

As Reported by the House Judiciary Committee

127th General Assembly

Regular Session

2007-2008

Sub. S. B. No. 281

Senator Seitz

**Cosponsors: Senators Cates, Jacobson, Mumper, Niehaus, Schuler, Spada,
Wagoner, Bocchieri, Cafaro, Fedor, Kearney, Mason, Miller, D., Morano,
Roberts, Sawyer, Carey, Goodman, Harris, Miller, R., Schaffer, Smith, Wilson
Representatives Dyer, Budish**

—

A B I L L

To amend sections 2329.66, 2716.02, 2716.03, 2716.05, 1
2716.11, 2716.13, and 3923.19 of the Revised Code 2
to increase the exemptions for property that a 3
debtor may hold exempt from execution, 4
garnishment, attachment, or sale for the 5
satisfaction of a judgment or order to reflect the 6
higher exemptions available for such property 7
under the United States Bankruptcy Code and to 8
provide for automatic adjustments to those 9
exemptions based on changes in the Consumer Price 10
Index, to modify the garnishment procedure, and to 11
expand the amount of benefits under sickness and 12
accident insurance policies that are exempt from 13
attachment and other process. 14

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

Section 1. That sections 2329.66, 2716.02, 2716.03, 2716.05, 15
2716.11, 2716.13, and 3923.19 of the Revised Code be amended to 16
read as follows: 17

Sec. 2329.66. (A) Every person who is domiciled in this state 18
may hold property exempt from execution, garnishment, attachment, 19
or sale to satisfy a judgment or order, as follows: 20

(1)(a) In the case of a judgment or order regarding money 21
owed for health care services rendered or health care supplies 22
provided to the person or a dependent of the person, one parcel or 23
item of real or personal property that the person or a dependent 24
of the person uses as a residence. Division (A)(1)(a) of this 25
section does not preclude, affect, or invalidate the creation 26
under this chapter of a judgment lien upon the exempted property 27
but only delays the enforcement of the lien until the property is 28
sold or otherwise transferred by the owner or in accordance with 29
other applicable laws to a person or entity other than the 30
surviving spouse or surviving minor children of the judgment 31
debtor. Every person who is domiciled in this state may hold 32
exempt from a judgment lien created pursuant to division (A)(1)(a) 33
of this section the person's interest, not to exceed five twenty 34
thousand two hundred dollars, in the exempted property. 35

(b) In the case of all other judgments and orders, the 36
person's interest, not to exceed five twenty thousand two hundred 37
dollars, in one parcel or item of real or personal property that 38
the person or a dependent of the person uses as a residence. 39

(2) The person's interest, not to exceed one three thousand 40
two hundred twenty-five dollars, in one motor vehicle; 41

~~(3) The person's interest, not to exceed two hundred dollars 42
in any particular item, in wearing apparel, beds, and bedding, and 43
the person's interest, not to exceed three hundred dollars in each 44
item, in one cooking unit and one refrigerator or other food 45
preservation unit; 46~~

~~(4)(a) The person's interest, not to exceed four hundred 47
dollars, in cash on hand, money due and payable, money to become 48~~

due within ninety days, tax refunds, and money on deposit with a 49
bank, savings and loan association, credit union, public utility, 50
landlord, or other person. ~~Division (A)(4)(a) of this section~~ 51
~~applies only in bankruptcy proceedings. This exemption may include~~ 52
~~the portion of personal earnings that is not exempt under division~~ 53
~~(A)(13) of this section, other than personal earnings.~~ 54

~~(b) Subject to division (A)(4)(d) of this section, the (4)(a)~~ 55
The person's interest, not to exceed two five hundred twenty-five 56
dollars in any particular item or ten thousand seven hundred 57
seventy-five dollars in aggregate value, in household furnishings, 58
household goods, wearing apparel, appliances, books, animals, 59
crops, musical instruments, firearms, and hunting and fishing 60
equipment, that are held primarily for the personal, family, or 61
household use of the person; 62

~~(c) Subject to division (A)(4)(d) of this section, the (b)~~ 63
The person's aggregate interest in one or more items of jewelry, 64
not to exceed four one thousand three hundred fifty dollars ~~in one~~ 65
~~item of jewelry and not to exceed two hundred dollars in every~~ 66
~~other item of jewelry;~~ 67

~~(d) Divisions (A)(4)(b) and (c) of this section do not~~ 68
~~include items of personal property listed in division (A)(3) of~~ 69
~~this section.~~ 70

~~If the person does not claim an exemption under division~~ 71
~~(A)(1) of this section, the total exemption claimed under division~~ 72
~~(A)(4)(b) of this section shall be added to the total exemption~~ 73
~~claimed under division (A)(4)(c) of this section, and the total~~ 74
~~shall not exceed two thousand dollars. If the person claims an~~ 75
~~exemption under division (A)(1) of this section, the total~~ 76
~~exemption claimed under division (A)(4)(b) of this section shall~~ 77
~~be added to the total exemption claimed under division (A)(4)(c)~~ 78
~~of this section, and the total shall not exceed one thousand five~~ 79
hundred dollars, held primarily for the personal, family, or 80

<u>household use of the person or any of the person's dependents.</u>	81
(5) The person's interest, not to exceed an aggregate of	82
seven hundred fifty <u>two thousand twenty-five</u> dollars, in all	83
implements, professional books, or tools of the person's	84
profession, trade, or business, including agriculture;	85
(6)(a) The person's interest in a beneficiary fund set apart,	86
appropriated, or paid by a benevolent association or society, as	87
exempted by section 2329.63 of the Revised Code;	88
(b) The person's interest in contracts of life or endowment	89
insurance or annuities, as exempted by section 3911.10 of the	90
Revised Code;	91
(c) The person's interest in a policy of group insurance or	92
the proceeds of a policy of group insurance, as exempted by	93
section 3917.05 of the Revised Code;	94
(d) The person's interest in money, benefits, charity,	95
relief, or aid to be paid, provided, or rendered by a fraternal	96
benefit society, as exempted by section 3921.18 of the Revised	97
Code;	98
(e) The person's interest in the portion of benefits under	99
policies of sickness and accident insurance and in lump sum	100
payments for dismemberment and other losses insured under those	101
policies, as exempted by section 3923.19 of the Revised Code.	102
(7) The person's professionally prescribed or medically	103
necessary health aids;	104
(8) The person's interest in a burial lot, including, but not	105
limited to, exemptions under section 517.09 or 1721.07 of the	106
Revised Code;	107
(9) The person's interest in the following:	108
(a) Moneys paid or payable for living maintenance or rights,	109
as exempted by section 3304.19 of the Revised Code;	110

(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	111 112
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	113 114
(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;	115 116
(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;	117 118 119
(f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code;	120 121
<u>(g) Payments under section 24 or 32 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.</u>	122 123
(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights, as exempted by section 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's right to benefits from the Ohio public safety officers death benefit fund;	124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140
(b) Except as provided in sections 3119.80, 3119.81, 3121.02,	141

3121.03, and 3123.06 of the Revised Code, the person's right to 142
receive a payment under any pension, annuity, or similar plan or 143
contract, not including a payment from a stock bonus or 144
profit-sharing plan or a payment included in division (A)(6)(b) or 145
(10)(a) of this section, on account of illness, disability, death, 146
age, or length of service, to the extent reasonably necessary for 147
the support of the person and any of the person's dependents, 148
except if all the following apply: 149

