



Ohio Revised Code

Section 2716.02 Form for notice of court proceeding to collect debt.

Effective: September 30, 2008

Legislation: Senate Bill 281 - 127th General Assembly

(A) Any person seeking an order of garnishment of personal earnings, after obtaining a judgment, shall make the following demand in writing for the excess of the amount of the judgment over the amount of personal earnings that may be exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, or for so much of the excess as will satisfy the judgment. The demand shall be made after the judgment is obtained and at least fifteen days and not more than forty-five days before the order is sought by delivering it to the judgment debtor by personal service by the court, by sending it to the judgment debtor by certified mail, return receipt requested, or by sending it to the judgment debtor by regular mail evidenced by a properly completed and stamped certificate of mailing by regular mail, addressed to the judgment debtor's last known place of residence.

The demand shall be in substantially the following form:

"NOTICE OF COURT PROCEEDING TO COLLECT DEBT

Date of mailing or date of service by the court _____

To: _____

(Name of Judgment Debtor)

(Last Known Residence Address of Judgment Debtor)

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



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

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

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

- (1) Pay to us the amount due;
- (2) Complete the attached form entitled "Payment to Avoid Garnishment" and return it to us with the payment, if any, shown due on it; or
- (3) Apply to your local municipal or county court or, if you are not a resident of Ohio, to the municipal or county court in whose jurisdiction your place of employment is located, for the appointment of a trustee to receive the part of your earnings that is not exempt from garnishment, and notify us that you have applied for the appointment of a trustee. You will be required to list your creditors, the amounts of their claims, and the amounts due on their claims, and the amount you then will pay to your trustee each payday will be divided among them until the debts are paid off. This can be to your advantage because in the meantime none of those creditors can garnish your wages.

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



creditors cannot garnish your wages while you make your payments to the service on time.

(Name of Judgment Creditor)

(Signature of Judgment Creditor - or Judgment Creditor's Attorney)

(Address of Judgment Creditor)

PAYMENT TO AVOID GARNISHMENT

To: _____

(Name of Judgment Creditor)

(Address of Judgment Creditor)

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



1. Total amount of indebtedness demanded: (1) \$_____

2. Enter the amount of your personal earnings, after deductions required by law, earned by you during the current pay period (that is, the pay period in which this demand is received by you): (2) \$_____

3. (A) Enter your pay period (weekly, biweekly, semimonthly, monthly): (3)(A) _____

(B) Enter the date when your present pay period ends: (3)(B) _____

4. Enter an amount equal to 25% of the amount on line (2): (4) _____

5. (A) The current federal minimum hourly wage is _____ (to be filled in by Judgment Creditor) (You should use the above figure to complete this portion of the form.) If you are paid weekly, enter thirty times the current federal minimum hourly wage; if paid biweekly, enter sixty times the current federal minimum hourly wage; if paid semimonthly, enter sixty-five times the current federal minimum hourly wage; if paid monthly, enter one hundred thirty times the current federal minimum hourly wage: (5)(A) _____ -

(B) Enter the amount by which the amount on line (2) exceeds the amount on line 5(A): (5)(B) _____ -

6. Enter the smallest of the amounts on line (1), (4), or 5(B). Send this amount to the judgment creditor along with this form after you have signed it: (6) \$_____ -

I certify that the statements contained above are true to the best of my knowledge and belief.

_____ - (Signature of Judgment Debtor)



_____ - (Print Name and Residence Address of - Judgment Debtor)

(To verify that the amount shown on line (2) is a true statement of your earnings, you must either have your employer certify below that the amount shown on line (2) is a true statement of your earnings or you may submit copies of your pay stubs for the two pay periods immediately prior to your receiving this notice.)

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

_____ - (Print Name of Employer)

_____ - (Signature of Employer or Agent)

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

_____ - (Signature of Judgment Debtor)"

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

(C) If an order of garnishment of personal earnings issued pursuant to this chapter has not been paid in full when it ceases to remain in effect because of the operation of division (C)(1) of section



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2716.041 of the Revised Code, the garnishee's duties under the order of garnishment are complete with the filing of the final report and answer of the garnishee. The judgment creditor must institute new garnishment proceedings if the judgment creditor wants an additional garnishment.