

# AN ACT

To amend sections 1315.40, 1315.41, 2301.35, 2307.61, 2335.19, 2335.24, 2716.02, 2716.04, 2716.041, 2716.05, 2716.06, 2716.07, 2716.08, 2716.09, and 2716.21 and to enact section 2716.031 of the Revised Code relative to the collection of amounts due under judgments for court costs, prohibiting treble damages on certain checks returned for insufficient funds on loans issued by check-cashing businesses, clarifying that a collection agent that has a contract with a child support enforcement agency is not required to be licensed as a private investigator, and modifying the law regarding garnishment of personal earnings.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 1315.40, 1315.41, 2301.35, 2307.61, 2335.19, 2335.24, 2716.02, 2716.04, 2716.041, 2716.05, 2716.06, 2716.07, 2716.08, 2716.09, and 2716.21 be amended and section 2716.031 of the Revised Code be enacted to read as follows:

Sec. 1315.40. In addition to the interest authorized to be contracted for and received pursuant to section 1315.39 of the Revised Code, a check-cashing business licensed pursuant to sections 1315.35 to 1315.44 of the Revised Code may charge, collect, and receive the following fees and charges in connection with a loan made under sections 1315.35 to 1315.44 of the Revised Code:

(A) Loan origination fees not exceeding an amount equal to five dollars per fifty dollars of the amount of the loan;

(B) Check collection charges not exceeding an amount equal to twenty dollars plus any amount passed on from other financial institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason, provided that the terms and conditions upon which check collection charges will be charged to the

borrower are set forth in the written loan contract described in division (A)(4) of section 1315.39 of the Revised Code;

(C) Damages, costs, and disbursements to which the check-cashing business may become entitled to by law in connection with any civil action to collect a loan after default.

Sec. 1315.41. No check-cashing business licensed pursuant to sections 1315.35 to 1315.44 of the Revised Code shall do any of the following:

(A) Violate section 1315.36 of the Revised Code;

(B) Make a loan that does not comply with division (A) of section 1315.39 of the Revised Code;

(C) Charge, collect, or receive, directly or indirectly, any additional fees or charges in connection with a loan, other than fees and charges permitted by sections 1315.39 and 1315.40 of the Revised Code and costs or disbursements to which the check-cashing business may become entitled to by law in connection with any ~~suit~~ civil action to collect a loan after default;

(D) Collect treble damages pursuant to division (A)(1)(b)(ii) of section 2307.61 of the Revised Code in connection with any civil action to collect a loan after a default due to a check, negotiable order of withdrawal, share draft, or other negotiable instrument that was returned or dishonored for insufficient funds;

(E) Make a loan to a borrower if there exists an outstanding loan between the check-cashing business and that borrower, ~~which~~ and if the outstanding loan was made pursuant to ~~section~~ sections 1315.35 to 1315.43 of the Revised Code.

Sec. 2301.35. (A) Each county shall have a child support enforcement agency. A government entity designated under this section prior to October 1, 1997, or a private or government entity designated under section 307.981 of the Revised Code on or after that date may serve as a county's child support enforcement agency.

(B) Each child support enforcement agency shall enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with the partnership agreement the board enters into under section 307.98 and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the agency.

(C) The child support enforcement agency for a county is the local Title IV-D agency for the county and shall operate a program for support enforcement in the county, which program shall comply with Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended, any rules adopted pursuant to that title, and sections 2151.23, 2151.231, 2151.232, 2151.33, 2301.34 to 2301.46, 3105.18, 3105.21, 3109.05,

3109.19, 3111.13, 3111.20, 3111.211, 3111.22, 3113.04, 3113.21 to 3113.219, 3113.31, and 3115.31 of the Revised Code. Each child support enforcement agency shall be operated under the supervision of the department of job and family services in accordance with the program of child support enforcement established pursuant to section 5101.31 of the Revised Code, shall be responsible in the county it serves for the enforcement of support orders, and shall perform all administrative duties related to the enforcement of any support order. Except as provided in division (H) of this section and pursuant to sections 2301.38 and 2301.45 of the Revised Code, no child support enforcement agency shall collect any support amounts due under a support order as part of its duties to enforce support orders. No child support enforcement agency shall use any social security number made available to it under section 3705.07 of the Revised Code for any purpose other than child support enforcement. The department shall ensure that all child support enforcement agencies comply with all applicable state and federal support regulations, including the affirmative duties of Title IV-D of the Social Security Act.

Each child support enforcement agency may enter into contracts with public agencies and private vendors for assistance in establishing paternity or support obligations, or for the performance of other administrative duties of the agency. Each child support enforcement agency may contract with a collection agent for the collection of arrearages owed under child support orders being administered by the agency. If the department of job and family services or a child support enforcement agency contracts with a collection agent for the collection of arrearages, the collection agent is not required to be licensed as a private investigator under Chapter 4749. of the Revised Code. Before entering into a contract for assistance in establishing paternity or support obligations, for other administrative services, or for the collection of arrearages by a collection agent, a child support enforcement agency shall comply with sections 307.86 to 307.92 of the Revised Code and any rules adopted by the director of job and family services pursuant to division (D)(1) of this section.

(D)(1) The director of job and family services shall adopt rules under Chapter 119. of the Revised Code governing the operation of support enforcement by child support enforcement agencies. The rules shall include, but shall not be limited to, provisions relating to contracts between the agencies and boards of county commissioners entered into under division (B)(1) of this section, requirements for public hearings by the agencies, and provisions for appeals of agency decisions under procedures established by the director.

(2) The director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code rules governing the establishment by child support enforcement agencies of on-site genetic testing programs to be used in actions under sections 3111.01 to 3111.19 of the Revised Code and in administrative procedures under sections 3111.20 to 3111.29 of the Revised Code. The rules shall include, but are not limited to, provisions relating to the environment in which a blood or buccal cell sample may be drawn, the medical personnel who may draw a sample, the trained personnel who may perform the genetic comparison, the types of genetic testing that may be performed on a sample, and the procedure for notifying the court of the location at which the sample will be drawn, who will draw the sample, and who will perform the genetic testing on the sample, and any other procedures or standards the director determines are necessary for the implementation of on-site genetic testing.

(E) Each child support enforcement agency designated under this section shall enter into written agreements with the courts, the prosecuting attorney, and law enforcement officials of the county it serves, which agreements shall establish cooperative working arrangements and specify areas of responsibility for the enforcement of support among the agency, courts, and officials. The agreements shall provide for the reimbursement of the courts and law enforcement officials for the responsibilities they assume and actions they undertake pursuant to such agreements.

(F)(1) A child support enforcement agency shall maintain records of support orders being administered or otherwise handled by the agency pursuant to section 5101.319 of the Revised Code.

(2) Each obligor and each obligee under a support order may review all records maintained under division (F)(1) of this section that pertain to the support order and any other information maintained by the child support enforcement agency, except to the extent prohibited by state or federal law.

(G)(1) A court or administrative agency that issues or modifies a support order shall impose a processing charge that is the greater of two per cent of the support payment to be collected under a support order or one dollar per month on the obligor under the support order. The obligor shall pay the amount with every current support payment, and with every payment on arrearages. No court or agency may call the charge a poundage fee.

(2) The board of county commissioners of each county shall budget and appropriate to the child support enforcement agency serving the county all of the following:

(a) All federal money payable to the child support enforcement agency

on the basis of its success in implementing activities related to child support enforcement under Title IV-D of the Social Security Act;

(b) Any funds that may be received from other federal or state sources for the child support enforcement agency;

(3) All moneys received from the federal or state government for reimbursement for support enforcement activities shall be used solely for support enforcement activities.

(4) A board of county commissioners may request that the department of job and family services grant a waiver of the requirement that the money specified in division (G)(2)(a) of this section be budgeted and appropriated to the child support enforcement agency if the board can demonstrate, by meeting criteria established by the department, that the child support enforcement agency is effectively using procedures for establishing paternity, meeting the mandated service needs of clients, and complying with all applicable state and federal support rules and regulations.

(5) A child support enforcement agency may invest any of the moneys collected pursuant to the performance of its duties under sections 2301.34 to 2301.46 of the Revised Code in a repurchase agreement in which a bank agrees to sell short-term federally guaranteed securities with an obligation of the bank to repurchase the securities. All interest derived pursuant to investments made under this division shall be retained by the child support enforcement agency and used solely for support enforcement activities.

(H)(1) Notwithstanding any other section of the Revised Code and except as provided in division (H)(4) of this section, a child support enforcement agency shall collect and disburse all support amounts under a support order it is administering pursuant to law as it existed prior to January 1, 1998, and shall collect the additional amount imposed under division (G)(1) of this section as it existed prior to January 1, 1998, until the support order is converted to the automated data processing system under section 5101.322 of the Revised Code and the division of child support in the department of job and family services authorizes centralized collection and disbursement of support amounts under the support order pursuant to the rules adopted under division (F)(1) of section 5101.325 of the Revised Code. Once the support order is converted and the division gives the authorization, the support amounts and the additional amount shall be collected, and the support amount shall be disbursed, under the support order according to the provisions of House Bill No. 352 of the 122nd general assembly.