(i) The plan or contract was established by or under the 150
auspices of an insider that employed the person at the time the 151
person's rights under the plan or contract arose. 152

(ii) The payment is on account of age or length of service. 153

(iii) The plan or contract is not qualified under the 154
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 155
amended. 156

(c) Except for any portion of the assets that were deposited 157
for the purpose of evading the payment of any debt and except as 158
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 159
3123.06 of the Revised Code, the person's right in the assets held 160
in, or to receive any payment under, any individual retirement 161
account, individual retirement annuity, "Roth IRA," or education 162
individual retirement account that provides benefits by reason of 163
illness, disability, death, or age, to the extent that the assets, 164
payments, or benefits described in division (A)(10)(c) of this 165
section are attributable to any of the following: 166

(i) Contributions of the person that were less than or equal 167
to the applicable limits on deductible contributions to an 168
individual retirement account or individual retirement annuity in 169
the year that the contributions were made, whether or not the 170
person was eligible to deduct the contributions on the person's 171
federal tax return for the year in which the contributions were 172

made;	173
(ii) Contributions of the person that were less than or equal	174
to the applicable limits on contributions to a Roth IRA or	175
education individual retirement account in the year that the	176
contributions were made;	177
(iii) Contributions of the person that are within the	178
applicable limits on rollover contributions under subsections 219,	179
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B),	180
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986,"	181
100 Stat. 2085, 26 U.S.C.A. 1, as amended.	182
(d) Except for any portion of the assets that were deposited	183
for the purpose of evading the payment of any debt and except as	184
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and	185
3123.06 of the Revised Code, the person's right in the assets held	186
in, or to receive any payment under, any Keogh or "H.R. 10" plan	187
that provides benefits by reason of illness, disability, death, or	188
age, to the extent reasonably necessary for the support of the	189
person and any of the person's dependents.	190
(11) The person's right to receive spousal support, child	191
support, an allowance, or other maintenance to the extent	192
reasonably necessary for the support of the person and any of the	193
person's dependents;	194
(12) The person's right to receive, or moneys received during	195
the preceding twelve calendar months from, any of the following:	196
(a) An award of reparations under sections 2743.51 to 2743.72	197
of the Revised Code, to the extent exempted by division (D) of	198
section 2743.66 of the Revised Code;	199
(b) A payment on account of the wrongful death of an	200
individual of whom the person was a dependent on the date of the	201
individual's death, to the extent reasonably necessary for the	202
support of the person and any of the person's dependents;	203

(c) Except in cases in which the person who receives the 204
payment is an inmate, as defined in section 2969.21 of the Revised 205
Code, and in which the payment resulted from a civil action or 206
appeal against a government entity or employee, as defined in 207
section 2969.21 of the Revised Code, a payment, not to exceed five 208
twenty thousand two hundred dollars, on account of personal bodily 209
injury, not including pain and suffering or compensation for 210
actual pecuniary loss, of the person or an individual for whom the 211
person is a dependent; 212

(d) A payment in compensation for loss of future earnings of 213
the person or an individual of whom the person is or was a 214
dependent, to the extent reasonably necessary for the support of 215
the debtor and any of the debtor's dependents. 216

(13) Except as provided in sections 3119.80, 3119.81, 217
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 218
earnings of the person owed to the person for services in an 219
amount equal to the greater of the following amounts: 220

(a) If paid weekly, thirty times the current federal minimum 221
hourly wage; if paid biweekly, sixty times the current federal 222
minimum hourly wage; if paid semimonthly, sixty-five times the 223
current federal minimum hourly wage; or if paid monthly, one 224
hundred thirty times the current federal minimum hourly wage that 225
is in effect at the time the earnings are payable, as prescribed 226
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 227
U.S.C. 206(a)(1), as amended; 228

(b) Seventy-five per cent of the disposable earnings owed to 229
the person. 230

(14) The person's right in specific partnership property, as 231
exempted by division (B)(3) of section 1775.24 of the Revised 232
Code; 233

(15) A seal and official register of a notary public, as 234

exempted by section 147.04 of the Revised Code; 235

(16) The person's interest in a tuition unit or a payment 236
under section 3334.09 of the Revised Code pursuant to a tuition 237
payment contract, as exempted by section 3334.15 of the Revised 238
Code; 239

(17) Any other property that is specifically exempted from 240
execution, attachment, garnishment, or sale by federal statutes 241
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 242
U.S.C.A. 101, as amended; 243

(18) The person's aggregate interest in any property, not to 244
exceed ~~four hundred one thousand seventy-five~~ dollars, ~~in any~~ 245
~~property~~, except that division (A)(18) of this section applies 246
only in bankruptcy proceedings. 247

(B) On April 1, 2010, and on the first day of April in each 248
third calendar year after 2010, each dollar amount set forth in 249
this section shall be adjusted, when determining the amount that 250
is exempt from execution, garnishment, attachment, or sale 251
pursuant to this section, to reflect the change in the consumer 252
price index for all urban consumers, as published by the United 253
States department of labor, or, if that index is no longer 254
published, a generally available comparable index, for the 255
three-year period ending on the thirty-first day of December of 256
the preceding year. Any adjustments required by this division 257
shall be rounded to the nearest twenty-five dollars. 258

(C) As used in this section: 259

(1) "Disposable earnings" means net earnings after the 260
garnishee has made deductions required by law, excluding the 261
deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 262
3121.03, or 3123.06 of the Revised Code. 263

(2) "Insider" means: 264

(a) If the person who claims an exemption is an individual, a relative of the individual, a relative of a general partner of the individual, a partnership in which the individual is a general partner, a general partner of the individual, or a corporation of which the individual is a director, officer, or in control;

(b) If the person who claims an exemption is a corporation, a director or officer of the corporation; a person in control of the corporation; a partnership in which the corporation is a general partner; a general partner of the corporation; or a relative of a general partner, director, officer, or person in control of the corporation;

(c) If the person who claims an exemption is a partnership, a general partner in the partnership; a general partner of the partnership; a person in control of the partnership; a partnership in which the partnership is a general partner; or a relative in, a general partner of, or a person in control of the partnership;

(d) An entity or person to which or whom any of the following applies:

(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.

(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division ~~(B)~~(C)(2)(d)(i) of this section applies.

