

HOW TO TELL A FINANCIAL INSTITUTION THAT YOU HAVE DEPOSITS PROTECTED FROM GARNISHMENT

If you get money from one of the sources listed below, and it is sent directly by the person paying the money to your bank or credit union, you can protect this money from being sent to a creditor. These instructions tell you how to do this.

For the money in your bank or credit union to qualify for this protection from garnishment:

1. The money must be sent to your bank or credit union by direct deposit or by electronic payment. Therefore, it is always best to choose direct deposit or electronic payment when they are available; **AND**
2. The money must come from one or more of the following:
 - * Payments from the Social Security Administration, including SSI and SSD;
 - * Public assistance payments (cash) from the state;
 - * Unemployment compensation from the state;
 - * Payments from a public or private retirement plan;
 - * Veterans benefit payments from the Veterans Administration;
 - * Workers' compensation payments from a workers' compensation carrier; and/or
 - * Black lung benefit payments from the US Department of Labor.

The amount that can't be garnished is either the balance in your account **OR** the amount that the sources listed above deposited into your account during the calendar month before the garnishment, whichever is **LESS**. Any money you have over that amount may be sent to the creditor. But, some or all of it may still be protected from garnishment by other laws, so you may be able to get part or all of it back. You can get it back by filing a Challenge to Garnishment, also known as a Claim of Exemption. For more information on this process see the resources at the end of page 2, speak to a private attorney, or go to www.oregonlawhelp.org.

How to Protect Your Benefits Payments

If you have one or more benefit payments (listed above) deposited into your bank or credit union account by direct deposit or electronic payment, you can fill out and give your bank or credit union an "Affidavit". This will help protect your money. You should do this if: (1) someone has a court judgment against you, (2) someone is suing you in court, (3) someone is threatening to sue you in court, (4) you are opening a new account and you are worried about having your benefits payments garnished, or (5) you generally want to protect your benefits payments from garnishment.

To protect your benefits payments from garnishment, follow these instructions:

1. If you think that the money that goes into your bank or credit union account by direct deposit is not subject to garnishment, you should fill out the attached Affidavit completely and give it to your bank or credit union. Your bank or credit union may also have a form for this affidavit that you may use.

If you use the attached Affidavit:

- * Make sure you check off where the money comes from in #4 of the Affidavit.
- * If you get retirement, pension, or workers' compensation money by direct deposit or electronic payment, it is best to tell the bank or credit union the name of the company that the money comes from in #5 on the Affidavit.

2. Giving your bank or credit union the Affidavit will tell them your account has money deposited into it that is protected from garnishment under Oregon law. You should give them a new Affidavit if any of the information on it changes.
3. The Affidavit must be signed in front of a notary public. **DO NOT SIGN** the Affidavit until you are in front of a notary public. By signing the Affidavit you are swearing under oath that everything you say in the Affidavit is true. You will generally need to show the notary an acceptable form of current photo ID. If this is a problem see the resources section below.
4. Make sure you keep a copy of any Affidavit you give your bank or credit union.

It is also a good idea to send a letter to any creditor(s) telling them you have given your financial institution the Affidavit. You should not send a copy of the Affidavit to any creditor(s) trying to collect a debt. Just send any creditor(s) a letter telling them you filed the Affidavit and have protected income.

Other property may be protected

In addition to protecting your money in bank accounts, you can often protect your wages, money, property and other things you own from being taken by a creditor. There are limits to what is protected. For more information, read the section below.

RESOURCES FOR MORE INFORMATION

There is more information about protecting your money and property from creditors, as well as information on other legal issues, available for free at www.oregonlawhelp.org. You may also contact your local legal aid program, or speak to a private attorney. If you want to hire a private attorney you may contact the Oregon State Bar Lawyer Referral Service at (800) 452-7636.

These instructions are not a complete statement of the law. For legal information or advice, please talk to a lawyer or visit your local law library. Each court has local rules, programs and procedures that may not be explained in these instructions. The information in this brochure is valid as of 4-10.

