

## Important changes made to garnishment exemption laws in Florida

Written by Australian Business

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September 20, 2013 /**24-7PressRelease**/ -- When a plaintiff is awarded significant damages in a Florida civil lawsuit, there is no guarantee that the defendant will actually be able to pay these hefty awards all at once. In fact, it is quite common that defendants are unable to pay large lump-sum judgments in short periods of time - or ever, for that matter. In these circumstances, Florida plaintiffs have various debt-collection tools at their disposal, such as wage garnishment, in order to collect unpaid judgments.

However, the law does also recognize that Florida defendants - who are known as garnishees in these situations - often need protections as well, especially from [overly aggressive creditors](#). This is why there are several wage garnishment exemptions available to garnishees in Florida.

For instance, garnishees can protect their money by using wage garnishment exemptions such as the "head of household" exemption. Under this exemption, a garnishee can shield his or her money if:- He or she earns less than \$750 a week and provides more than one-half of the support for a child; or- He or she earns more than \$750 a week, but has not agreed in writing to have his or her wages garnished and also provides more than one-half of the support for a child.

In order to take advantage of the head of household exemption, the garnishee must file a particular form outlining the exemption with the clerk's office within 20 days and give notice to the plaintiff detailing the claimed exemption. Following this notice, the plaintiff does have a right to object to the exemption, although the law surrounding this objection has changed a great deal recently.

### Conflicting Florida garnishment statutes

In the past, there was some confusion regarding the proper procedure regarding a plaintiff's objection to a claimed head-of-household garnishment exemption. Indeed, there used to be two different Florida statutes that expressly contradicted one another.

One statute, F.S.A. 222.12, expressly stated that if the "party who sued out the process" - otherwise known as the plaintiff - denied and objected to a garnishee's exemption, then the plaintiff had two days to set forth these denials under oath. Conversely, another Florida statute stated that a plaintiff had three business days to object to garnishment exemptions.

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Ultimately, a 2011 case titled *Caproc v. Donisi* may have been the catalyst that prompted lawmakers to sort out this confusion. This particular case was important because it made clear that the unambiguous language of F.S.A. 222.12 dictated that only the plaintiff, and not the plaintiff's attorney, could file a denial or objection to a garnishee's claimed head-of-household garnishment exemption.

Following this case, the Florida legislature made significant changes to these laws, which became effective earlier this summer on July 1. First, they completely repealed F.S.A. 222.12, and second, they added language to the previously conflicting statute making it permissible for a plaintiff's attorney, in addition to the plaintiff, to file objections to garnishment exemptions. Lastly, lawmakers increased the days to respond to claimed garnishment exemptions from three days to eight.

Interestingly, a recent Florida House of Representative's staff analysis noted that it was even "unclear" to lawmakers as to why these two conflicting statutes existed for so long. Had *Caproc v. Donisi* not occurred - and other cases like it - the confusion in this area may have persisted for some time, which illustrates just how important it is to contact an experienced attorney if engaged in a wage garnishment dispute.

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