one days, the employee may bring a civil action for the recovery of wages lost and for an order reinstating the employee. Damages recoverable shall be lost wages not to exceed six weeks, costs, and reasonable attorney fees. CRS 13-54.5-110

Definitions and Comments

“Commingle” means to mix funds in a bank account. **If you put exempt fund into a bank account which has other money (from other sources) in the bank account, you may not be able to protect the exempt funds from garnishment.**

Example: Child support should be placed into a “custodial account” for your children. This custodial account should ONLY contain child support, and funds in the account should ONLY be used to support your children for whom you receive the child support. CRS 13-54-102.5

Disability payments that amount to at least 75% of the total income of a person who is totally and permanently disabled may be protected from garnishment for child support of alimony, if the disabled person object to the garnishment and the court agrees to lower the amount of garnishment. CRS 13-54-104(b)(III)

Exempt income is income which is protected from garnishment, either totally or partly.

Worker’s compensation funds are not exempt, if you have public assistance debts or owe restitution re public property or public pension plan.

Public assistance debts include debts for fraudulently obtained public assistance, fraudulently obtained overpayments of public assistance, or excess public assistance paid for which the recipient was ineligible.

Restitution re public property or public pension plan includes restitution for the theft, embezzlement, misappropriation, or wrongful conversion of public property, or a judgement for a willful and intentional violation of fiduciary duties to a public pension plan where the offender or a related party received direct financial gain.

There are few exceptions to most exempt incomes. Your income can be garnished for:

- Unpaid taxes
- Child support
- Defaulted student loans

This is information only and is not meant to provide legal advice or opinions. The information above is subject to change and may not include all types of income. This information is not intended to create an attorney-client relationship. An attorney client relationship may only be established through direct attorney to client communication that is confirmed by the execution of

an engagement agreement.

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