

## EXCEPTIONS: WHEN EXEMPT PROPERTY CAN BE TAKEN

If the judgment entered against you is for child support, some of the exemptions, such as 75 percent of take-home pay do not apply. You cannot claim these exemptions if a bankruptcy order directs that the property be taken. These exemptions are not available for certain tax liens. You also cannot claim property is exempt if the judgment was for the purchase, loan or improvement on that property – for example, the remaining installment payment on a used car that you bought.

## WHAT CAN I DO IF I HAVE PROPERTY OR WAGES THAT ARE NOT EXEMPT FROM EXECUTION?

To avoid attachment or garnishment if you have non-exempt wages or property, generally your options are to:

1. Pay the debt either in full or through a payment plan that has been negotiated with the creditor or imposed by the court;
2. Convert non-exempt property to exempt property by filing, for example, a Homestead exemption on your house; or
3. Erase the debt through bankruptcy.

## BANK ACCOUNT ATTACHMENT

A bank account is not subject to garnishment/attachment if exempt income (social security, income deposited by U.S. Treasury and certain other types of exempt income) is direct deposited into a single bank account and the amount deposited totals less than the total of the immediate past 60 days of exempt income deposits. In these circumstances, \$2,000 or the entire amount in the account, whichever is less, is not subject to execution.

If no exempt income is direct deposited and only one bank account exists, \$400 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.

## FOR ASSISTANCE IN DECIDING WHICH OPTION IS BEST FOR YOU:

- Contact a private attorney.
- Attend a free bankruptcy law/financial counseling class. To register, call: 702-386-1070, ext. 155.
- Contact Financial Guidance Center at 702-364-0344. This nonprofit agency offers education, debt management and specialized counseling.

## CIVIL LAW SELF-HELP CENTER

The Civil Law Self-Help Center provides self-help legal information to those wishing to represent themselves in civil matters in the Clark county court system. The Civil Law Self-Help Center is located at 200 Lewish Avenue in Downtown Las Vegas in the Regional Justice Center. [www.civillawselfhelpcenter.org](http://www.civillawselfhelpcenter.org)

## ATTACHMENT AND GARNISHMENT

This brochure helps you understand your rights concerning attachment and garnishment.



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If you lose a lawsuit, the creditor becomes a judgment creditor. There are two ways your judgment creditors can legally take your property or money to pay the judgment.

### ATTACHMENT OR EXECUTION

This allows the creditors, with the help of the sheriff or constable, to take personal property, such as your car, from you and sell it.

Attachment means taking legal possession of your property. Execution means the selling of the attached property.

### GARNISHMENT

This allows judgment creditors to take something of yours that is in the hands of another person or institution, such as money from your bank account or your employer.

The judgment creditor cannot take certain property related to basic needs. This property is called exempt property. Examples of exempt property are:

- Seventy-five percent of your take-home pay or 50 times the minimum wage (\$362.50 per week), whichever is higher.
- Personal property not to exceed \$1,000, which can include money in a bank account.
- All money deposited with a landlord used to secure a rental or lease agreement.
- A tax refund derived from the earned income tax credit.
- Unemployment benefits.
- Workers' Compensation benefits.
- Welfare and Social Security (SSI).
- Veterans benefits.
- Amounts needed for court-ordered child support and alimony.
- Vocational Rehabilitation benefits.
- Certain federal and state retirement accounts
- Insurance proceeds.
- Necessary household goods and yard equipment (maximum protection of \$12,000).

- Tools of your trade, profession or business, (maximum protection \$10,000).
- A homesteaded house or mobile home, even if you do not own the land. This exemption protects up to \$550,000 of the home's value. It can protect up to 100 percent of the value if the judgment is for a medical bill. Note: This exemption does not apply if the judgment was for the mortgage or is a mechanic's lien on the property.
- One vehicle, if your equity (the market value of the car minus how much you owe) is less than \$15,000, unless the lawsuit you lost concerned the loan for the vehicle.

*Note: This is not a complete list of exemptions. You must consult an attorney to determine if you qualify for any other exemptions.*

Just because you find your property listed as exempt, do not assume your property is safe. You must take action to prevent the exempt property or income from being seized. The judgment creditors will not look out for your best interests. You must do that.

### WHEN CAN YOU CLAIM YOUR EXEMPTION RIGHTS?

1. Before attachment or garnishment
  - "Homestead" your home or mobile home if you own it or live in it. To learn more about this, contact the Clark County Recorder's Office at 702-455-4336 and ask for their information packet.
  - If you have income that is exempt, such as Social Security benefits, it is best to notify the judgment creditor in writing of the fact that your bank account, for example, has only Social Security benefits in it. Keep a copy of that written notice for your records.
2. After attachment or garnishment
  - When a judgment creditor garnishes your wages, your bank account and/or attempts to force a sale of your home or car by attachment:
  - You will only have ten (10) days from the date the notice of attachment or garnishment was postmarked to claim that your property or money is exempt.

### HOW TO CLAIM YOUR PROPERTY OR INCOME AS EXEMPT

You must write a Claim of Exemption from Execution. You may get a Claim of Exemption from Execution from the court. After completing the claim, you must:

- File a copy of the claim with the court. There is no fee to file a claim within the Justice Court.
- The debtor should attach proof that the money or property is exempt.
- Mail a copy to the judgment creditor.
- If your bank account has been garnished, it is also wise to give a copy of the affidavit to your bank.
- File a copy with the appropriate sheriff or constable (whichever served you). The Clark County Civil Sheriff is located at 330 S. Casino Center Blvd., 702-671-5822. The Las Vegas Township Constable's office is located at 302 E. Carson St., 5th Floor, 702-455-3404.

### HOW TO GET YOUR PROPERTY BACK

If the judgment creditor does not dispute your claim of exemption, the sheriff/constable will return your property to you eight (8) business days from the date the claim is served on the creditor and the constable.

If the judgment creditor disputes your claim of exemption; for example, if your car was taken and you claim the car is worth less than \$15,000 but the creditor claimed the car is worth more, the judgment creditor may request a court hearing. The hearing will generally occur within fourteen (14) days after you file and serve your exemption affidavit.

### THE HEARING

Be prepared to prove at the hearing that your property is exempt. Bring receipts, bills of sale, Kelley Blue Books, assessor's statements, vehicle registration renewals, monthly bank statements or whatever else is necessary to prove your claim. If you convince the Judge, the money or property will be released to you. If the judge denies your claim, contact an attorney immediately to find out about your appeal rights.