(2) Notwithstanding any other section of the Revised Code and except as provided in division (H)(4) of this section, the agency administering the

upport order shall collect the amounts permitted to be collected, and perform other duties required, with respect to the support order pursuant to division (D)(1) of section 2301.373, division (B)(3)(a) of section 2301.374, divisions (E)(4)(b), (F), and (I) of section 3111.23, division (E) of section 3111.99, divisions (G)(4)(b), (H)(3), and (K) of section 3113.21, division (B) of section 3113.212, division (E) of section 3113.99, and division (A)(3) of section 5101.323 of the Revised Code as those sections existed prior to January 1, 1998, and the agency shall collect the amounts permitted to be collected by the division, and perform other duties required of the division, with respect to the support order pursuant to division (D)(1)(a) of section 2301.375 and division (D)(2) of section 2301.43 of the Revised Code as those sections are enacted by House Bill No. 352 of the 122nd general assembly, until the support order is converted and authorization for centralized collection and disbursement is given. Once the support order is converted and the authorization is given, the amounts shall be collected, and the duties shall be performed, by the division according to the provisions of House Bill No. 352 of the 122nd general assembly.

(3) All support orders shall be converted and all authorizations shall be given by the division prior to July 1, 1999.

(4)(a) After conversion occurs and authorization for centralized collection and disbursement is granted pursuant to this section, a child support enforcement agency may continue to collect the following amounts from obligors who pay the amounts in person at the office of the agency:

(i) Current support amounts and arrearages due under a support order being administered by the agency and the additional amount imposed pursuant to division (G)(1) of this section with respect to the order;

(ii) Amounts collected pursuant to division (D)(1) of section 2301.373, divisions (B)(3)(a) and (C)(3)(a) of section 2301.374, section 2301.375, division (D)(2) of section 2301.43, division (E) of section 3111.99, division (E) of section 3113.99, and division (A)(3) of section 5101.323 of the Revised Code.

(b) All amounts collected pursuant to division (H)(4)(a) of this section shall be forwarded to the division no later than one day after receipt of the amounts.

(5) Amounts collected by a collection agent that has a contract with a child support enforcement agency pursuant to division (C) of this section shall be paid to the division. The agency shall forward any amounts collected pursuant to sections 2301.38 and 2301.45 of the Revised Code to the division ~~no~~ not later than one day after receipt of those amounts.

(I)(1) Subject to division (I)(2) of this section, all support orders that are

administered by a child support enforcement agency designated under this section and are eligible for Title IV-D services shall be Title IV-D cases under Title IV-D of the "Social Security Act." Subject to division (I)(2) of this section, all obligees of support orders administered by the child support enforcement agency shall be considered to have filed a signed application for Title IV-D services.

(2) A court that issues or modifies a support order shall require the obligee under the order to sign, at the time of the issuance or modification of the order, an application for Title IV-D services and to file, as soon as possible, the signed application with the child support enforcement agency that will administer the order. The application shall be on a form prescribed by the department of job and family services. A support order that is administered by a child support enforcement agency, and that is eligible for Title IV-D services shall be a Title IV-D case under Title IV-D of the "Social Security Act" only upon the filing of the signed application for Title IV-D services.

(3) A child support enforcement agency shall make available an application for Title IV-D services to all persons requesting a child support enforcement agency's assistance in an action under sections 3111.01 to 3111.19 of the Revised Code or in an administrative proceeding brought under sections 3111.20 to 3111.29 of the Revised Code.

(J)(1) As used in this section, "current support payment" means the amount of support due an obligee that an obligor is required to pay in a particular payment for the current month as specified in a support order. "Current support payment" does not include payments on arrearages under the support order.

(2) As used in the Revised Code, "child support enforcement agency" means the child support enforcement agency designated under this section prior to October 1, 1997, or a private or government entity designated a child support enforcement agency under section 307.981 of the Revised Code on or after that date.

Sec. 2307.61. (A) If a property owner brings a civil action pursuant to division (A) of section 2307.60 of the Revised Code to recover damages from any person who willfully damages the owner's property or who commits a theft offense, as defined in section 2913.01 of the Revised Code, involving the owner's property, the property owner may recover as follows:

(1) In the civil action, the property owner may elect to recover moneys as described in division (A)(1)(a) or (b) of this section:

(a) Compensatory damages that may include, but are not limited to, the value of the property and liquidated damages in whichever of the following

amounts applies:

(i) Fifty dollars, if the value of the property was fifty dollars or less at the time it was willfully damaged or was the subject of a theft offense;

(ii) One hundred dollars, if the value of the property was more than fifty dollars, but not more than one hundred dollars, at the time it was willfully damaged or was the subject of a theft offense;

(iii) One hundred fifty dollars, if the value of the property was more than one hundred dollars at the time it was willfully damaged or was the subject of a theft offense.

(b) Liquidated damages in whichever of the following amounts is greater:

(i) Two hundred dollars;

(ii) Three times the value of the property at the time it was willfully damaged or was the subject of a theft offense, irrespective of whether the property is recovered by way of replevin or otherwise, is destroyed or otherwise damaged, is modified or otherwise altered, or is resalable at its full market price. This division does not apply to a check, negotiable order of withdrawal, share draft, or other negotiable instrument that was returned or dishonored for insufficient funds by a financial institution if the check, negotiable order of withdrawal, share draft, or other negotiable instrument was presented by an individual borrower to a check-cashing business licensed pursuant to sections 1315.35 to 1315.44 of the Revised Code for a check-cashing loan transaction.

(2) In a civil action in which the value of the property that was willfully damaged or was the subject of a theft offense is less than five thousand dollars, the property owner may recover damages as described in division (A)(1)(a) or (b) of this section and additionally may recover the reasonable administrative costs, if any, of the property owner that were incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the civil action, and reasonable attorney's fees, if all of the following apply:

(a) The property owner, at least thirty days prior to the filing of the civil action, serves a written demand for payment of moneys as described in division (A)(1)(a) of this section and the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, upon the person who willfully damaged the property or committed the theft offense.

(b) The demand conforms to the requirements of division (C) of this section and is sent by certified mail, return receipt requested.

(c) Either the person who willfully damaged the property or committed

the theft offense does not make payment to the property owner of the amount specified in the demand within thirty days after the date of its service upon that person and does not enter into an agreement with the property owner during that thirty-day period for that payment or the person who willfully damaged the property or committed the theft offense enters into an agreement with the property owner during that thirty-day period for that payment but does not make that payment in accordance with the agreement.

(B) If a property owner who brings a civil action pursuant to division (A) of section 2307.60 of the Revised Code to recover damages for willful damage to property or for a theft offense attempts to collect the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the civil action, and reasonable attorney's fees under authority of that division and if the defendant prevails in the civil action, the defendant may recover from the property owner reasonable attorney's fees, the cost of defending the civil action, and any compensatory damages that may be proven.

(C) For purposes of division (A)(2) of this section, a written demand for payment shall include a conspicuous notice to the person upon whom the demand is to be served that indicates all of the following:

(1) The willful property damage or theft offense that the person allegedly committed;

(2) That, if the person makes payment of the amount specified in the demand within thirty days after its service upon the person or enters into an agreement with the property owner during that thirty-day period for that payment and makes that payment in accordance with the agreement, the person cannot be sued by the property owner in a civil action in relation to the willful property damage or theft offense;

(3) That, if the person fails to make payment of the amount specified in the demand within thirty days after the date of its service upon the person and fails to enter into an agreement for that payment with the property owner during that thirty-day period or enters into an agreement for that payment with the property owner during that thirty-day period but does not make that payment in accordance with the agreement, the person may be sued in a civil action in relation to the willful property damage or theft offense;

(4) The potential judgment that the person may be required to pay if the person is sued in a civil action in relation to the willful property damage or theft offense and judgment is rendered against the person in that civil action;

(5) That, if the person is sued in a civil action by the property owner in relation to the willful property damage or theft offense, if the civil action requests that the person be required to pay the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the action, and reasonable attorney's fees, and if the person prevails in the civil action, the person may recover from the property owner reasonable attorney's fees, the cost of defending the action, and any compensatory damages that can be proved.

(D) If a property owner whose property was willfully damaged or was the subject of a theft offense serves a written demand for payment upon a person who willfully damaged the property or committed the theft offense and if the person makes payment of the amount specified in the demand within thirty days after the date of its service upon the person or the person enters into an agreement with the property owner during that thirty-day period for that payment and makes payment in accordance with the agreement, the property owner shall not file a civil action against the person in relation to the willful property damage or theft offense.