(iii) A person whose business is operated under a lease or

operating agreement by the person who claims an exemption, or a 296
person substantially all of whose business is operated under an 297
operating agreement with the person who claims an exemption. 298

(iv) The entity operates the business or all or substantially 299
all of the property of the person who claims an exemption under a 300
lease or operating agreement. 301

(e) An insider, as otherwise defined in this section, of a 302
person or entity to which division ~~(B)~~(C)(2)(d)(i), (ii), (iii), 303
or (iv) of this section applies, as if the person or entity were a 304
person who claims an exemption; 305

(f) A managing agent of the person who claims an exemption. 306

(3) "Participant account" has the same meaning as in section 307
148.01 of the Revised Code. 308

(4) "Government unit" has the same meaning as in section 309
148.06 of the Revised Code. 310

~~(C)~~(D) For purposes of this section, "interest" shall be 311
determined as follows: 312

(1) In bankruptcy proceedings, as of the date a petition is 313
filed with the bankruptcy court commencing a case under Title 11 314
of the United States Code; 315

(2) In all cases other than bankruptcy proceedings, as of the 316
date of an appraisal, if necessary under section 2329.68 of the 317
Revised Code, or the issuance of a writ of execution. 318

An interest, as determined under division ~~(C)~~(D)(1) or (2) of 319
this section, shall not include the amount of any lien otherwise 320
valid pursuant to section 2329.661 of the Revised Code. 321

Sec. 2716.02. (A) Any person seeking an order of garnishment 322
of personal earnings, after obtaining a judgment, shall make the 323
following demand in writing for the excess of the amount of the 324

judgment over the amount of personal earnings that may be exempt 325
from execution, garnishment, attachment, or sale to satisfy a 326
judgment or order, or for so much of the excess as will satisfy 327
the judgment. The demand shall be made after the judgment is 328
obtained and at least fifteen days and not more than forty-five 329
days before the order is sought by delivering it to the judgment 330
debtor by personal service by the court, by sending it to the 331
judgment debtor by certified mail, return receipt requested, or by 332
sending it to the judgment debtor by regular mail evidenced by a 333
properly completed and stamped certificate of mailing by regular 334
mail, addressed to the judgment debtor's last known place of 335
residence. 336

The demand shall be in substantially the following form: 337

"NOTICE OF COURT PROCEEDING TO COLLECT DEBT 338

Date of mailing or date of service by the court 339

To: 340

(Name of Judgment Debtor) 341

..... 342

(Last Known Residence Address of Judgment Debtor) 343

You owe the undersigned (Name of 344
Judgment Creditor) \$....., including interest and court 345
costs, for which a judgment was obtained against you or certified 346
in the court on, payment of which is hereby 347
demanded. 348

If you do not do one of the three things listed below within 349
fifteen days of the date of the mailing of this notice or of its 350
service by the court, we will go to court, unless we are otherwise 351
precluded by law from doing so, and ask that your employer be 352
ordered to withhold money from your earnings until the judgment is 353
paid in full or, if applicable, is paid to a certain extent and to 354
pay the withheld money to the court in satisfaction of your debt. 355
This is called garnishment of personal earnings. 356

It is to your advantage to avoid garnishment of personal 357
earnings because the placing of the extra burden on your employer 358
possibly could cause you to lose your job. 359

YOU CAN AVOID THE GARNISHMENT BY DOING ONE OF THESE THREE 360
THINGS WITHIN THE FIFTEEN-DAY PERIOD: 361

(1) Pay to us the amount due; 362

(2) Complete the attached form entitled "Payment to Avoid 363
Garnishment" and return it to us with the payment, if any, shown 364
due on it; or 365

(3) Apply to your local municipal or county court or, if you 366
are not a resident of Ohio, to the municipal or county court in 367
whose jurisdiction your place of employment is located, for the 368
appointment of a trustee to receive the part of your earnings that 369
is not exempt from garnishment, and notify us that you have 370
applied for the appointment of a trustee. You will be required to 371
list your creditors, the amounts of their claims, and the amounts 372
due on their claims, and the amount you then will pay to your 373
trustee each payday will be divided among them until the debts are 374
paid off. This can be to your advantage because in the meantime 375
none of those creditors can garnish your wages. 376

You also may contact a budget and debt counseling service 377
described in division (D) of section 2716.03 of the Revised Code 378
for the purpose of entering into an agreement for debt scheduling. 379
There may not be enough time to set up an agreement for debt 380
scheduling in order to avoid a garnishment of your wages based 381
upon this demand for payment, but entering into an agreement for 382
debt scheduling might protect you from future garnishments of your 383
wages. Under an agreement for debt scheduling, you will have to 384
regularly pay a portion of your income to the service until the 385
debts subject to the agreement are paid off. This portion of your 386
income will be paid by the service to your creditors who are owed 387

debts subject to the agreement. This can be to your advantage 388
because these creditors cannot garnish your wages while you make 389
your payments to the service on time. 390
..... 391
(Name of Judgment Creditor) 392
..... 393
(Signature of Judgment Creditor 394
or Judgment Creditor's Attorney) 395
..... 396
..... 397
..... 398
(Address of Judgment Creditor) 399

PAYMENT TO AVOID GARNISHMENT 400

To: 401
(Name of Judgment Creditor) 402
..... 403
..... 404
(Address of Judgment Creditor) 405

To avoid the garnishment of personal earnings of which you 406
have given me notice, I enclose \$ to apply toward 407
my indebtedness to you. The amount of the payment was computed as 408
follows: 409

1. Total amount of indebtedness demanded: (1) \$..... 410
2. Enter the amount of your personal earnings, 411
after deductions required by law, earned by 412
you during the current pay period (that is, 413
the pay period in which this demand is 414
received by you): (2) \$..... 415
3. (A) Enter your pay period (weekly, biweekly, 416
semimonthly, monthly): (3)(A) 417
(B) Enter the date when your present pay 418
period ends: (3)(B) 419

4. Enter an amount equal to 25% of the amount	420
on line (2):	
(4)	421
5. (A) The current federal minimum hourly wage	422
is (to be filled in by Judgment	423
Creditor) (You should use the above figure	424
to complete this portion of the form.)	425
If you are paid weekly, enter thirty	426
times the current federal minimum hourly	427
wage; if paid biweekly, enter sixty times	428
the current federal minimum hourly wage;	429
if paid semimonthly, enter sixty-five	430
times the current federal minimum	431
hourly wage; if paid monthly, enter	432
one hundred thirty times the current	433
federal minimum hourly wage:	
(5)(A)	434
(B) Enter the amount by which the amount on	435
line (2) exceeds the amount on line 5(A):	
(5)(B)	436
6. Enter the smallest of the amounts on line	437
(1), (4), or 5(B). Send this amount to the	438
judgment creditor along with this form after	439
you have signed it:	
(6) \$.....	440
I certify that the statements contained above are true to the	441
best of my knowledge and belief.	442
.....	443
(Signature of Judgment Debtor)	444
.....	445
.....	446
.....	447
(Print Name and Residence Address of	448
Judgment Debtor)	
(To verify that the amount shown on line (2) is a true	449
statement of your earnings, you must either have your employer	450
certify below that the amount shown on line (2) is a true	451

statement of your earnings or you may submit copies of your pay 452
stubs for the two pay periods immediately prior to your receiving 453
this notice.) 454

I certify that the amount shown on line (2) is a true 455
statement of the judgment debtor's earnings. 456

..... 457

(Print Name of Employer) 458

..... 459

(Signature of Employer or Agent) 460

I certify that I have attached copies of my pay stubs for the 461
two pay periods immediately prior to my receiving this notice. 462

..... 463

(Signature of Judgment Debtor)" 464

(B) If a judgment debtor properly completes a payment to 465
avoid garnishment and returns it with the required funds to the 466
judgment creditor or the judgment creditor's attorney, the 467
judgment creditor or the judgment creditor's attorney who issued 468
the notice of court proceeding to collect debt may not issue 469
another notice of court proceeding to collect debt to the judgment 470
debtor until the expiration date of the judgment debtor's present 471
pay period that is set forth by the judgment debtor and the 472
judgment debtor's employer in the answer to (3)(B) in the payment 473
to avoid garnishment. 474

