

YOUR VEHICLE

Your interest in a vehicle is exempt up to \$1,000 of its value. This means that you can protect \$1,000 of the value of your vehicle from being taken by a levy to satisfy a judgment by following the correct exemption procedure. If a judgment creditor or Sheriff takes your vehicle under a levy and the value of the vehicle is \$1,000 or less, you may be entitled to the return of your vehicle. Your affidavit of exemption showing your entitlement to an exemption must be timely filed with the Court and the Sheriff.

All professionally prescribed health aids used by you or your dependents are exempt from being taken by creditors who do not have a security interest in the devices. Many types of income, including Social Security benefits, workers compensation, unemployment benefits, disability benefits, veteran's benefits, retirement benefits, and the proceeds from your life insurance policies, are legally exempt from garnishment by your creditors. In order to assert these exemptions, you must follow the correct procedure.

PROCEDURE FOR CLAIMING YOUR EXEMPTIONS

You may claim your exemptions by timely filing an affidavit with the Court describing the exemption and your claim to it. Your affidavit must also be sent to the judgment creditor and any attorney for the judgment creditor. The judgment creditor has five business days to challenge your exemption. A court hearing needs to be scheduled in order for the Court to consider stopping the garnishment or execution, or having your exempt wages or property returned to you. Notice of the hearing must be given to the judgment creditor, and the creditor might contest your claim.

Under Florida law, if your wages or bank account are going to be garnished, you will not receive any notice until after the wages have already been withheld or a hold has been placed on your bank account. The judgment creditor must send to you a copy of the writ of garnishment, a copy of the answer to the writ that was filed by your employer or bank, and a notice telling you about your right to request that the Court stop the garnishment or execution.

You may stop a garnishment, attachment, or execution of judgment if the property is exempt, if there is no underlying debt, or if the underlying debt has been satisfied. Transfers of property that are fraudulent, or that are made solely to keep the property from creditors, will cause the property to lose its exempt status. Any other person who has an ownership interest in the property may also contest the garnishment or execution.

To obtain legal assistance with establishing your exemptions to protect your income or property, you should contact your local Legal Services or Legal Aid office, or a private attorney. Legal Services or Legal Aid offices may also provide pamphlets about your consumer rights, and free forms and instructions for asserting your exemptions.

Bankruptcy may be another option for you. Legal advice and assistance with bankruptcy is available from your Legal Services or Legal Aid office.

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DEBTORS RIGHTS IN FLORIDA



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You can't go to jail for failing to pay a debt or a judgment. If you do not pay a debt or if a judgment is entered against you, this information can be reported to the credit bureau and made a part of your Credit history. The credit bureau can report this information for seven years in your credit history. If a judgment is entered against you, you are called a judgment debtor.

A judgment is an order entered by a judge at the end of a lawsuit. A creditor who obtains a judgment against you for a debt you owe is called a judgment creditor. A judgment creditor's attorney can require you to attend a deposition and to give information about your income and assets. You may be required by the Court or attorney to give testimony or written information about your income, assets, property, employer and Social Security number. If a judgment for a debt is entered against you by a court, some of your wages, property, or monies in your bank account might be taken from you to pay the judgment through a garnishment, attachment or execution of judgment. This brochure describes your rights in these situations.

The garnishment law allows the judgment creditor to obtain a continuing writ of garnishment,

which orders your employer to deduct money from your wages until you have paid off the judgment. Similarly, your property may be taken through a writ of attachment. Through a process called execution of judgment, a creditor can collect money owed under a judgment. The judgment creditor pays a bond, and the Sheriff seizes personal property owned by a judgment debtor so that it can be auctioned and the proceeds applied to pay the judgment. ■

YOUR HOME

If you own the home that you live in and the land on which your home is located, your home is protected from all creditors, except those holding a mortgage or lien on your residence, by the homestead exemption in the Florida Constitution. You can protect, or exempt your home and up to one-half (1/2) acre of land that you own on which your home is located from any forced sale if you live in an incorporated area. If you live in an unincorporated area, the amount of protected land is 160 acres. This exemption applies even if you own a mobile home, as long as you own the land on which it is located as well.

Under most circumstances, a lien cannot be placed on your home for a debt. However, creditors who loan you money to buy, improve, or repair your home may put a lien on your home.

To protect your home, an affidavit describing your home and claiming it as your homestead must be filed with the court. This is different from the homestead tax form that you file with the county property appraiser every year. ■

YOUR PERSONAL PROPERTY

The Florida Constitution gives you the right to exempt up to \$1,000 in personal property from seizure by a creditor, unless the judgment creditor has a lien or security interest in this property. This \$1,000 can include wages and money held in a bank account. If the judgment is only against you and not your spouse, your spouse's property cannot legally be taken, and your spouse is entitled to protect his or her interest in jointly-held property. Property that is held by a husband or wife individually. The judgment debtor must file an affidavit with the Court and the Sheriff to obtain the personal property exemption and protect the property from the judgment creditor.

YOUR WAGES

Wages of the head of a family are exempt from garnishment under state law up to \$500 per week. Wages above this amount may be garnished only if the head of household has lawfully agreed in writing to allow wages to be taken to pay the debt. A head of family is a person who resides in Florida and who provides more than one-half of the support for a child or other dependent. Wages in a bank account that belong to a head of family may retain their protection from being seized for up to six months, even if the wages are mixed with money from other sources. If a head of family has not agreed in writing to allow the garnishment or attachment of wages, the wages are exempt. You must file an affidavit with the Court to declare your head of family status and protect your wages from being taken.

Federal law also limits the amount of wages that can be garnished. An amount, equal to 30 times the minimum wage, of your weekly wages is exempt from garnishment. Federal law limits garnishment to 25% of net wages.