

Garnishment

What To Do

They can garnish only above a certain income. In Colorado, usually garnishment can be only 20% of after-tax wages. (Previously it was 25%). *This does not apply to IRS garnishments. The IRS can take more than medical and credit garnishers.*

You are entitled to exemptions but you only get them if you fill out the form and submit it to your employer. See explanation below.

What is a garnishment? In simple terms, a garnishment is an order directing a third party to seize assets to settle an unpaid debt. These assets are usually wages or money in a bank account. The only way a creditor can get a garnishment is to ask a court to approve an order to carry out a 'Judgment'. What is a judgment, and how did they get it? A judgment happens when you are sued, and either go to court and lose, or more frequently, you did not go to Court, in which case you also lost because you did not show up.

People often say, "But I never got a notice!" That should not happen, but sometimes does. I had a client who got a garnishment from a credit card company she had never heard of. I asked more questions and learned that she had a boyfriend who did not work. He had applied for cards in her name. When the card company sued her, the Court sent a 'summons', which the card company had to have 'served' on her to give her notice. But, in Colorado, 'service' can be to any adult living at your address. So the boyfriend who stayed home while she worked, trashed the ONLY summons and did not tell her. Legally she did by the fact that it was delivered to an adult at her house.

There is also the possibility that the 'Service Processor' (the guy who gets paid to deliver the summons) simply threw it away and signed the paper saying he had delivered it. That is illegal, but it happens enough to have a nickname - 'Sewer Service'. So, whether you had notice or not, a creditor now has a 'Writ of Garnishment' against you and can enforce it.

So, how much can they take? It depends on multiple factors. The short answer is **generally** not more than 20% of after-tax income. Under some circumstances, they may not be able to take anything. In certain other circumstances, it can be up to 60%. These circumstances are determined by exemptions. 'Exemptions' are about what a creditor **can't** take. With regard to wages, the exempt amount is **usually** 80% of income plus taxes, so they can't get more than 20% after taxes – which is probably just about exactly how much you live on after rent and gas!

So how do you determine how many dollars that is? You can calculate that amount for yourself by using this [form](#) (press CTL + click on the underlined hyperlink)

If that link is not working for you, try the Colorado Court website self-help forms page:

https://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=352

Form 27 - Calculation of the Amount of Exempt Earnings

You should get a form with this formula in it:

EXEMPTION CHART	PAY PERIOD	AMOUNT EXEMPT IS THE GREATER OF:
("Minimum Hourly Wage" means state or federal minimum wage, whichever is greater.)	Weekly	40 x Minimum Hourly Wage or 80% of Disposable Earnings
	Bi-weekly	80 x Minimum Hourly Wage or 80% of Disposable Earnings
	Semi-monthly	86.67 x Minimum Hourly Wage or 80% of Disposable Earnings
	Monthly	173.3 x Minimum Hourly Wage or 80% of Disposable Earnings

**Semi-monthly employees receive a paycheck 24 times a year (twice a month for 12 months, equaling 24), whereas bi-weekly employees are paid 26 times in a calendar year (every other week for 52 weeks in one year).*

As of January 1, 2024, the Minimum hourly wage in Colorado is \$14.42 Disposable wage is minimum wage, plus whatever taxes are taken out. SO...

- Paid weekly \$14.42 X 40 = \$577, less taxes is exempt – *you get to keep at least that much*
- Every two weeks \$14.42 X 80 = \$1,154 less taxes is exempt – *you get to keep at least that much*
- Twice a month \$14.42 X 86.76 = \$1,251 less taxes is exempt – *you get to keep at least that much*
- Monthly \$ 14.42 X 173.3 = \$2,499 plus taxes is exempt – *you get to keep at least that much*

What if your employer does not know about exemptions, or makes a mistake and thinks they are supposed to send 80%, **not** give 80% to you?

You may have to explain exemptions to your employer. Exemptions are the amounts that either the Federal government or the State of Colorado says, *"You get to keep this"*.

I have attached a seven-page list of Colorado and Federal Exemptions that describe the exemptions available in Colorado as of January 2024. THIS LIST IS NOT THE EXACT STATUTE. It is the wording of a Bankruptcy Software Company. If you have a question, read the Statute yourself, or see an attorney.

How do you describe the exemption if you are telling an employer or a judge how much should be exempt? Tell them:

Colo. Rev. Stat. §§ 13-54-104, 5-5-105 says 80% of:

Disposable earnings (net earnings after deductions) is exempt - Including health, accident, or disability insurance benefits (80% of disposable earnings OR 40 times the federal minimum hourly wage per week, OR 40 times the federal minimum hourly wage per week, WHICHEVER IS GREATER) - *exemption may be increased for totally disabled debtor...*

Danger - AI At Work

Chat GPT says:

(be careful about doing your own research – seek legal counsel...)

In Colorado, garnishment is a legal process that allows a creditor to collect a debt by deducting money directly from your wages or bank account. This typically happens after a creditor has obtained a court judgment against you for an unpaid debt. The garnishment allows the creditor to collect what is owed by taking a portion of your income or seizing funds from your bank account.

Here are steps you can take to stop or challenge a garnishment in Colorado:

- Understand the Garnishment: When a creditor seeks a garnishment, they must provide you with a notice informing you about the impending garnishment. This notice will detail the amount owed, instructions on how to respond, and your rights.
- Verify Validity: Ensure the debt is accurate and that the creditor has followed all legal procedures. You have the right to contest the garnishment if you believe it's incorrect or if proper procedures were not followed.
- Exemptions: Certain types of income and funds are exempt from garnishment in Colorado, such as a portion of your wages, Social Security benefits, unemployment benefits, and certain types of public assistance. Check Colorado state laws to understand which assets or income cannot be taken through garnishment.
- File Objections or Claim Exemptions: If you believe the garnishment is improper or that certain funds should be exempt, you can file a claim of exemption or an objection to the garnishment. You might need to do this in court, and it's advisable to seek legal assistance or advice for this process.
- Negotiate with the Creditor: Sometimes, creditors may be willing to negotiate a repayment plan or settle the debt outside of garnishment proceedings. Contact the creditor to discuss alternative arrangements.
- File for Bankruptcy: Filing for bankruptcy can halt most garnishments. However, bankruptcy is a significant legal step with long-term implications, so it's essential to consider its consequences and seek legal advice before proceeding.

To address the specific question about how much can be taken through garnishment in Colorado, the **maximum** amount that can typically be garnished from your wages in Colorado is 25% of your disposable earnings (after mandatory deductions like taxes). However, certain circumstances might allow for a higher percentage to be garnished.

It's crucial to act promptly when facing garnishment. Seek legal advice or assistance from a qualified attorney or a legal aid organization to understand your rights, the specifics of your situation, and the best course of action to stop or challenge the garnishment in Colorado.