(C) If an order of garnishment of personal earnings issued 475
pursuant to this chapter has not been paid in full when it ceases 476
to remain in effect because of the operation of division (C)(1) of 477
section 2716.041 of the Revised Code, the garnishee's duties under 478
the order of garnishment are complete with the filing of the final 479
report and answer of the garnishee. The judgment creditor must 480
institute new garnishment proceedings if the judgment creditor 481
wants an additional garnishment. 482

Sec. 2716.03. (A) Subject to the limitation on the 483
commencement of proceedings contained in division (B) of section 484
124.10 of the Revised Code, a proceeding in garnishment of 485
personal earnings may be commenced after a judgment has been 486
obtained by a judgment creditor by the filing of an affidavit in 487
writing made by the judgment creditor or the judgment creditor's 488
attorney setting forth all of the following: 489

(1) The name of the judgment debtor whose personal earnings 490
the judgment creditor seeks to garnish; 491

(2) ~~That the affiant has good reason to believe and does~~ 492
~~believe that the person, partnership, limited liability company,~~ 493
~~or corporation named in the affidavit as the garnishee is~~ The name 494
and address of the garnishee who may be an employer of the 495
judgment debtor and who may have personal earnings of the judgment 496
debtor ~~that are not exempt under section 2329.66 of the Revised~~ 497
~~Code;~~ 498

(3) That the demand in writing, as required by section 499
2716.02 of the Revised Code, has been made; 500

(4) That the payment demanded in the notice required by 501
section 2716.02 of the Revised Code has not been made, and a 502
sufficient portion of the payment demanded has not been made to 503
prevent the garnishment of personal earnings as described in 504
section 2716.02 of the Revised Code; 505

(5) That the affiant has no knowledge of any application by 506
the judgment debtor for the appointment of a trustee so as to 507
preclude the garnishment of the judgment debtor's personal 508
earnings; 509

(6) That the affiant has no knowledge that the debt to which 510
the affidavit pertains is the subject of a debt scheduling 511
agreement of a nature that precludes the garnishment of the 512

personal earnings of the judgment debtor under division (B) of 513
this section. 514

(B) No proceeding in garnishment of personal earnings shall 515
be brought against a judgment debtor for the collection of a debt 516
that is the subject of an agreement for debt scheduling between 517
the judgment debtor and a budget and debt counseling service, 518
unless any payment to be made by the judgment debtor, or by a 519
budget and debt counseling service to the judgment creditor under 520
the agreement for debt scheduling between the judgment debtor and 521
the budget and debt counseling service, is due and unpaid for more 522
than forty-five days after the date on which the payment became 523
due, or unless the judgment creditor previously was notified by 524
the service that the debt scheduling agreement between the 525
judgment debtor and the service was terminated. 526

(C) Upon a court's issuance of an order of garnishment of 527
personal earnings following a judgment creditor's filing of an 528
affidavit under this section and compliance with section 2716.04 529
of the Revised Code, the garnishee and the judgment debtor shall 530
be notified of the proceeding in garnishment of personal earnings 531
in accordance with sections 2716.05 and 2716.06 of the Revised 532
Code. 533

(D) As used in this chapter: 534

(1) A "budget and debt counseling service" or "service" means 535
a corporation organized under Chapter 1702. of the Revised Code 536
for the purpose of counseling consumers with respect to their 537
financial obligations and assisting them in dealing with their 538
creditors. 539

(2) "Debt scheduling" means counseling and assistance 540
provided to a consumer by a budget and debt counseling service 541
under all of the following circumstances: 542

(a) The counseling and assistance is manifested in an 543

agreement between the consumer and the service under which the 544
consumer regularly pays that portion of the consumer's income to 545
the service that has been determined not to be required for the 546
maintenance of health or the essentials of life. 547

(b) The payments are made to the service until the debts of 548
the consumer that are the subject of the agreement are fully 549
retired. 550

(c) The service has sent written notice, by certified mail, 551
return receipt requested, or by regular mail evidenced by a 552
properly completed and stamped certificate of mailing by regular 553
mail, to the creditors of the consumer that are disclosed by the 554
consumer to the service. The notice shall contain all of the 555
following: 556

(i) A statement of the consumer's intent to participate in 557
debt scheduling; 558

(ii) A summary of the consumer's income, proposed itemized 559
budget, schedule of creditors, and proposed debt retirement plan; 560

(iii) A statement of the particular creditor's duty to 561
respond, in writing, to the service regarding the consumer's 562
participation in debt scheduling within fifteen days after 563
receiving the notice. 564

(d) The debts of the consumer that are the subject of the 565
agreement for debt scheduling are determined as follows: 566

(i) Any debt owed to a creditor that was notified of the 567
consumer's intent to participate is a subject of the agreement if 568
the creditor responds to the service and enters into an agreement 569
with the service, pursuant to which the creditor agrees not to 570
attempt to collect the debts of the consumer as long as the 571
consumer regularly pays to the service the amount previously 572
agreed upon by the service and the consumer, and no payment to be 573
made by the judgment debtor to the service or by the service to 574

the creditor is due and unpaid for more than forty-five days after 575
the date on which the payment became due, as long as the debt 576
scheduling agreement between the consumer and the service has not 577
been terminated, and as long as the service regularly pays to the 578
creditor a mutually acceptable amount that is either the amount 579
agreed upon by the service and the creditor on the date they 580
entered into their original agreement or an amount agreed upon by 581
both the service and the creditor on a date after the date of the 582
original agreement. 583

(ii) Any debt owed to a creditor that was notified of the 584
consumer's intent to participate is a subject of the agreement if 585
the creditor does not respond to the service and state the 586
creditor's objection, in writing, to the consumer's participation 587
in debt scheduling within fifteen days after receiving notice of 588
the consumer's intention to do so; however, no debt that is 589
subject to a lien or security interest of any type, other than a 590
judgment lien or execution lien, shall be a subject of the 591
agreement unless the creditor specifically assents, in writing, to 592
the debt being a subject of the agreement. The creditor shall be 593
considered to have entered into an agreement of the type described 594
in division (D)(2)(d)(i) of this section, and the amount to be 595
regularly paid by the service to the creditor shall be an amount 596
determined to be reasonable by the service or an amount agreed 597
upon by both the service and the creditor on a date after the 598
expiration of the fifteen-day period. 599

(iii) Any debt owed to a creditor that was not notified of 600
the consumer's intent to participate, or a debt owed to a creditor 601
that was notified of the consumer's intent to participate and that 602
responded to the service and stated its objection, in writing, to 603
the consumer's participation in debt scheduling within fifteen 604
days after receiving notice of the consumer's intention to do so, 605
is not a subject of the agreement. 606

(e) The service agrees that, if the consumer fails to make a payment under the agreement within forty-five days of its due date or if the agreement is terminated, the service will notify each creditor that is owed a debt that is subject to the agreement of the failure or termination by regular mail within two business days of the failure or termination, and the service provides that notice in accordance with the agreement.

Sec. 2716.05. The garnishee shall be served, in the same manner as a summons is served, with three copies of the order of garnishment of personal earnings and of a written notice that the garnishee answer as provided in division (E) of section 2716.041 of the Revised Code, this section, and section 2716.21 of the Revised Code and with the garnishee's fee required by section 2716.04 of the Revised Code. The garnishee also shall be served, at that time, with two copies of the notice to the judgment debtor form and of the request for hearing form described in section 2716.06 of the Revised Code, one copy of the interim report and answer form described in section 2716.07 of the Revised Code, one copy of the employer guide to processing continuous orders of garnishment, and one copy of the final report and answer form described in section 2716.08 of the Revised Code.