(E) If a property owner whose property was willfully damaged or was the subject of a theft offense serves a written demand for payment upon a person who willfully damaged the property or committed the theft offense and if the person, within thirty days after the date of service of the demand upon the person, enters into an agreement with the property owner for the payment of the amount specified in the demand but does not make that payment in accordance with the agreement, the time between the entering of the agreement and the failure to make that payment shall not be computed as any part of the period within which a civil action based on the willful property damage or theft offense must be brought under the Revised Code.

(F) A civil action to recover damages for willful property damage or for a theft offense may be joined with a civil action that is brought pursuant to Chapter 2737. of the Revised Code to recover the property. If the two actions are joined, any compensatory damages recoverable by the property owner shall be limited to the value of the property.

(G)(1) In a civil action to recover damages for willful property damage or for a theft offense, the trier of fact may determine that an owner's property was willfully damaged or that a theft offense involving the owner's property has been committed, whether or not any person has pleaded guilty to or has been convicted of any criminal offense or has been adjudicated a delinquent child in relation to any act involving the owner's property.

(2) This section does not affect the prosecution of any criminal action or

proceeding or any action to obtain a delinquent child adjudication in connection with willful property damage or a theft offense.

(H) As used in this section:

(1) "Administrative costs" includes the costs of written demands for payment and associated postage under division (A)(2) of this section.

(2) "Value of the property" means one of the following:

(a) The retail value of any property that is offered for sale by a mercantile establishment, irrespective of whether the property is destroyed or otherwise damaged, is modified or otherwise altered, or otherwise is not resalable at its full market price;

(b) The face value of any check or other negotiable instrument that is not honored due to insufficient funds in the drawer's account, the absence of any drawer's account, or another reason, and all charges imposed by a bank, savings and loan association, credit union, or other financial institution upon the holder of the check or other negotiable instrument;

(c) The replacement value of any property not described in division (H)(1) or (2) of this section.

Sec. 2335.19. (A) On the rendition of judgment, in any cause in any court, the costs of the party recovering, together with his the party's debt or damages, shall be carried into his the party's judgment, and the costs of the party against whom such that judgment is rendered shall be separately stated in the record or docket entry. No party in whose favor judgment for costs is rendered in a cause, may release, satisfy, or discharge, in whole, or in part, any of such those costs, unless they have been that party previously has paid by him those costs to the clerk of the court; or unless those costs have been paid to the person entitled thereto, to those costs or have been legally assigned or transferred to such that party by the persons in whose names such those costs stand taxed upon the record or docket.

(B) An entry of judgment that includes a grant of judgment for costs is an order that authorizes the clerk of the court, in accordance with division (C) of this section, to issue a certificate of judgment for all costs, including the total cost of collection of and any interest due on the judgment for costs, against the person who is liable for the payment of those costs.

(C) The clerk of a court who wishes to issue a certificate of judgment for costs pursuant to a judgment for costs shall provide an itemized bill of fees and costs, including the total cost of collection of and any interest due on the judgment for costs, to the person who is liable for costs under the judgment, either upon the request of the person as specified in section 2335.32 of the Revised Code or without a request. If the person does not pay the fees and costs within thirty days after the clerk provides the itemized

bill, the clerk shall send the person a notice requesting payment of the fees and costs as stated in the itemized bill. If the person does not respond to the notice with the full payment of the fees and costs within thirty days, the clerk shall send the person a second notice requesting payment of the fees and costs. If ninety days elapse from the date that the clerk provides the itemized bill and if the person has not paid the full amount of the fees and costs pursuant to the itemized bill and the notices, the clerk may issue a certificate of judgment for costs against the person for the fees and costs.

Sec. 2335.24. (A) In all causes in any court, except as otherwise provided in section 2969.23 of the Revised Code, costs taxed and entered as provided by ~~section~~ sections 2335.18 to 2335.23 of the Revised Code may be collected by the process provided by those sections.

(B)(1) The clerk of a court may enter into contracts with one or more public agencies or private vendors for the collection of amounts due under judgments for costs. The amounts may include any interest that also is due on a judgment for costs. Before entering into or renewing a contract of that nature, the clerk of a court shall do all of the following:

(a) Comply with the provisions of sections 307.86 to 307.92 of the Revised Code that pertain to required competitive bidding. For purposes of complying with those sections, the clerk of the court shall be considered the contracting authority.

(b) Obtain the approval of the terms of the contract by the legislative authority associated with the court.

(2) As used in division (B) of this section, "legislative authority" has the same meaning as in division (B) of section 1901.03 of the Revised Code, if the clerk of the court involved is the clerk of a municipal court, and means a board of county commissioners, if the clerk of the court involved is the clerk of a county court or a court of common pleas.

Sec. 2716.02. (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 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 ~~made as follows~~ 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 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.

Sec. 2716.031. (A) THE JUDGMENT CREDITOR OR JUDGMENT CREDITOR'S ATTORNEY SHALL FILE WITH THE COURT, the garnishee, AND THE JUDGMENT DEBTOR AN AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER THAT CONTAINS THE CURRENT BALANCE DUE ON THE ORDER. THE JUDGMENT CREDITOR OR ATTORNEY SHALL FILE THE AFFIDAVIT ON AN ANNUAL BASIS.

(B) AT ANY TIME AFTER THE FILING OF THE ORIGINAL AFFIDAVIT OF GARNISHMENT, THE JUDGMENT CREDITOR OR THE JUDGMENT CREDITOR'S ATTORNEY MAY FILE WITH THE COURT, THE GARNISHEE, AND THE JUDGMENT DEBTOR AN AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER THAT CONTAINS THE CURRENT BALANCE DUE ON THE ORDER.

(C) AN AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER SHALL CONTAIN THE NAME OF THE COURT ISSUING THE ORDER, THE CASE NUMBER, THE CAPTION OF THE CASE, THE ORIGINAL AMOUNT OF THE JUDGMENT THAT IS THE BASIS OF THE ORDER, THE ACCRUED INTEREST TO DATE, THE COURT COSTS ASSESSED TO DATE, ALL MONEYS PAID TO THE JUDGMENT CREDITOR AND THE JUDGMENT CREDITOR'S ATTORNEY ON THE JUDGMENT TO DATE, THE CURRENT BALANCE DUE, THE NAME AND ADDRESS OF THE JUDGMENT CREDITOR AND THE JUDGMENT CREDITOR'S ATTORNEY, AND THE DATE OF THE AFFIDAVIT. THE JUDGMENT CREDITOR OR

JUDGMENT CREDITOR'S ATTORNEY SHALL SERVE THE AFFIDAVIT UPON THE JUDGMENT DEBTOR BY PERSONALLY DELIVERING IT TO THE JUDGMENT DEBTOR BY PERSONAL SERVICE, 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. A CERTIFICATE OF SERVICE UPON THE JUDGMENT DEBTOR SHALL BE ATTACHED TO EACH AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER.

(D) Court costs shall not be assessed for filing the affidavit of current balance due on garnishment order with the court.

(E)(1) When a judgment creditor or a judgment creditor's attorney issues an affidavit of current balance due on garnishment order in accordance with division (A) of this section, the judgment creditor or the judgment creditor's attorney shall comply with division (E) of this section and serve the notice and request for hearing upon the judgment debtor in accordance with division (E) of this section.

(2)(a) The notice to the judgment debtor that the judgment creditor or the judgment creditor's attorney is required to serve on and deliver to the judgment debtor shall be in substantially the following form:

“(Name and Address of the Court)

(Case Caption)

Case No.

.....  
**NOTICE TO THE JUDGMENT DEBTOR**

You are hereby notified that the judgment creditor in this proceeding has issued an affidavit of current balance due on garnishment order in the above case. The document entitled "AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER" that is enclosed with this notice shows the original amount of the judgment that was the basis of the garnishment order, the accrued interest to date, the court costs assessed to date, all moneys paid to the judgment creditor and the judgment creditor's attorney on the judgment to date, and the current balance due on the judgment.

If you dispute the judgment creditor's determination of these amounts or if you believe that this affidavit is improper for any other reason, you may request a hearing before this court by disputing the affidavit in the request for hearing form, appearing below, or in a substantially similar form, and

delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's determination of the amounts shown in the "AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER" in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's determination, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING. The hearing will be limited to a consideration of the amount currently due on the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing not later than the end of the fifth business day after you receive this notice, the court will conduct the hearing no later than twelve days after your request is received by the court, and the court will send you notice of the date, time, and place. You may indicate in the form that you believe that the need for the hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received and will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing not later than the end of the fifth business day after you receive this notice, some of your personal earnings will continue to be paid to the judgment creditor until the judgment is satisfied.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, you should contact the local bar association.

