

## MARYLAND RULES

### Rule 3-646. Garnishment of Wages

(a) **Applicability.**--This Rule governs garnishment of wages under Code, Commercial Law Article, Sections 15-601 through 15-606.

(b) **Issuance of Writ.**--The judgment creditor may obtain issuance of a writ of garnishment by filing in the same action in which the judgment was obtained a request that contains (1) the caption of the action, (2) the amount owed under the judgment, (3) the name and last known address of the judgment debtor, and (4) the name and address of the garnishee. Upon filing of the request, the clerk shall issue a writ of garnishment directed to the garnishee together with a blank answer form provided by the clerk.

(c) **Content.**--The writ of garnishment shall:

(1) contain the information in the request, the name and address of the person requesting the writ, and the date of issue,

(2) notify the garnishee of the time within which the answer must be filed and that failure to do so may result in the garnishee being held in contempt,

(3) notify the judgment debtor and garnishee that federal and state exemptions may be available.

(4) notify the judgment debtor of the right to contest the garnishment of wages by filing a motion asserting a defense or objection.

(d) **Service.**--The writ and answer form shall be served on the garnishee in the manner provided by Chapter 100 of this Title for service of process to obtain personal jurisdiction and may be served in or outside the country. Upon issuance of the writ, a copy of the writ shall be mailed to the debtor's last known address. Subsequent pleadings and papers shall be served on the creditor, debtor and garnishee in the manner provided by Rule 1-321.

(e) **Response of Garnishee and Debtor.**--The garnishee shall file an answer within 30 days after service of the writ. The answer shall state whether the debtor is an employee of the garnishee and, if so, the rate of pay and the existence of prior liens. The garnishee may assert any defense that the garnishee may have to the garnishment, as well as any defense that the debtor could assert. The debtor may file a motion at any time asserting a defense or objection.

(f) **When No Answer Filed.**--If the garnishee fails to file a timely answer, the court on motion of the creditor may order the garnishee to show cause why the garnishee should not be held in contempt and required to pay reasonable attorney's fees and costs.

(g) When Answer Filed.--If the answer denies employment, the court shall dismiss the proceeding against the garnishee unless the creditor files a request for hearing within 15 days after service of the answer. If the answer asserts any other defense or if the debtor files a motion asserting a defense or objection, the court shall promptly schedule the matter for hearing.

(h) Interrogatories to Garnishee.--Interrogatories may be served on the garnishee by the creditor in accordance with Rule 3-645(h).

(i) Withholding and Remitting of Wages.--While the garnishment is in effect, the garnishee shall withhold all garnishable wages payable to the debtor. If the garnishee has asserted a defense or is notified that the debtor has done so, the garnishee shall remit the withheld wages to the court. Otherwise, the garnishee shall remit them to the creditor or the creditor's attorney within 15 days after the close of the debtor's last pay period in each month. The garnishee shall notify the debtor of the amount withheld each pay period and the method used to determine the amount. If the garnishee is served with more than one writ for the same debtor, the writs shall be satisfied in the order in which served.

(j) Duties of the Creditor,--

(1) Payments received by the creditor shall be credited first against accrued interest on the unpaid balance of the judgment, then against the principal amount of the judgment, and finally against attorney's fees and costs assessed against the debtor.

(2) Within 15 days after the end of each month in which are received from any source by the creditor for the account of the debtor, the creditor shall file a statement disclosing the payments and the manner in which they were credited.

(3) If the creditor fails to comply with the provisions of this section, the court upon motion may dismiss the garnishment proceeding and order the creditor to pay reasonable attorney's fees and costs to the party filing the motion.

(k) Termination of Garnishment.--A garnishment of wages terminates 90 days after cessation of employment unless the debtor is reemployed by the garnishee during that period. (Amended Nov. 20, 1984, effective Jan. 1, 1985; June 7, 1994, effective October 1, 1994; Oct. 5, 1999)

Source: This Rule is derived as follows:

Section (a) is derived from former M.D.R. F6 a.

Section (b) is new.

Section (c) is in part derived from former M.D.R. F6 b and in part new.

Section (d) is in part derived from former M.D.R. F6 c and in part new.

Section (e) is derived from former M.D.R. F6 d and k.

Section (f) is derived from former D.D.R. F6 f.

Section (g) is in part derived from former M.D.R. F6 e and in part new.

Section (h) is derived from former M.D.R. F6 g.

Section (i) is in part derived from former M.D.R. F6 h and in part new.

Section (j) is derived from former M.D.R. F6 j.

Section (k) is derived from former M.D.R. F6 i.

Effect of amendment.--The 1984 amendment, effective January 1, 1985, substituted "notify the debtor of" for "file a monthly statement showing" in the fourth sentence of section (i)

Notice of federal and State exemptions.--The due process clause does not require that all possible federal and State exemptions be set out under section (c) (3) of this Rule, but only those exemptions that occur most frequently. *Reigh v. Schleigh*, 784 F.2d 1191 (4th Cir.), cert. denied, 479 U.S. 847, 107 5. Ct. 167, 93 L. Ed. 2d 104 (1986), aff'd 829 F.2d 1334 (4th Cir. 1987), cert. denied, 485 U.S. 968, 108 5. Ct. 1242, 99 L. Ed. 2d 441, 485 U.S. 970, 108 5. Ct. 1247, 99 L. Ed. 2d 445 (1988).

Section (g) satisfies due process.--The requirement in section (g) of this Rule that a judgment debtor's request for a hearing on exemption claims be held "promptly" satisfies due process. *Reigh v. Schleigh*, 784 F.2d 1191 (4th Cir.), cert. denied, 479 U.S. 847, 107 5. Ct. 167, 93 L. Ed. 2d 104 (1986), aff'd 829 E.2d 1334 (4<sup>th</sup> Cir. 1987), cert. denied, 485 U.S. 968, 108 5. Ct. 1242, 99 L. Ed. 2d 441, 485 U.S. 970, 108 5. Ct. 1247, 99 L. Ed. 2d 445 (1988).

Allowances, disability income payments, etc.--Neither public general law, nor public local law, nor municipal ordinance expressly permits allowances, disability income payments, or like benefits to be attached. *Mayor of Baltimore v. Hooper*, 312 Md. 378, 539 A. 2d 1130 (1988).

Exclusion from general exemptions from execution.-- The general exclusion of wage garnishments from the general exemptions from execution prevents a debtor from continually claiming the full amount of wages as exempt upon each garnishment, since to allow such a practice would effectively nullify the remedy afforded the judgement-creditor. *Smoot v. Swann Hill Condominium Unit Owners Ass'n*. 237 Bankr.875 (Bankr.D. Md. 1999).

Cited in *Nelson V. Diversified Collection Servs., Inc.*, 961 F. Supp.863 (D. Md. 1997).