A court of common pleas or municipal or county court that issues an order of garnishment of personal earnings has jurisdiction to serve process pursuant to this section upon a garnishee who does not reside within the territorial jurisdiction of the court. If the garnishee does not reside within the territorial jurisdiction of the court that issued the order, the process may be served upon the garnishee by the proper officer of the county in which the garnishee resides or may be served upon the garnishee by personal service by the court, by sending it to the garnishee by certified mail, return receipt requested, or by sending it to the garnishee by regular mail evidenced by a

properly completed and stamped certificate of mailing by regular 639
mail. 640

The order of garnishment of personal earnings shall bind the 641
personal earnings of the judgment debtor due from the garnishee at 642
the time of service in accordance with this section. The order of 643
garnishment of personal earnings and notice to answer shall be in 644
substantially the following form: 645

"ORDER AND NOTICE OF GARNISHMENT 646

AND ANSWER OF EMPLOYER 647

Docket No. 648

Case No. 649

In the Court 650

....., Ohio 651

The State of Ohio 652

County of, ss 653

....., Judgment Creditor 654

vs. 655

....., Judgment Debtor 656

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT 657

To:, Garnishee 658

The judgment creditor in the above case has filed an 659
affidavit, satisfactory to the undersigned, in this court stating 660
that you may owe the judgment debtor money for personal earnings 661
~~and that some of that money may not be exempt from garnishment~~ 662
~~under the laws of the State of Ohio or the laws of the United~~ 663
~~States.~~ 664

You are therefore ordered to complete the "ANSWER OF EMPLOYER 665
(GARNISHEE)" in section B of this form. Return one completed and 666
signed copy of this form to the clerk of this court within five 667
(5) business days after you receive this order of garnishment. 668

Deliver one completed and signed copy of this form and the 669
accompanying documents entitled "NOTICE TO THE JUDGMENT DEBTOR" 670
and "REQUEST FOR HEARING" to the judgment debtor. Keep the other 671
completed and signed copy of this form for your files. 672

(The total probable amount now due on this judgment is 673
\$..... The total probable amount now due includes 674
the unpaid portion of the judgment in favor of the judgment 675
creditor, which is \$.....; interest on that judgment and, if 676
applicable, prejudgment interest relative to that judgment at the 677
rate of% per annum payable until that judgment is satisfied 678
in full; and court costs in the amount of \$.....) 679

This order of garnishment of personal earnings is a 680
continuous order that generally requires you to withhold a 681
specified amount, calculated each pay period at the statutory 682
percentage, of the judgment debtor's personal disposable earnings 683
during each pay period, as determined in accordance with the 684
"INTERIM REPORT AND ANSWER OF GARNISHEE," from the judgment 685
debtor's personal disposable earnings during each pay period of 686
the judgment debtor commencing with the first full pay period 687
beginning after you receive the order until the judgment in favor 688
of the judgment creditor and the associated court costs, judgment 689
interest, and, if applicable, prejudgment interest awarded to the 690
judgment creditor as described above have been paid in full. You 691
generally must pay that specified amount, calculated each pay 692
period at the statutory percentage, to the clerk of this court 693
within thirty (30) days after the end of each pay period of the 694
judgment debtor and must include with that specified amount 695
calculated each pay period at the statutory percentage an "INTERIM 696
REPORT AND ANSWER OF GARNISHEE" substantially in the form set 697
forth in section 2716.07 of the Ohio Revised Code. A copy of the 698
"INTERIM REPORT AND ANSWER OF GARNISHEE" is attached to this order 699
of garnishment of personal earnings, and you may photocopy it to 700

use each time you pay the specified amount to the clerk of this 701
court. You are permitted to deduct a processing fee of up to three 702
dollars from the judgment debtor's personal disposable earnings 703
for any pay period of the judgment debtor that an amount was 704
withheld for that order (the processing fee is not a part of the 705
court costs). You are not required to file with the court the 706
"INTERIM REPORT AND ANSWER OF GARNISHEE" for any pay period of the 707
judgment debtor for which an amount from the judgment debtor's 708
personal disposable earnings during that pay period was not 709
withheld for that order. 710

This order of garnishment of personal earnings generally will 711
remain in effect until one of the following occurs: 712

(1) The total probable amount due on the judgment as 713
described above is paid in full as a result of your withholding of 714
the specified amount, calculated each pay period at the statutory 715
percentage, from the judgment debtor's personal disposable 716
earnings during each pay period of the judgment debtor that 717
commenced with the first full pay period beginning after you 718
received the order. 719

(2) The judgment creditor or the judgment creditor's attorney 720
files with this court a written notice that the total probable 721
amount due on the judgment as described above has been satisfied 722
or the judgment creditor or the judgment creditor's attorney files 723
a written request to terminate this order of garnishment and 724
release you from the mandate of this order of garnishment. 725

(3) A municipal or county court appoints a trustee for the 726
judgment debtor and issues to you an order that stays this order 727
of garnishment of personal earnings. 728

(4) A federal bankruptcy court issues to you an order that 729
stays this order of garnishment of personal earnings. 730

(5) A municipal or county court or a court of common pleas 731

issues to you another order of garnishment of personal earnings 732
that relates to the judgment debtor and a different judgment 733
creditor, and Ohio or federal law provides the other order with a 734
higher priority than this order. 735

(6) A municipal or county court or a court of common pleas 736
issues to you another order of garnishment of personal earnings 737
that relates to the judgment debtor and a different judgment 738
creditor and that does not have a higher priority than this order. 739

(7) The judgment creditor or the judgment creditor's attorney 740
files with this court a written request to terminate and release 741
the order of garnishment, and as a result, the order of 742
garnishment will cease to remain in effect. 743

Under any of the circumstances listed above, you are required 744
to file with this court a "FINAL REPORT AND ANSWER OF GARNISHEE" 745
substantially in the form set forth in section 2716.08 of the Ohio 746
Revised Code. A copy of the "FINAL REPORT AND ANSWER OF GARNISHEE" 747
is attached to this order of garnishment of personal earnings. 748
Under the circumstances listed in (5) and (6) above, you must 749
cease processing this order of garnishment after the expiration of 750
the full pay period within which the one hundred eighty-second 751
(182) day after you began processing it falls. 752

Special stacking, priority of payment, and manner of payment 753
rules apply when a garnishee receives multiple orders of 754
garnishment with respect to the same judgment debtor. These rules 755
are set forth in section 2716.041 of the Ohio Revised Code. An 756
employer guide to processing continuous orders of garnishment is 757
included with this order of garnishment. You should become 758
familiar with these rules. 759

Witness my hand and the seal of this court this 760
day of, 761

.....