.....  
Judgment Creditor or Judgment  
Creditor's Attorney  
 .....

Date"

(b) The request for hearing form that the judgment creditor or the judgment creditor's attorney is required to serve on and deliver to the judgment debtor shall have attached to it a postage-paid, self-addressed envelope or shall be on a postage-paid, self-addressed postcard, and shall be in substantially the following form:

"(Name and Address of Court)

Case Number ..... Date .....

REQUEST FOR HEARING

I dispute the judgment creditor's determination of current balance due on garnishment order in the above case and request that a hearing in this matter be held not later than twelve days after delivery of this request to the court.

I ..... believe that the need for  
(Insert "do" or "do not")  
the hearing is an emergency.

I dispute the judgment creditor's determination for the following reasons:

(Optional)

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE CONSIDERED AT THE HEARING.

.....  
(Name of Judgment Debtor)

.....  
(Signature)

.....  
Date

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING, AND SOME OF YOUR PERSONAL EARNINGS WILL CONTINUE TO BE PAID TO (JUDGMENT CREDITOR'S NAME) IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT CREDITOR."

(E) The judgment debtor may receive a hearing in accordance with this division by delivering a written request for a hearing to the clerk of the court within five business days after receipt of the notice provided pursuant to division (E) of this section. The request may set forth the judgment debtor's reasons for disputing the judgment creditor's determination of the current balance due on garnishment order; however, neither the judgment debtor's inclusion of nor the judgment debtor's failure to include those reasons upon the request constitutes a waiver of any defense of the judgment debtor or affects the judgment debtor's right to produce evidence at the hearing. If the request is made by the judgment debtor within the prescribed time, the court shall schedule a hearing no later than twelve days after the request is made, unless the judgment debtor indicated that the judgment debtor believed the

need for the hearing was an emergency, in which case the court shall schedule the hearing as soon as practicable after the request is made. The court shall send notice of the date, time, and place of the hearing to the parties in accordance with division (H) of this section. The hearing shall be limited to a consideration of the amount of the current balance due on the garnishment order, if any.

(G) If the judgment debtor does not request a hearing within the prescribed time pursuant to division (F) of this section, the garnishee shall continue to pay some of the judgment debtor's personal disposable earnings into court. If a hearing is conducted, the court shall determine at the hearing the amount owed by the judgment debtor to the judgment creditor and issue an order, accordingly, to the garnishee to pay that amount, calculated each pay period at the statutory percentage, of the personal disposable earnings into court. If the court determines that the judgment debtor has overpaid on the judgment, the court shall issue an order to the judgment creditor to pay that amount to the judgment debtor and issue an order terminating the garnishment. If the court determines that the judgment is satisfied, then the court shall issue an order terminating the garnishment.

(H) If the judgment debtor requests a hearing within the prescribed time pursuant to division (F) of this section, the clerk shall send a notice of the date, time, and place of the hearing by regular mail to the judgment creditor or the judgment creditor's attorney and the judgment debtor.

Sec. 2716.04. The affidavit required by section 2716.03 of the Revised Code in a proceeding for garnishment of personal earnings shall be accompanied by the return receipt requested for the written demand made pursuant to section 2716.02 of the Revised Code, the unclaimed letter, or a photographic or other direct image copy of the receipt or letter if the demand was sent by certified mail, return receipt requested; by proof of service by the court of the demand; or by a properly completed and stamped certificate of mailing by regular mail, a photographic or other direct image copy of the demand, and a sworn statement that it was sent by regular mail. ~~The affidavit also shall be accompanied by ten dollars as the garnishee's fee for compliance with the order, and that fee shall be charged as court costs. The~~ clerk shall serve a copy of the affidavit on the garnishee.

Sec. 2716.041. (A) When a municipal court, county court, or court of common pleas issues an order of garnishment of personal earnings following a judgment creditor's filing of an affidavit in accordance with section 2716.03 of the Revised Code and the judgment creditor's compliance with section 2716.04 of the Revised Code, the order shall operate in the manner described in this section, be served upon the garnishee in

ordance with section 2716.05 of the Revised Code, be answered by the garnishee in accordance with division ~~(F)~~(E) of this section and sections 2716.05 and 2716.21 of the Revised Code, and be served upon the judgment debtor in accordance with section 2716.06 of the Revised Code.

(B) Except as otherwise provided in this section, an order of garnishment of personal earnings shall be a continuous order that requires the garnishee to withhold a specified amount calculated each pay period at the statutory percentage from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor following commencing with the first full pay period beginning after the garnishee's receipt of garnishee receives the order until the judgment in favor of the judgment creditor and the associated court costs, judgment interest, and, if applicable, prejudgment interest awarded to the judgment creditor have been paid in full. For this purpose, the order of garnishment of personal earnings shall specify the total probable amount due on the judgment; shall state that that total probable amount includes the unpaid portion of the judgment in favor of the judgment creditor and specify that unpaid portion; shall state that that total probable amount includes judgment interest and, if applicable, prejudgment interest at the rate prescribed in division (A) of section 1343.03 of the Revised Code or a different rate provided in a written contract and specify the applicable interest rate; and shall state that that total probable amount includes the court costs awarded to the judgment creditor and specify the amount of those court costs.

(C)(1) A continuous order of garnishment of personal earnings described in division (B) of this section remains in effect until whichever of the following first occurs:

(a) The total probable amount due on the judgment described in division (B) of this section is paid in full to the judgment creditor as a result of the garnishee's withholding of the specified amount from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor following commencing with the first full pay period beginning after the garnishee's receipt of garnishee receives the order.

(b) The judgment creditor files with the court that issued the order, and serves upon the garnishee and judgment debtor in the same manner as a summons is served, either a written notice that the total probable amount due on the judgment described in division (B) of this section has been paid in full to the judgment creditor in the manner described in division (C)(1)(a) of this section or otherwise has been satisfied or a written request to terminate the order of garnishment and release the garnishee from the mandate of the order of garnishment.

(c) A municipal or county court appoints a trustee for the judgment debtor pursuant to section 2329.70 of the Revised Code and issues to the garnishee an order that stays the continuous order of garnishment of personal earnings.

(d) A bankruptcy court of the United States issues to the garnishee an order that stays the continuous order of garnishment of personal earnings.

(e) A municipal or county court or a court of common pleas issues to the garnishee another order of garnishment of personal earnings that relates to the same judgment debtor and a different judgment creditor, and the law of this state or of the United States provides that the other order of garnishment of personal earnings has a higher priority than the pending continuous order of garnishment of personal earnings. A higher priority order of that nature may include, but is not limited to, a support order and an internal revenue service levy.

(f) A municipal or county court or a court of common pleas issues to the garnishee another order of garnishment of personal earnings that relates to the same judgment debtor and a different judgment creditor and that is not described in division (C)(1)(e) of this section.

(2) If the circumstances described in division (C)(1)(e) or (f) of this section apply to a continuous order of garnishment of personal earnings, division (D) of this section also applies to the garnishee and that order.

(3) As long as a continuous order of garnishment of personal earnings with respect to a particular judgment debtor and a particular judgment creditor remains in effect or, if the circumstances described in division (C)(1)(e) or (f) of this section apply to an order of that nature, as long as division (D) of this section applies to the garnishee and an order of that nature, the particular judgment creditor may not file in any municipal or county court or any court of common pleas another affidavit as described in section 2716.03 of the Revised Code that pertains to the particular judgment debtor and the same judgment that underlies the order.

(4)(a) Subject to divisions (C)(1) and (D) of this section and section 2716.05 of the Revised Code, a garnishee to whom a municipal or county court or court of common pleas issues a continuous order of garnishment of personal earnings shall pay to the court within thirty days after each pay period of the judgment debtor ends the amount, calculated each pay period at the statutory percentage, that the order specifies to be withheld from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor ~~following~~ commencing with the first full pay period beginning after the garnishee's receipt of ~~garnishee receives~~ the order. The payment to the court of that amount calculated each pay period at the

statutory percentage shall be accompanied by the garnishee's interim report and answer that shall be substantially in the form set forth in section 2716.07 of the Revised Code and shall specifically state all of the following:

(i) The date that the garnishee received the continuous order of garnishment of personal earnings;

(ii) The total probable amount due on the judgment, as described in division (B) of this section;

(iii) The amount of the judgment debtor's personal disposable earnings that has been withheld for the particular pay period and that is being submitted with the interim report and answer.

(b) A garnishee shall prepare each interim report and answer in triplicate, shall submit one complete and signed copy of that document to the court in accordance with division (C)(4)(a) of this section, shall retain one complete and signed copy of that document for the garnishee's records, and shall deliver one complete and signed copy of that document to the judgment debtor.

