

"AN ACT TO AMEND SECTION 2 OF ACT 115 OF APRIL 8, 1889 [ARKANSAS STATUTE 31-504] TO PROVIDE A PROCEDURE FOR THE ISSUING OF WRITS OF GARNISHMENT; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 2 of Act 115 of April 8, 1889, the same being Arkansas Statute 31-504, is hereby amended to read as follows:

"Section 2. The following procedure shall be followed in issuing writs of garnishment:

(a) Upon application for a writ of garnishment by any qualified judgment creditor, the clerk of the court shall attach to said writ the following 'Notice to Defendant':

'NOTICE TO DEFENDANT'

YOUR RIGHT TO KEEP WAGES, MONEY AND OTHER PROPERTY FROM BEING GARNISHED

The Writ of Garnishment or Writ of Execution delivered to you with this Notice means that wages, money or other property belonging to you has been garnished in order to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY FROM BEING TAKEN, SO READ THIS NOTICE CAREFULLY.

State and federal laws say that certain money and property may not be taken to pay certain types of court judgments. Such money or property is said to be "exempt" from garnishment.

For example under the Arkansas Constitution and State law, you will be able to claim as exempt all or part of your wages or other personal property.

As another example, under federal law the following are also exempt from garnishment:

Social Security, SSI, Veteran's benefits, AFDC (welfare), unemployment compensation, workers' compensation.

You have a right to ask for a court hearing to claim these or other exemptions. If you need legal assistance to help you try to save your wages or property from being garnished, you should see a lawyer. If you can't afford a private lawyer, contact your local bar association or ask the clerk's office about any Legal Services program in your area.'

As an alternative, the 'Notice to Defendant' may be incorporated as a part of the writ.

(b) Writs of garnishment together with the 'Notice to Defendant' shall be directed, served and returned in the same manner as writs of summons. In addition, the judgment creditor is responsible for mailing a copy of the writ of garnishment and the 'Notice to Defendant' to the judgment debtor the same day that he serves the writ of garnishment and the 'Notice to Defendant' on the garnishee. The judgment creditor shall mail the writ of garnishment the 'Notice to Defendant' by first class mail to the residence of the judgment debtor; however, if the letter is returned 'undeliverable' by the Post Office, or if the residence address of the judgment debtor is not discoverable after diligent search, then the writ of garnishment and the 'Notice to Defendant' shall be sent by first class mail to the judgment debtor at his place of employment.

(c) The judgment creditor shall not be required to mail another 'Notice to Defendant' to the judgment debtor for future garnishments on the same debt within twelve (12) months of the original garnishment. If further garnishments are filed thereafter, then such notice shall be required to be mailed by the judgment creditor annually.

(d) The circuit clerk shall include as a part of the writ of garnishment a certification statement of the above service on the judgment debtor. The judgment creditor must complete the certificate of service statement by listing the name and address of the judgment debtor, and the date of mailing. The statement must be signed by the judgment creditor or his attorney.

(e) Upon receipt of the writ of garnishment the judgment debtor is entitled to a prompt hearing in which to claim exemptions. Upon filing a claim of exempt property or wages, a hearing will be held within eight (8) working days to determine the validity of the claimed exemptions. No hearing shall be required and a writ of supersedeas shall issue unless the judgement creditor files in writing within five (5) days a statement that the judgement debtor's claim of exemption is contested."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: 4/1/87

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