Judge

SECTION B. ANSWER OF EMPLOYER (GARNISHEE)	762
(An employer is one who is required to withhold payroll taxes out of payments of personal earnings made to the judgment debtor.)	763
(Answer all pertinent questions)	764
Now comes, the employer (garnishee) herein, who says:	765
1. This order of garnishment of personal earnings was received on	766
	767
	768
	769
	770
2. The judgment debtor is in my/our employ.	771
If answer is "No," give date of last employment.	772
	773
	774
3. (A) Is the debt to which this order of garnishment of personal earnings pertains the subject of an existing agreement for debt scheduling between the judgment debtor and a budget and debt counseling service and has the judgment debtor made every payment that was due under the agreement for debt scheduling no later than forty-five days after the date on which the payment was due?	775
	776
	777
	778
	779
	780
	781
	782
	783
	784
If the answer to both parts of this question is "Yes," give all available details of the agreement, sign this form, and return it to the court.	785
	786
	787
	788
	789
	790
	791
	792
(B) Were you, on the date that you	792

received this order of garnishment of		793
personal earnings, withholding		794
moneys from the judgment debtor's		795
personal disposable earnings		796
pursuant to another order of		797
garnishment of personal earnings that		798
Ohio or federal law provides with a		799
higher priority than this order of		800
garnishment of personal earnings		801
(such as a support order or Internal		802
Revenue service <u>Service</u> levy)?	803
If the answer to this question is		804
"Yes," give the name of the court		805
that issued the higher priority order,		806
the associated case number, the date		807
upon which you received that order,		808
and the balance due to the relevant		809
judgment creditor under that order.	3(B).....	810
.....		811
	Yes No	812
(C) Did you receive prior to the date		813
that you received this order of		814
garnishment of personal earnings one		815
or more other orders of garnishment		816
of personal earnings that are not		817
described in question 3(B), and are		818
you currently processing one or more		819
of those orders for the statutorily		820
required time period or holding one or		821
more of those orders for processing		822
for a statutorily required period in		823
the sequence of their receipt by you?	824
If the answer to this question is		825

"Yes," give the name of the court 826
that issued each of those previously 827
received orders, the associated case 828
numbers, the date upon which you 829
received each of those orders, and 830
the balance due to the relevant 831
judgment creditor under each of 832
those orders. List first the previously 833
received order(s) that you are 834
currently processing, and list each 835
of the other previously received orders 836
in the sequence that you are required 837
to process them. 3(C)..... 838
..... 839
..... 840
..... 841

I certify that the statements above are true. 842

..... 843

(Print Name of Employer) 844

..... 845

(Print Name and Title of 846

Person Who Completed Form on 847

behalf of the Employer) 848

Signed 849

(Signature of Employer or Employer's Agent) 850

Dated this day of," 851

Section A of the form described in this section shall be 852

completed before service. Section B of the form shall be completed 853

by the garnishee, and the garnishee shall file one completed and 854

signed copy of the form with the clerk of the court as the 855

garnishee's answer. The garnishee may keep one completed and 856

signed copy of the form and shall deliver the other completed and 857

signed copy of the form to the judgment debtor not later than the 858
time that the garnishee otherwise would pay the judgment debtor 859
the personal earnings that the garnishee instead is paying to the 860
court. The garnishee also shall deliver at that time the two 861
copies of the notice to the judgment debtor form and of the 862
request for hearing form described in section 2716.06 of the 863
Revised Code that were served on the garnishee. 864

No employer shall discharge an employee solely because of the 865
successful garnishment of the employee's personal earnings by only 866
one judgment creditor in any twelve-month period. 867

If several affidavits seeking orders of garnishment of 868
personal earnings are filed against the same judgment debtor in 869
accordance with section 2716.03 of the Revised Code, the court 870
involved shall issue the requested orders in the same order in 871
which the clerk received the associated affidavits. 872

The garnishee also shall be served with a copy of the 873
employer guide to processing continuous orders of garnishment at 874
the same time that the forms as provided in this section are 875
served upon the garnishee. 876

Sec. 2716.11. A proceeding for garnishment of property, other 877
than personal earnings, may be commenced after a judgment has been 878
obtained by a judgment creditor by the filing of an affidavit in 879
writing made by the judgment creditor or the judgment creditor's 880
attorney setting forth all of the following: 881

(A) The name of the judgment debtor whose property, ~~other~~ 882
~~than personal earnings,~~ the judgment creditor seeks to garnish; 883

(B) ~~That the affiant has a reasonable basis to believe that~~ 884
~~the person named in the affidavit as the garnishee may have~~ 885
~~property, other than personal earnings, of the judgment debtor~~ 886
~~that is not exempt under the law of this state or the United~~ 887

States;	888
(C) A description of the property;	889
<u>(C) The name and address of the garnishee who may have in the</u>	890
<u>garnishee's hands or control money, property, or credits, other</u>	891
<u>than personal earnings, of the judgment debtor.</u>	892
Sec. 2716.13. (A) Upon the filing of a proceeding in	893
garnishment of property, other than personal earnings, under	894
section 2716.11 of the Revised Code, the court shall cause the	895
matter to be set for hearing within twelve days after that filing.	896
(B) Upon the scheduling of a hearing relative to a proceeding	897
in garnishment of property, other than personal earnings, under	898
division (A) of this section, the clerk of the court immediately	899
shall issue to the garnishee three copies of the order of	900
garnishment of property, other than personal earnings, and of a	901
written notice that the garnishee answer as provided in section	902
2716.21 of the Revised Code and the garnishee's fee required by	903
section 2716.12 of the Revised Code. The copies of the order and	904
of the notice shall be served upon the garnishee in the same	905
manner as a summons is served <u>and the clerk shall also mail a copy</u>	906
<u>of the order and notice of garnishment to the garnishee by</u>	907
<u>ordinary or regular mail service.</u> The copies of the order and of	908
the notice shall not be served later than seven days prior to the	909
date on which the hearing is scheduled. The order shall bind the	910
property <u>in excess of four hundred dollars,</u> other than personal	911
earnings, of the judgment debtor in the possession of the	912
garnishee at the time of service. <u>Any garnishee that garnishes the</u>	913
<u>property, other than personal earnings, of a judgment debtor in</u>	914
<u>good faith reliance upon the order and notice of garnishment</u>	915
<u>received by ordinary or regular mail service shall not be liable</u>	916
<u>for damages in any civil action.</u>	917
The order of garnishment of property, other than personal	918

earnings, and notice to answer shall be in substantially the	919
following form:	920
"ORDER AND NOTICE OF GARNISHMENT	921
OF PROPERTY OTHER THAN PERSONAL EARNINGS	922
AND ANSWER OF GARNISHEE	923
Docket No.	924
Case No.	925
In the Court	926
....., Ohio	927
The State of Ohio	928
County of, ss	929
....., Judgment Creditor	930
vs.	931
....., Judgment Debtor	932
SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT	933
To:, Garnishee	934
The judgment creditor in the above case has filed an	935
affidavit, satisfactory to the undersigned, in this Court stating	936
that you <u>may</u> have money, property, or credits, other than personal	937
earnings, in your hands or under your control that belong to the	938
judgment debtor, and that some of the money, property, or credits	939
may not be exempt from garnishment under the laws of the State of	940
Ohio or the laws of the United States.	941
You are therefore ordered to complete the "ANSWER OF	942
GARNISHEE" in section (B) of this form. Return one completed and	943
signed copy of this form to the clerk of this court together with	944
the amount determined in accordance with the "ANSWER OF GARNISHEE"	945
by the following date on which a hearing is tentatively scheduled	946
relative to this order of garnishment: Deliver one	947
completed and signed copy of this form to the judgment debtor	948
prior to that date. Keep the other completed and signed copy of	949

this form for your files. 950

The total probable amount now due on this judgment is 951
\$..... The total probable amount now due includes the unpaid 952
portion of the judgment in favor of the judgment creditor, which 953
is \$.....; interest on that judgment and, if applicable, 954
prejudgment interest relative to that judgment at the rate of 955
.....% per annum payable until that judgment is satisfied in full; 956
and court costs in the amount of \$..... 957