(c) A GARNISHEE TO WHOM A MUNICIPAL OR COUNTY COURT OR COURT OF COMMON PLEAS ISSUES A CONTINUOUS ORDER OF GARNISHMENT OF PERSONAL EARNINGS MAY ELECTRONICALLY PERFORM BOTH OF THE FOLLOWING:

(i) PAY TO THE COURT THE AMOUNT CALCULATED EACH PAY PERIOD AT THE STATUTORY PERCENTAGE OF THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS THAT THE ORDER SPECIFIES TO BE WITHHELD FROM THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS BY ELECTRONIC TRANSFER OF FUNDS IF THE COURT PERMITS PAYMENT TO BE MADE ELECTRONICALLY;

(ii) FILE THE GARNISHEE'S INTERIM REPORT AND ANSWER OR THE GARNISHEE'S FINAL REPORT AND ANSWER BY ELECTRONIC IMAGE TRANSMISSION IF THE CLERK OF THE COURT PERMITS THE FILING OF DOCUMENTS ELECTRONICALLY.

(d) A GARNISHEE TO WHOM A MUNICIPAL OR COUNTY COURT OR COURT OF COMMON PLEAS ISSUES A CONTINUOUS ORDER OF GARNISHMENT OF PERSONAL EARNINGS SHALL FILE WITH THE COURT THE GARNISHEE'S INTERIM REPORT AND ANSWER FOR EACH PAY PERIOD OF THE JUDGMENT DEBTOR FOR WHICH AN AMOUNT FROM THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS DURING THAT PAY PERIOD WAS WITHHELD FOR THAT ORDER. THE GARNISHEE IS NOT

REQUIRED TO FILE AN INTERIM REPORT AND ANSWER FOR ANY PAY PERIOD FOR WHICH NO AMOUNT FROM THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS DURING THAT PAY PERIOD WAS WITHHELD FOR THAT ORDER.

(e) A garnishee to whom a municipal or county court or court of common pleas issues a continuous order of garnishment of personal earnings may deduct a processing fee of up to three dollars from the amount withheld from the judgment debtor's personal disposable earnings for each pay period of the judgment debtor that an amount from the judgment debtor's personal disposable earnings was withheld for that order. A garnishee shall not deduct the processing fee for any pay period in which no amount from the judgment debtor's personal disposable earnings during that pay period was withheld for that order and no garnishee's interim report and answer is filed. The garnishee's processing fee shall not be charged as court costs.

(5)(a) Subject to division (D) of this section, if a continuous order of garnishment of personal earnings ceases to remain in effect because of the operation of division (C)(1) of this section, the garnishee shall file with the municipal or county court or the court of common pleas that issued the order the garnishee's final report and answer. The final report and answer shall be substantially in the form set forth in section 2716.08 of the Revised Code and shall specifically state all of the following:

(i) The date that the garnishee received the continuous order of garnishment of personal earnings;

(ii) The total probable amount due on the judgment, as described in division (B) of this section;

(iii) The total amount of the judgment debtor's personal disposable earnings that the garnishee has withheld and paid to the court while the order remained in effect;

(iv) The reason listed in division (C)(1) of this section that precludes the continuation of the withholding of the specified amount of the judgment debtor's personal disposable earnings in accordance with the order. This reason shall be stated only if the total probable amount due on the judgment, as described in division (B) of this section, is not the total amount of the judgment debtor's personal disposable earnings that the garnishee withheld and paid to the court while the order remained in effect and if the reason that the order has ceased to remain in effect is described in division (C)(1)(c), (d), (e), or (f) of this section.

(b) A garnishee shall prepare each final report and answer in triplicate, shall submit one complete and signed copy of that document to the court in

accordance with division (C)(5)(a) of this section, shall retain one complete and signed copy of that document for the garnishee's records, and shall deliver one complete and signed copy of that document to the judgment debtor.

(D)(1) Except as provided in division (D)(2) of this section, if a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor and if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, the previous order shall cease to remain in effect as described in division (C)(1)(f) of this section. However, until at least for the time period up to and including the full pay period within which the one hundred eighty-two days have expired eighty-second day from the date that the garnishee began processing the previous order falls, the garnishee shall withhold the specified amount from the judgment debtor's personal earnings in accordance with the previous order. During that time period, the previous order shall be deemed a higher priority order. Upon the expiration of that final full pay period, the garnishee shall comply with division (C)(5) of this section.

(2) If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor, if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, and if the law of this state or of the United States provides that the subsequent order has a higher priority than the previous order, the previous order shall cease to remain in effect as described in division (C)(1)(e) of this section. However, until at least for the time period up to and including the full pay period within which the one hundred eighty-two days have expired eighty-second day from the date the garnishee began processing the previous order falls, the garnishee shall comply with division (D)(3)(c)(ii) of this section. Upon the expiration of that final full pay period, the garnishee shall comply with division (C)(5) of this section.

(3)(a) Except as provided in division (D)(2) and (3)(b) and (c) of this section, if a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor and if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, the garnishee shall do both of the following:

(i) The garnishee shall process the subsequent order in the order in which the garnishee receives it, commencing with the first full pay period

beginning after the subsequent order reaches highest priority, and only after all previously received orders of garnishment of personal earnings with respect to the same judgment debtor have been processed for a ~~one-hundred-eighty-two-day period~~ time period up to and including the full pay period within which the one-hundred-eighty-second day from the first processing date falls or have ceased to remain in effect for a reason listed in division (C)(1) of this section.

(ii) When, pursuant to the procedure required by division (D)(3)(a)(i) of this section for the stacking of orders of garnishment of personal earnings with respect to the same judgment debtor, the subsequent order reaches highest priority, the garnishee, commencing with the first full pay period beginning after the subsequent order reaches highest priority, shall process the subsequent order until the subsequent order ceases to remain in effect for a reason listed in division (C)(1) of this section.

(b) If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor, if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, and if the previous order has a higher priority under division (D)(1) or (3)(a) of this section, the garnishee shall do both of the following:

(i) The garnishee shall withhold from the judgment debtor's personal earnings during each pay period the amount, calculated each pay period at the statutory percentage, of the judgment debtor's personal disposable earnings during each pay period specified in the previous order for the requisite ~~one-hundred-eighty-two-day period~~ time period up to and including the full pay period within which the one-hundred-eighty-second-processing day falls or until the previous order ceases to remain in effect for a reason listed in division (C)(1) of this section.

(ii) If the maximum amount of the personal earnings of the judgment debtor that may be garnished during each pay period under the law of this state or of the United States is not exceeded after the application of division (D)(3)(b)(i) of this section, the garnishee shall withhold from the judgment debtor's personal disposable earnings during each pay period the amount, calculated each pay period at the statutory percentage, specified in one or more of the subsequent orders, in their order of priority, commencing with the first full pay period beginning after the subsequent order reaches priority, until the maximum amount, calculated each pay period at the statutory percentage, of the personal disposable earnings of the judgment debtor that may be garnished during each pay period under the law of this

state or of the United States is reached and as long as the requisite ~~one-hundred-eighty-two-day processing period~~ time period up to and including the full pay period within which the one-hundred-eighty-second processing day falls has not expired with respect to a subsequent order and the subsequent order has not ceased to remain in effect for a reason listed in division (C)(1) of this section.

(c) If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor, if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, and if the subsequent order has a higher priority under division (D)(2) of this section, the garnishee shall do both of the following:

(i) The garnishee shall withhold from the judgment debtor's personal disposable earnings during each pay period the amount, calculated each pay period at the statutory percentage, specified in the subsequent order, commencing with the first full pay period beginning after the subsequent order reaches priority.

(ii) If the maximum amount of the personal earnings of the judgment debtor that may be garnished during each pay period under the law of this state or of the United States is not exceeded after the application of division (D)(3)(c)(i) of this section, the garnishee shall withhold from the judgment debtor's personal disposable earnings during each pay period the amount, calculated each pay period at the statutory percentage, of the judgment debtor's personal disposable earnings during each pay period specified in one or more of the previous orders, in their order of priority, until the maximum amount of the personal earnings of the judgment debtor that may be garnished during each pay period under the law of this state or of the United States is reached and as long as the requisite ~~one-hundred-eighty-two-day processing period~~ time period up to and including the full pay period within which the one-hundred-eighty-second processing day falls has not expired with respect to a previous order and the previous order has not ceased to remain in effect for a reason listed in division (C)(1) of this section.

