



# Consumer Law

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## **-I'm getting calls from collectors. What are my rights?**

See attached brochure entitled **Consumer's Rights Under Wyoming Statutes and Rules and Regulations**.

## **-I've been sued by a creditor or third party. What do I do now?**

The burden is on the Plaintiff/Creditor/Debt buyer to prove you owe the debt. It is wise to file an answer within the time frame allotted (usually 20 days from date of service, or 30 if served out of state). If a debt buyer (third party) filed the lawsuit, and the original contract is not attached, then your answer should deny that you had entered into a relationship with the Plaintiff, and that Plaintiff did not provide proof of the debt nor chain of title.

Just filing an answer and stating you know you owe the debt, but cannot afford to pay it right now, will very likely result in a summary judgment.

If you do not feel you have a defense, can contract creditor attorney to work out a payment plan (most likely on the full balance) or a lump sum settlement (most likely approximately 85% of current balance). Creditor may want your income information, in order to ascertain what is better – work out payment plan or wait for judgment/garnishment.

A judge cannot force a settlement or a payment plan. Judge can only determine if facts of case are true or not, and enter judgment or not.

## **-What is the Statute of Limitations under which I can be sued?**

*If the debtor resided in Wyoming at the time the cause of action accrued, the limitation period will be determined based upon whether the contract is in writing, in which case the limitation period is 10 years under [W.S. 1-3-105\(a\)](#), and eight (8) years upon a contract not in writing, either express or implied.*

## **-I have a judgment against me. What can the creditor do to me?**

**-Writs of continuing garnishment** ("Continuing Garnishments") are orders to an employer to withhold earnings of the Debtor for successive pay periods for the satisfaction of the Judgment. In general, Continuing Garnishments are governed by WS §§1-15-501 – 1-15-511. The amount that can be withheld is subject to strict requirements and limitations as set forth in §1-15-511. Continuing Garnishments are valid for 90 days and may require the

Garnishee to provide to the court multiple successive answers and/or payments. **(25% of wages, provided total weekly pay is more than 30 times the current federal minimum wage)**

**-Writs of Garnishment** In general, Writs of garnishments ("Garnishments") are governed by WS §§1-15-401 – 1-15-425. Garnishments are directed to third-parties ("Garnishee"), usually a bank. Garnishees are required to turn over all property currently in, or which comes into, the Garnishee's possession during the thirty days after the service of the Garnishment, subject to the Garnishee's right of setoff.

**What is exempt from garnishment ?**

**1-17-102. Request for hearing when property seized under execution. (SEE ATTACHED NOTICE OF EXEMPTIONS AND RIGHT TO HEARING PURSUANT TO W.S. 1-17-103(b))**

(a) Except as provided in subsection (e) of this section, a person, other than a corporate entity, against whom a money judgment has been entered and whose property is seized under execution is entitled to a hearing within five (5) days, excluding Saturdays, Sundays and legal holidays, after the court receives the person's written request for a hearing to determine if the property seized is exempt from execution. The person whose property is seized shall file a written request for a hearing with the clerk of court within ten (10) days after seizure of his property.

(b) Except where the judgment is solely against corporate entities, the court shall attach to every money judgment a notice containing the following information:

"You are informed that since the judgment is entered the prevailing party may proceed to seize your property, funds or wages by execution or garnishment. In that event you may be entitled to the following exemptions:

(i) Social security benefits pursuant to 42 U.S.C. 407 and supplemental security income;

(ii) Veteran's benefits;

(iii) Black lung benefits;

(iv) Personal opportunities with employment responsibilities (POWER) payments;

(v) Federal civil service and state retirement system benefits as provided in 5 U.S.C. 8346 and W.S. 9-3-426, 9-3-620, 9-3-712 and 15-5-313;

(vi) Worker's compensation benefits;

(vii) Unemployment compensation benefits;

(viii) A portion of wages as provided in W.S. 1-15-408, or in the case of consumer credit sales, leases or loans, as provided by W.S. 40-14-505;

(ix) Homestead, personal articles and articles used for carrying on a trade or business to the extent provided by W.S. 1-20-101 through 1-20-111;

(x) Other exemptions as provided by law.

To assert your right to any of the foregoing exemptions you shall file a written request with the clerk of court within ten (10) days after seizure of your property, funds or wages. If you fail to make a written request for a hearing and claim one (1) or more of the foregoing exemptions within ten (10) days after seizure of your property, funds or wages, you may waive or lose your right to claim the exemptions."

(c) The notice provided in this section shall be sent to the last known address of the judgment debtor by the clerk of court upon the request of any person before any property of the judgment debtor is seized by execution or garnishment.

(d) A copy of the money judgment together with the exemption information shall be transmitted by the court by first class United States mail, with the postage prepaid in envelopes furnished and properly addressed by the prevailing party.

(e) Notwithstanding any other provision of this section, a judgment debtor who is served with a writ of continuing garnishment under W.S. 1-15-506 shall file objections to the continuing garnishment and receive a hearing on his objections as provided by W.S. 1-15-507 and 1-15-508.