You also are ordered to hold safely anything of value that 958
belongs to the judgment debtor and that has to be paid to the 959
court, as determined under the "ANSWER OF GARNISHEE" in section 960
(B) of this form, but that is of such a nature that it cannot be 961
so delivered, until further order of the court. 962

Witness my hand and the seal of this court this 963
day of, 964

..... 965

Judge 966

SECTION B. ANSWER OF GARNISHEE 967

Now comes the garnishee, who says: 968

1. That the garnishee has more than \$400 in money, property, 969
or credits, other than personal earnings, of the judgment debtor 970
under the garnishee's control and in the garnishee's possession. 971

..... 972

yes no if yes, amount over 973
\$400

2. That property is described as: 974

3. If the answer to line 1 is "yes" and the amount is less 975
than the probable amount now due on the judgment, as indicated in 976
section (A) of this form, sign and return this form and pay the 977
amount of line 1 to the clerk of this court. 978

4. If the answer to line 1 is "yes" and the amount is greater than that probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay that probable amount now due to the clerk of this court.

5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the clerk of the court, indicate that by placing an "X" in this space: Do not dispose of that money, property, or credits or give them to anyone else until further order of the court.

6. If the answer to line 1 is "no," sign and return this form to the clerk of this court.

I certify that the statements above are true.

.....

(Print Name of Garnishee)

.....

(Print Name and Title of

Person Who Completed Form)

Signed.....

(Signature of Person Completing Form)

Dated this day of,"

Section A of the form described in this division shall be completed before service. Section B of the form shall be completed by the garnishee, and the garnishee shall file one completed and signed copy of the form with the clerk of the court as the garnishee's answer. The garnishee may keep one completed and signed copy of the form and shall deliver the other completed and signed copy of the form to the judgment debtor.

If several affidavits seeking orders of garnishment of property, other than personal earnings, are filed against the same judgment debtor in accordance with section 2716.11 of the Revised Code, the court involved shall issue the requested orders in the

same order in which the clerk received the associated affidavits. 1010

(C)(1) At the time of the filing of a proceeding in 1011
garnishment of property, other than personal earnings, under 1012
section 2716.11 of the Revised Code, the judgment creditor also 1013
shall file with the clerk of the court a praecipe instructing the 1014
clerk to issue to the judgment debtor a notice to the judgment 1015
debtor form and a request for hearing form. Upon receipt of the 1016
praecipe and the scheduling of a hearing relative to an action in 1017
garnishment of property, other than personal earnings, under 1018
division (A) of this section, the clerk of the court immediately 1019
shall serve upon the judgment debtor, in accordance with division 1020
(D) of this section, two copies of the notice to the judgment 1021
debtor form and of the request for hearing form. The copies of the 1022
notice to the judgment debtor form and of the request for hearing 1023
form shall not be served later than seven days prior to the date 1024
on which the hearing is scheduled. 1025

(a) The notice to the judgment debtor that must be served 1026
upon the judgment debtor shall be in substantially the following 1027
form: 1028

"(Name and Address of the Court) 1029

(Case Caption) Case No. 1030

NOTICE TO THE JUDGMENT DEBTOR 1031

You are hereby notified that this court has issued an order 1032
in the above case in favor of (name and address of judgment 1033
creditor), the judgment creditor in this proceeding, directing 1034
that some of your money in excess of four hundred dollars, 1035
property, or credits, other than personal earnings, that now may 1036
be in the possession of (name and address of garnishee), the 1037
garnishee in this proceeding, be used to satisfy your debt to the 1038
judgment creditor. This order was issued on the basis of the 1039
judgment creditor's judgment against you that was obtained in 1040
(name of court) in (case number) on (date). Upon your receipt of 1041

this notice, you are prohibited from removing or attempting to 1042
remove the money, property, or credits until expressly permitted 1043
by the court. Any violation of this prohibition subjects you to 1044
punishment for contempt of court. 1045

The law of Ohio and the United States provides that certain 1046
benefit payments cannot be taken from you to pay a debt. Typical 1047
among the benefits that cannot be attached or executed upon by a 1048
creditor are the following: 1049

(1) Workers' compensation benefits; 1050

(2) Unemployment compensation payments; 1051

(3) Cash assistance payments under the Ohio works first 1052
program; 1053

(4) Benefits and services under the prevention, retention, 1054
and contingency program; 1055

(5) Disability financial assistance administered by the Ohio 1056
department of job and family services; 1057

(6) Social security benefits; 1058

(7) Supplemental security income (S.S.I.); 1059

(8) Veteran's benefits; 1060

(9) Black lung benefits; 1061

(10) Certain pensions. 1062

There may be other benefits not included in the above list 1063
that apply in your case. 1064

If you dispute the judgment creditor's right to garnish your 1065
property and believe that the judgment creditor should not be 1066
given your money, property, or credits, other than personal 1067
earnings, now in the possession of the garnishee because they are 1068
exempt or if you feel that this order is improper for any other 1069
reason, you may request a hearing before this court by disputing 1070

the claim in the request for hearing form, appearing below, or in 1071
a substantially similar form, and delivering the request for 1072
hearing to this court at the above address, at the office of the 1073
clerk of this court no later than the end of the fifth business 1074
day after you receive this notice. You may state your reasons for 1075
disputing the judgment creditor's right to garnish your property 1076
in the space provided on the form; however, you are not required 1077
to do so. If you do state your reasons for disputing the judgment 1078
creditor's right, you are not prohibited from stating any other 1079
reason at the hearing. If you do not state your reasons, it will 1080
not be held against you by the court, and you can state your 1081
reasons at the hearing. NO OBJECTIONS TO THE JUDGMENT ITSELF WILL 1082
BE HEARD OR CONSIDERED AT THE HEARING. If you request a hearing, 1083
the hearing will be limited to a consideration of the amount of 1084
your money, property, or credits, other than personal earnings, in 1085
the possession or control of the garnishee, if any, that can be 1086
used to satisfy all or part of the judgment you owe to the 1087
judgment creditor. 1088

If you request a hearing by delivering your request for 1089
hearing no later than the end of the fifth business day after you 1090
receive this notice, it will be conducted in courtroom 1091
....., (address of court), at m. on, 1092
..... You may request the court to conduct the hearing before 1093
this date by indicating your request in the space provided on the 1094
form; the court then will send you notice of any change in the 1095
date, time, or place of the hearing. If you do not request a 1096
hearing by delivering your request for a hearing no later than the 1097
end of the fifth business day after you receive this notice, some 1098
of your money, property, or credits, other than personal earnings, 1099
will be paid to the judgment creditor. 1100

If you have any questions concerning this matter, you may 1101
contact the office of the clerk of this court. If you want legal 1102

representation, you should contact your lawyer immediately. If you 1103
need the name of a lawyer, contact the local bar association. 1104
..... 1105
Clerk of the Court 1106
..... 1107
Date" 1108

(b) The request for hearing form that must be served upon the 1109
judgment debtor shall have attached to it a postage-paid, 1110
self-addressed envelope or shall be on a postage-paid 1111
self-addressed postcard, and shall be in substantially the 1112
following form: 1113