~~(E) If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor and that order, after applying the provisions of this section, has a higher priority than a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, the garnishee promptly shall notify the judgment creditor associated with the previous order of the receipt of the higher priority order.~~

~~(F)~~ If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor and if, at the time of the receipt of that order, the garnishee is the subject of one or more previously received continuous orders of garnishment of personal earnings with respect to the same judgment debtor, the garnishee shall include in its answer of employer filed pursuant to section 2716.05 of the Revised Code in relation to the subsequent order all of the following information:

(1) The name of the court that issued the subsequent order and each previous order and the case number associated with each of those orders;

(2) The date that the garnishee received the subsequent order and each previous order;

(3) With respect to the subsequent order and each previous order, the balance due to the relevant judgment creditor at the time of the filing of the answer of employer. The garnishee shall calculate the balance due in relation to a particular order by subtracting the total amount of the judgment debtor's personal earnings that the garnishee previously has withheld and paid to the court pursuant to that order from the total probable amount due on the judgment underlying that order, as described in division (B) of this section.

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 ~~(F)~~(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 mail.

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

"ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF  
EMPLOYER

Docket No.

.....

Case No.

.....

In the

.....

Court

.....,

Ohio

The State of Ohio

County of ....., ss

....., Judgment Creditor

vs.

....., Judgment Debtor

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

To: ....., Garnishee

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

You are therefore ordered to complete the "ANSWER OF EMPLOYER (GARNISHEE)" in section B of this form. Return one completed and signed copy of this form to the clerk of this court within five (5) business days after you receive this order of garnishment ~~together with the amount determined in accordance with the "ANSWER OF EMPLOYER (GARNISHEE)."~~ Deliver one completed and signed copy of this form and the accompanying documents entitled "NOTICE TO THE JUDGMENT DEBTOR" and "REQUEST FOR HEARING" to the judgment debtor. Keep the other completed and signed copy of this form for your files.

(The total probable amount now due on this judgment is \$.....)

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

This order of garnishment of personal earnings is a continuous order that generally requires you to withhold a specified amount, calculated each pay period at the statutory percentage, of the judgment debtor's personal disposable earnings during each pay period, as determined in accordance with the "INTERIM REPORT AND ANSWER OF EMPLOYER (GARNISHEE)," from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor following your receipt of commencing with the first full pay period beginning after you receive the order until the judgment in favor of the judgment creditor and the associated court costs, judgment interest, and, if applicable, prejudgment interest awarded to the judgment creditor as described above have been paid in full. You generally must pay that specified amount, calculated each pay period at the statutory percentage, to the clerk of this court within thirty (30) days after the end of each pay period of the judgment debtor and must include with that specified amount calculated each pay period at the statutory percentage an "INTERIM REPORT AND ANSWER OF GARNISHEE" substantially in the form set forth in section 2716.07 of the Ohio Revised Code. A copy of the "INTERIM REPORT AND ANSWER OF GARNISHEE" is attached to this order of garnishment of personal earnings, and you may photocopy it to use each time you pay the specified amount to the clerk of this court. You are permitted to deduct a processing fee of up to three dollars from the judgment debtor's personal disposable earnings for any pay period of the judgment debtor that an amount was withheld for that order (the processing fee is not a part of the court costs). YOU ARE NOT REQUIRED TO FILE WITH THE COURT THE "INTERIM REPORT AND ANSWER OF GARNISHEE" FOR ANY PAY PERIOD OF THE JUDGMENT DEBTOR FOR WHICH AN AMOUNT FROM THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS DURING THAT PAY PERIOD WAS NOT WITHHELD FOR THAT ORDER.

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

(1) The total probable amount due on the judgment as described above is paid in full as a result of your withholding of the specified amount, calculated each pay period at the statutory percentage, from the judgment

debtor's personal disposable earnings during each pay period of the judgment debtor following your receipt of that commenced with the first full pay period beginning after you received the order.

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

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

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

(5) A municipal or county court or a court of common pleas issues to you another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor, and Ohio or federal law provides the other order with a higher priority than this order.

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

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

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

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

become familiar with these rules.

Witness my hand and the seal of this court this ..... day of  
....., .....

.....

Judge

SECTION B. ANSWER OF EMPLOYER (GARNISHEE)

(An employer is one who is required to withhold payroll taxes out of payments of personal earnings made to the judgment debtor.)

(Answer all pertinent questions)

Now comes ....., the employer (garnishee) herein, who says:

1. This order of garnishment of personal earnings was received on .....

Yes No

2. The judgment debtor is in my/our employ.

... ..

If answer is "No," give date of last employment.

(2).....

Yes No

3. (A) Is the debt to which this order ~~or~~ 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?

... ..

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.

3(A).....

Yes No

(B) Were you, on the date that you received this order of garnishment of personal earnings, withholding moneys from the judgment debtor's personal disposable earnings pursuant to another order of garnishment of personal

..... ..

earnings that Ohio or federal law provides with a higher priority than this order of garnishment of personal earnings (such as a support order or Internal ~~revenue service~~ Revenue Service levy)?

IF

If the answer to this question is "Yes," give the name of the court that issued the higher priority order, the associated case number, the date upon which you received that order, and the balance due to the relevant judgment creditor under that order.

3(B)

.....

Yes No

.....

(C) Did you receive prior to the date that you received this order of garnishment of personal earnings one or more other orders of garnishment of personal earnings that are not described in question 3(B), and are you currently processing one or more of those orders for the statutorily required ~~182-day~~ time period or holding one or more of those orders for processing for a ~~182-day~~ statutorily required period in the sequence of their receipt by you?

If the answer to this question is "Yes," give the name of the court that issued each of those previously received orders, the associated case numbers, the date upon which you received each of those orders, and the balance due to the relevant judgment creditor under each of those orders. List first the previously received order(s) that you are currently processing, and list each of the other previously received orders in the sequence that you are required to process them.

3(C).....

4. (A) State whether the pay period of the judgment debtor is weekly, biweekly, semimonthly, or monthly (do not enter a pay period of more than one month):

4(A).....

(B) Enter the disposable earnings of the judgment debtor earned during the judgment debtor's present pay period. "earnings" means earnings after deductions required by law. "Present pay period" means the pay period in which you receive this order of garnishment of personal earnings.)

4(B)  
\$.....

(C) If the judgment debtor's pay period is weekly, enter on line 4(C) an amount equal to six and one-quarter per cent (6.25%) of the judgment debtor's disposable earnings set forth on line 4(B). If the judgment debtor's pay period is biweekly or semimonthly, enter on line 4(C) an amount equal to twelve and one-half per cent (12.5%) of the judgment debtor's disposable earnings set forth on line 4(B). If the judgment debtor's pay period is monthly, enter on line 4(C) an amount equal to twenty-five per cent (25%) of the judgment debtor's disposable earnings set forth on line 4(B).

4(C).....

5. (A) If the judgment debtor is 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

5(B)

amount on line 4(B) exceeds the \_\_\_\_\_  
amount on line 5(A):  
6. Enter on line 6 the smallest of the 6  
amount entered on line 4(C); or the \$\_\_\_\_\_  
amount entered on line 5(B); or the  
total probable amount now due on the  
judgment, including interest and costs,  
as indicated in section A of this form.  
Pay the amount entered on line 6 into  
this court when returning this form:  
I certify that the statements above are true.

\_\_\_\_\_  
(Print Name of Employer)  
\_\_\_\_\_  
(Print Name and Title of Person  
Who Completed Form on behalf  
of the Employer)

Signed \_\_\_\_\_  
(Signature of ~~Person Completing Form~~ Employer or Employer's Agent)  
~~Dated~~ Dated this ..... day of ....., ....."

Section A of the form described in this section 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 not later than the time that the garnishee otherwise would pay the judgment debtor the personal earnings that the garnishee instead is paying to the court. The garnishee also shall deliver at that time the 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 that were served on the garnishee.

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

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

The garnishee also shall be served with a copy of the employer guide to

processing continuous orders of garnishment at the same time that the forms as provided in this section are served upon the garnishee.

Sec. 2716.06. (A) The notice to the judgment debtor that must be served on the garnishee and delivered to the judgment debtor shall be in substantially the following form:

"(Name and Address of the Court)

(Case Caption) Case No. ....

**NOTICE TO THE JUDGMENT DEBTOR**

You are hereby notified that this court has issued an order in the above case in favor of (name and address of judgment creditor), the judgment creditor in this proceeding, directing that some of your personal earnings be used in satisfaction of your debt to the judgment creditor instead of being paid to you. This order was issued on the basis of the judgment creditor's judgment against you that was obtained in (name of court) in (case number) on (date).

The law of Ohio provides that you are entitled to keep a certain amount of your personal earnings free from the claims of creditors. Additionally, wages under a certain amount may never be used to satisfy the claims of creditors. The documents entitled "ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER" that are enclosed with this notice show how the amount proposed to be taken out of your personal earnings was calculated by your employer.