"(Name and Address of Court) 1114

Case Number Date 1115

REQUEST FOR HEARING 1116

I dispute the judgment creditor's right to garnish my money, 1117
property, or credits, other than personal earnings, in the above 1118
case and request that a hearing in this matter be held 1119
..... 1120
(Insert "on" or "earlier than") 1121

the date and time set forth in the document entitled "NOTICE TO 1122
THE JUDGMENT DEBTOR" that I received with this request form. 1123

I dispute the judgment creditor's right to garnish my 1124
property for the following reasons: 1125
..... 1126

(Optional) 1127
..... 1128
..... 1129

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL 1130
BE HEARD OR CONSIDERED AT THE HEARING. 1131

..... 1132
(Name of Judgment Debtor) 1133
..... 1134
(Signature) 1135
..... 1136
(Date) 1137

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A 1138
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK 1139
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, 1140
YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR MONEY, 1141
PROPERTY, OR CREDITS, OTHER THAN PERSONAL EARNINGS, NOW IN THE 1142
POSSESSION OF (GARNISHEE'S NAME) WILL BE PAID TO (JUDGMENT 1143
CREDITOR'S NAME) TO SATISFY SOME OF YOUR DEBT TO (JUDGMENT 1144
CREDITOR'S NAME)." 1145

(2) The judgment debtor may receive a hearing in accordance 1146
with this division by delivering a written request for hearing to 1147
the court within five business days after receipt of the notice 1148
provided pursuant to division (C)(1) of this section. The request 1149
may set forth the judgment debtor's reasons for disputing the 1150
judgment creditor's right to garnish the money, property, or 1151
credits, other than personal earnings; however, neither the 1152
judgment debtor's inclusion of nor failure to include those 1153
reasons upon the request constitutes a waiver of any defense of 1154
the judgment debtor or affects the judgment debtor's right to 1155
produce evidence at the hearing. If the request is made by the 1156
judgment debtor within the prescribed time, the hearing shall be 1157
limited to a consideration of the amount of money, property, or 1158
credits, other than personal earnings, of the judgment debtor in 1159
the hands of the garnishee, if any, that can be used to satisfy 1160
all or part of the debt owed by the judgment debtor to the 1161
judgment creditor. If a request for a hearing is not received by 1162
the court within the prescribed time, the hearing scheduled 1163
pursuant to division (A) of this section shall be canceled unless 1164

the court grants the judgment debtor a continuance in accordance 1165
with division (C)(3) of this section. 1166

(3) If the judgment debtor does not request a hearing in the 1167
action within the prescribed time pursuant to division (C)(2) of 1168
this section, the court nevertheless may grant a continuance of 1169
the scheduled hearing if the judgment debtor, prior to the time at 1170
which the hearing was scheduled, as indicated on the notice to the 1171
judgment debtor required by division (C)(1) of this section, 1172
establishes a reasonable justification for failure to request the 1173
hearing within the prescribed time. If the court grants a 1174
continuance of the hearing, it shall cause the matter to be set 1175
for hearing as soon as practicable thereafter. The continued 1176
hearing shall be conducted in accordance with division (C)(2) of 1177
this section. 1178

(4) The court may conduct the hearing on the matter prior to 1179
the time at which the hearing was scheduled, as indicated on the 1180
notice to the judgment debtor required by division (C)(1) of this 1181
section, upon the request of the judgment debtor. The parties 1182
shall be sent notice, by the clerk of the court, by regular mail, 1183
of any change in the date, time, or place of the hearing. 1184

(5) If the scheduled hearing is canceled and no continuance 1185
is granted, the court shall issue an order to the garnishee to pay 1186
all or some of the money, property, or credits, other than 1187
personal earnings, of the judgment debtor in the possession of the 1188
garnishee at the time of service of the notice and order into 1189
court if they have not already been paid to the court. This order 1190
shall be based on the answer of the garnishee filed pursuant to 1191
this section. If the scheduled hearing is conducted or if it is 1192
continued and conducted, the court shall determine at the hearing 1193
the amount of the money, property, or credits, other than personal 1194
earnings, of the judgment debtor in the possession of the 1195
garnishee at the time of service of the notice and order, if any, 1196

that can be used to satisfy all or part of the debt owed by the 1197
judgment debtor to the judgment creditor, and issue an order, 1198
accordingly, to the garnishee to pay that amount into court if it 1199
has not already been paid to the court. 1200

(D) The notice to the judgment debtor form and the request 1201
for hearing form described in division (C) of this section shall 1202
be sent by the clerk by ordinary or regular mail service unless 1203
the judgment creditor requests that service be made in accordance 1204
with the Rules of Civil Procedure, in which case the forms shall 1205
be served in accordance with the Rules of Civil Procedure. Any 1206
court of common pleas that issues an order of garnishment of 1207
property, other than personal earnings, under this section has 1208
jurisdiction to serve process pursuant to this section upon a 1209
garnishee who does not reside within the jurisdiction of the 1210
court. Any county court or municipal court that issues an order of 1211
garnishment of property, other than personal earnings, under this 1212
section has jurisdiction to serve process pursuant to this section 1213
upon a garnishee who does not reside within the jurisdiction of 1214
the court. 1215

Sec. 3923.19. ~~The portion of any benefits~~ (A) Benefits under 1216
all policies of sickness and accident insurance ~~as does not exceed~~ 1217
~~six hundred dollars for each month during any period of disability~~ 1218
~~covered by the policies, is~~ are not liable to attachment or other 1219
process, or to be taken, appropriated, or applied by any legal or 1220
equitable process or by operation of law, either before or after 1221
payment of the benefits, to pay any liabilities of the person 1222
insured under any such policy. ~~This exemption does not apply if an~~ 1223
~~action is brought to recover for necessities contracted for during~~ 1224
~~the period of disability, and if the complaint contains a~~ 1225
~~statement to that effect~~ to the extent that the benefits are 1226
reasonably necessary for the support of the debtor and any 1227
dependents of the debtor. 1228

When a policy provides for a lump sum payment because of a 1229
dismemberment or other loss insured, the payment is exempt from 1230
execution by the insured's creditors. 1231

(B)(1) A payment under a stock bonus, pension, profitsharing, 1232
annuity, or similar plan or contract on account of illness, 1233
disability, death, age, or length of service, to the extent 1234
reasonably necessary for the support of the person who is the 1235
beneficiary of the plan or party to the contract and any 1236
dependents of the person, is not liable to attachment or other 1237
process, or to be taken, appropriated, or applied by any legal or 1238
equitable process or by operation of law, either before or after 1239
payment of the benefits, to pay any liabilities of the person 1240
unless all of the following apply: 1241

(a) The plan or contract was established by or under the 1242
auspices of an insider that employed the person at the time the 1243
person's rights under the plan or contract arose. 1244

(b) The payment is on account of age or length of service. 1245

(c) The plan or contract does not qualify under section 1246
401(a), 403(a), 403(b), or 408 of the Internal Revenue Code of 1247
1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 1248

(2) When a plan or contract provides for a lump sum payment 1249
because of a dismemberment or other loss covered by the plan or 1250
contract, the payment is exempt from execution by the person's 1251
creditors. 1252

Section 2. That existing sections 2329.66, 2716.02, 2716.03, 1253
2716.05, 2716.11, 2716.13, and 3923.19 of the Revised Code are 1254
hereby repealed. 1255