If you dispute the judgment creditor's right to garnish your personal earnings and believe that you are entitled to possession of the personal earnings because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your personal earnings in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. **NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.** The hearing will be limited to a consideration of the amount of your personal earnings, if any, that can be used in satisfaction of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted no later than twelve days after your request is received by the court, and the court will send you notice of the date, time, and place. You may indicate in the form that you ~~feel~~ believe that the need for the hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received and will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, some of your personal earnings will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association. .... Clerk of the Court

..... Date"

(B) The request for hearing form that must be served on the garnishee and delivered to the judgment debtor shall have attached to it a postage-paid, self-addressed envelope or shall be on a postage-paid, self-addressed postcard, and shall be in substantially the following form:

"(Name and Address of Court)

Case Number ..... Date .....

# REQUEST FOR HEARING

I dispute the judgment creditor's right to garnish my personal earnings in the above case and request that a hearing in this matter be held no later than twelve days after delivery of this request to the court.

I ..... feel that the need for the  
(insert "do" or "do not")

hearing is an emergency.

I dispute the judgment creditor's right to garnish my personal earnings for the following reasons:

(Optional)

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE CONSIDERED AT THE HEARING.

..... (Name of Judgment Debtor)

..... (Signature) .....

(Date")

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5)

BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING, AND SOME OF YOUR PERSONAL EARNINGS WILL BE PAID TO (JUDGMENT CREDITOR'S NAME) IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT CREDITOR."

(C) The judgment debtor may receive a hearing in accordance with this division by delivering a written request for A hearing to the clerk of the court within five business days after receipt of the notice provided pursuant to division (A) of this section. The request may set forth the judgment debtor's reasons for disputing the judgment creditor's right to garnish the personal earnings; however, neither the judgment debtor's inclusion of nor the judgment debtor's failure to include those reasons upon the request constitutes a waiver of any defense of the judgment debtor or affects the judgment debtor's right to produce evidence at the hearing. If the request is made by the judgment debtor within the prescribed time, the court shall schedule a hearing no later than twelve days after the request is made, unless the judgment debtor indicated that the judgment debtor felt the need for the hearing was an emergency, in which case the court shall schedule the hearing as soon as practicable after the request is made. Notice of the date, time, and place of the hearing shall be sent to the parties in accordance with division (E) of this section. The hearing shall be limited to a consideration of the amount of the personal earnings of the judgment debtor, if any, that can be used in satisfaction of the debt owed by the judgment debtor to the judgment creditor.

(D) If the judgment debtor does not request a hearing within the prescribed time pursuant to division (C) of this section, the court shall issue an order to the garnishee to pay some of the judgment debtor's personal disposable earnings into court, if they have not already been paid to the court. This order shall be based on the answer of the garnishee filed pursuant to section 2716.05 of the Revised Code. If a hearing is conducted, the court shall determine at the hearing the amount, calculated each pay period at the statutory percentage, of the judgment debtor's personal disposable earnings for the present pay period, if any, that can be used in satisfaction of the debt owed by the judgment debtor to the judgment creditor, and issue an order, accordingly, to the garnishee to pay that amount, calculated each pay period at the statutory percentage, of the personal disposable earnings into court if it has not already been paid to the court.

(E) If the judgment debtor requests a hearing within the prescribed time pursuant to division (C) of this section, the clerk shall send a notice of the date, time, and place of the hearing by regular mail to the judgment creditor

or the judgment creditor's attorney and the judgment debtor.

Sec. 2716.07. (A) Subject to divisions (C)(1) and (D) of section 2716.041 and section 2716.05 of the Revised Code, a garnishee to whom a municipal or county court or court of common pleas issues a continuous order of garnishment of personal earnings shall pay to the court within thirty days after the end of each pay period of the judgment debtor, commencing with the first full pay period beginning after the garnishee receives the ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER, the amount, calculated each pay period at the statutory percentage, that the order specifies to be withheld from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor following the garnishee's receipt of the order. The payment to the court of that amount shall be accompanied by the garnishee's interim report and answer that shall be substantially in the following form:

"INTERIM REPORT AND ANSWER OF GARNISHEE"

Case No.

.....

In The

.....

Court

.....,

Ohio

....., Judgment Creditor

vs.

....., Judgment Debtor

The garnishee, ....., in the above case states as follows:

1. The date that the garnishee received the order of garnishment of the judgment debtor's personal earnings was .....

2. The total probable amount due on the judgment, including court costs, judgment interest, and, if applicable, prejudgment interest, as stated in either section A of the order of garnishment of the judgment debtor's personal earnings or in the affidavit of current balance due on garnishment order if that affidavit has been received subsequent to the order of garnishment, is \$.....

3. THE PAY PERIOD OF THE JUDGMENT DEBTOR IS (ENTER WEEKLY, BIWEEKLY, SEMIMONTHLY, OR MONTHLY. DO NOT ENTER A PAY PERIOD OF MORE THAN ONE MONTH).....

4. THE DISPOSABLE EARNINGS OF THE JUDGMENT DEBTOR EARNED DURING THE JUDGMENT DEBTOR'S PRESENT PAY PERIOD IS ("DISPOSABLE EARNINGS" MEANS EARNINGS AFTER

DEDUCTIONS REQUIRED BY LAW. "PRESENT PAY PERIOD" MEANS THE PAY PERIOD FOR WHICH YOU ARE COMPLETING THIS INTERIM REPORT AND ANSWER OF GARNISHEE.) \$.....

5. THE AMOUNT EQUAL TO TWENTY-FIVE PER CENT (25%) OF THE JUDGMENT DEBTOR'S DISPOSABLE EARNINGS SET FORTH IN SECTION 4 OF THIS FORM IS \$.....

6. .... TIMES THE CURRENT FEDERAL MINIMUM HOURLY WAGE IS (IF THE JUDGMENT DEBTOR IS PAID WEEKLY, ENTER THIRTY ABOVE, IF PAID BIWEEKLY, ENTER SIXTY, IF PAID SEMIMONTHLY, ENTER SIXTY-FIVE, IF PAID MONTHLY, ENTER ONE HUNDRED THIRTY, THEN CALCULATE THE AMOUNT.) \$.....

7. THE AMOUNT BY WHICH THE AMOUNT IN SECTION 4 OF THIS FORM EXCEEDS THE AMOUNT IN SECTION 6 OF THIS FORM IS.....

8. THE SMALLEST OF EITHER THE AMOUNT ENTERED IN SECTION 5 OF THIS FORM, THE AMOUNT ENTERED IN SECTION 7 OF THIS FORM, OR THE AMOUNT ENTERED IN SECTION 2 OF THIS FORM, IS \$.....

9. The amount entered in section 8 of this form, plus or minus (as appropriate) the garnishee's processing fee is \$..... (if the amount entered in section 8 of this form equals the amount entered in section 2 of this form, then add up to three dollars (\$3); otherwise subtract up to three dollars (\$3))

10. Other deductions \$ .....

11. The calculated amount that has been withheld from the judgment debtor's personal earnings during the judgment debtor's present pay period (~~which amount represents the amount specified on line 6 of the "ANSWER OF EMPLOYER (GARNISHEE)" unless otherwise stated~~) and that is submitted with this "INTERIM REPORT AND ANSWER OF GARNISHEE" is \$.....

I certify that the statements above are true.

.....  
(Print Name of Employer)

.....  
(Print Name and Title of Person  
Who Completed Form)

Signed .....  
(Signature of Person Who Completed Form)

dated this ..... day of....., ....."

(B) One copy of the interim report and answer shall be served upon the garnishee in accordance with section 2716.05 of the Revised Code. The garnishee may photocopy that copy for use in accordance with division (A) of this section and division (C)(4) of section 2716.041 of the Revised Code.

(C) A GARNISHEE TO WHOM A MUNICIPAL OR COUNTY COURT OR COURT OF COMMON PLEAS ISSUES A CONTINUOUS ORDER OF GARNISHMENT OF PERSONAL EARNINGS SHALL FILE WITH THE COURT THE GARNISHEE'S INTERIM REPORT AND ANSWER FOR EACH PAY PERIOD OF THE JUDGMENT DEBTOR FOR WHICH AN AMOUNT FROM THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS DURING THAT PAY PERIOD WAS WITHHELD FOR THAT ORDER. THE GARNISHEE IS NOT REQUIRED TO FILE AN INTERIM REPORT AND ANSWER FOR ANY PAY PERIOD FOR WHICH NO AMOUNT FROM THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS DURING THAT PAY PERIOD WAS WITHHELD FOR THAT ORDER.

Sec. 2716.08. (A) Subject to division (D) of section 2716.041 of the Revised Code, if a continuous order of garnishment of personal earnings ceases to remain in effect because of the operation of division (C)(1) of that section, the garnishee shall file with the municipal or county court or court of common pleas that issued the order the garnishee's final report and answer that shall be substantially in the following form:

"FINAL REPORT AND ANSWER OF GARNISHEE"

Case No.

.....

In The

.....

Court

.....,

Ohio

....., Judgment Creditor

vs.

....., Judgment Debtor

The

garnishee,

....., in the above case  
states as follows:

1. The date that the garnishee received the order of garnishment of the judgment debtor's personal earnings was .....
2. The total probable amount due on the judgment, including court

costs, judgment interest, and, if applicable, prejudgment interest, as stated in section A of the order of garnishment of the judgment debtor's personal earnings, is \$.....

3. The total amount that has been withheld from the judgment debtor's personal disposable earnings and paid to the court while the order of garnishment of the judgment debtor's personal earnings remained in effect is \$.....

4. (When applicable) the total probable amount due on the judgment (as stated in 2 above) is not equal to the total amount that has been withheld (as stated in 3 above), and the reason for that difference is that the order of garnishment of the judgment debtor's personal earnings ceased to be in effect for the following statutorily prescribed reason(s) (check whichever apply):

(a) ..... A municipal or county court appointed a trustee for the judgment debtor and issued an order that stays the order of garnishment of the judgment debtor's personal earnings.

(b) ..... A federal bankruptcy court issued an order that stays the order of garnishment of the judgment debtor's personal earnings.

(c) ..... A municipal or county court or a court of common pleas issued another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor, and Ohio or federal law provides the other order a higher priority. (Set forth the name of the court that issued the higher priority order, the associated case number, the date that the higher priority order was received, and the balance due to the relevant judgment creditor under that order): .....

(d) ..... A municipal or county court or a court of common pleas issued another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor and that is not described in 4(c) above. (Set forth the name of the court that issued the subsequently received order, the associated case number, the date that the subsequent order was received, and the balance due to the relevant judgment creditor under that order): .....

(e) ..... The judgment creditor or judgment creditor's attorney has issued a request that the order of garnishment be terminated and the garnishee released from the mandates of the order of garnishment.

(f) ..... Judgment debtor's employment terminated on: .....

(g) ..... Other: .....

I certify that the statements above are true.

.....  
(Print Name of Employer)

.....  
(Print Name and Title of Person  
Who Completed Form on behalf  
of the Employer)

Signed .....

(Signature of ~~Person Who Completed Form~~ Employer or  
Employer's Agent)

Dated            this            .....            day            of            .....,  
....."

(B) One copy of the final report and answer shall be served upon the garnishee in accordance with section 2716.05 of the Revised Code. The garnishee shall use the final report and answer in accordance with division (A) of this section and division (C)(5) of section 2716.041 of the Revised Code.

Sec. 2716.09. A (A) Except as otherwise provided in this section, a municipal or county court or court of common pleas does not have jurisdiction to modify and interrupt the processing of an order of garnishment of personal earnings that that court issued in a proceeding in garnishment of personal earnings under this chapter unless all of the following apply:

~~(A)~~(1) The judgment creditor and the judgment debtor associated with that order jointly apply to that court for the modification and interruption.

~~(B)~~(2) That judgment creditor and judgment debtor jointly agree that the amount of the judgment debtor's personal disposable earnings that is required to be withheld during each pay period under that court's order should be modified to a mutually agreed upon and specified amount and that the garnishee should withhold that specified amount until the judgment in favor of the judgment creditor and the associated court costs, judgment interest, and, if applicable, prejudgment interest awarded to the judgment creditor have been paid in full or until that court's order otherwise ceases to remain in effect under division (C)(1) of section 2716.041 of the Revised Code.

~~(C)~~(3) That court enters an order that approves of the modification described in division ~~(B)~~(A)(2) of this section and causes a copy of that order to be served upon the garnishee in the same manner as process is served.

(B) A judgment creditor or judgment creditor's attorney may request that the clerk of the court that issued an order of garnishment of personal earnings disburse the garnishment proceeds on a less frequent basis than is otherwise provided by this chapter. Upon receiving the request, the clerk

may elect to disburse the garnishment proceeds on a time schedule other than that as provided by this chapter.

Sec. 2716.21. (A) If the answer of a garnishee required by section 2716.05 or 2716.13 of the Revised Code is not made in writing as ordered by the court that issued the garnishment order, the answer shall be made before the clerk of the court of common pleas of the county in which the garnishee resides or, if the garnishee resides outside of the state, before the clerk of the county in which the garnishee was served or in which the action is pending. Upon receipt of an answer under this division, the clerk shall transmit it to the clerk of the court in which the action is pending, if different, in the same manner as depositions are required to be directed and transmitted. For the clerk's services, the clerk shall receive the fees allowed by law for taking depositions and to clerks for furnishing certificates with their seals of office attached.

(B) After the order of garnishment is served on a garnishee, as provided in section 2716.05 or 2716.13 of the Revised Code, the garnishee shall return the answer to the court that issued the garnishment order within five business days after receipt of the order if the order is served under section 2716.05 of the Revised Code or before the date set for the hearing as indicated on the order if the order is served under section 2716.13 of the Revised Code. The garnishee shall answer all questions addressed to the garnishee regarding the personal earnings of the judgment debtor or regarding the amount of money, property, or credits, other than personal earnings, of the judgment debtor that are in the garnishee's possession or under the garnishee's control at the time of service of the order, whichever is applicable. The garnishee shall truly disclose the amount owed by the garnishee to the judgment debtor whether due or not and, in the case of a corporation, any stock held in the corporation by or for the benefit of the judgment debtor. If a garnishee answers and it is discovered that, at the time of the service of the order upon the garnishee, the garnishee possessed any money, property, or credits of the judgment debtor or was indebted to the judgment debtor, the court may order the payment of the amount owed into court, or it may permit the garnishee to retain the money, property, or credits or the amount owed upon the garnishee's executing to the judgment creditor a bond with sufficient surety to the effect that the amount will be paid as the court directs.

(C) If, in a garnishee's answer, a garnishee admits an indebtedness to the judgment debtor and the court orders the payment of it in whole or in part to the judgment creditor, and if the garnishee fails to pay according to the order, execution may issue on the order.

(D) A garnishee shall pay the personal earnings owed to the judgment debtor or the money or value of the property or credits, other than personal earnings, of the judgment debtor in the garnishee's possession or under the garnishee's control at the time of service of the order of garnishment, or so much thereof as the court orders, into court. The garnishee shall be discharged from liability to the judgment debtor for money so paid and shall not be subjected to costs beyond those caused by the garnishee's resistance of the claims against the garnishee. A garnishee is liable to the judgment creditor for all money, property, and credits, other than personal earnings, of the judgment debtor in the garnishee's possession or under the garnishee's control or for all personal earnings due from the garnishee to the judgment debtor, whichever is applicable, at the time the garnishee is served with the order under section 2716.05 or 2716.13 of the Revised Code.

(E) If a garnishee fails to answer as required by this section, answers but fails to answer satisfactorily, or fails to comply with a proper order of a court in connection with a garnishment under this chapter, the court may proceed against the garnishee for contempt.

Upon the request of the judgment creditor, a special examination of a garnishee may be had by the judgment creditor if the garnishee fails to answer as required by this section, answers but fails to answer satisfactorily, or fails to comply with a proper order of a court in connection with the garnishment. That examination may be conducted in the county in which the garnishee resides.

(F)(1) If a garnishee fails to answer as required by this section, answers and the garnishee's answer is not satisfactory to the judgment creditor, or fails to comply with the order of the court to pay the money owed or deliver the property into court or to give the bond authorized under division (B) of this section, the judgment creditor may proceed against the garnishee by civil action. Thereupon, proceedings may be had as in other civil actions. Judgment may be rendered in favor of the judgment creditor for the amount of money owed the judgment debtor in the garnishee's possession at the time the garnishee was served with the order of garnishment under section 2716.05 or 2716.13 of the Revised Code and, if it appears on the trial that the garnishee's answer was incomplete, for the costs of the proceedings against the garnishee. An action authorized under this division shall be brought in the county in which the garnishee resides.

(2) A garnishee who acts, or attempts to act, in accordance with Chapter 2716. of the Revised Code is not liable for damages in any civil action for any action taken pursuant to that chapter in good faith or any omission made in good faith.

SECTION 2. That existing sections 1315.40, 1315.41, 2301.35, 2307.61, 2335.19, 2335.24, 2716.02, 2716.04, 2716.041, 2716.05, 2716.06, 2716.07, 2716.08, 2716.09, and 2716.21 of the Revised Code are hereby repealed.

SECTION 3. The General Assembly hereby requests the Ohio Judicial Conference to develop an Employer Guide to Processing Continuous Orders of Garnishment that would outline the requirements and procedures of an employer pursuant to sections 2329.66 and 2329.70 and Chapter 2716. of the Revised Code.

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*Speaker \_\_\_\_\_ of the House of Representatives.*

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*President \_\_\_\_\_ of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_