

**BREAKING NEWS ON WAGE ATTACHEMENT:
PENNSYLVANIA SUPREME COURT GIVES A HOLIDAY PRESENT TO ANDLORDS
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On December 21, 2005, the Pennsylvania Supreme Court issued its Civil Procedural Rules, Order No. 446, promulgating the Rules of Civil Procedure governing the attachment of wages. The order of the court is effective January 21, 2006, and finally enacts the statewide rules to enforce the laws on wage attachment.

The rules as enacted provide for attachment of wages, salary or commission to satisfy a money judgment arising from a residential lease obtained pursuant to a Landlord-Tenant action. Attachment of wages under these provisions provides that the employer of the tenant is a garnishee, for collection of a judgment of the magisterial district judge or the Court of Common Pleas against the tenant. The plaintiff landlord can commence an execution to attach wages by filing a praecipe with the Prothonotary of the Court of Common Pleas of the County where the judgment has been entered and where the defendant resides, works or the property is located. The landlord has five years from the date of the original district judge's or Court of Common Pleas judgment to file the praecipe.

After the landlord files the praecipe, the Prothonotary is to issue a Notice of Intent to Attach Wages, and attach to the notice both a copy of the praecipe and a copy of the most recent poverty income guidelines issued by the Federal Department of Health and Human Services. The poverty guidelines can be found in the Federal HUD website. Notice of Intent to Attach Wages can be served upon the defendant by the Sheriff or pursuant to a special order of court if service cannot be made by the Sheriff. Note that this may apply to defendants who are hiding, or are out of state.

The Federal Poverty Income Guidelines provide an exemption from attachment for those with wages below the guidelines. If the defendant files a claim for exemption, it must be filed with the Prothonotary within thirty (30) days of service of the Notice to Attach Wages. If a defendant files a claim for exemption after the writ of attachment has been issued, the attachment of the defendant's wages continues until there is an order staying or vacating the attachment. When a tenant files a claim for exemption, the landlord can file a Motion requesting the court to direct the Prothonotary to issue a writ for attachment of wages and show why the landlord should be entitled to the wage attachment. A hearing can be held by the court.

If the defendant/tenant has not timely filed a claim for exemption of wages from attachment, the Prothonotary, without further court order, is directed to issue a writ for attachment. Otherwise, the Prothonotary must wait for an order of court to issue the writ for attachment for wages. The writ of attachment can be sent to the garnishee/employer and to the defendant/tenant by regular mail. The employer is required to send the attached wages to the Prothonotary of the Court of Common Pleas within fifteen (15) days from the close of the last pay period in each month. After the Prothonotary receives the attached wages, the Court of Common Pleas records the payment and sends the wages directly to the judgment creditor/landlord without necessity for a further court order. The forms for the Notice of Intent to Attach Wages, the certification by the judgment creditor, including the amounts of the judgments security deposit and other information are all provided within these procedural rules. The rules are available in their entirety under the "opinions and other matters published by the court" section through the AOPC website.

You must have a final judgment in order to pursue this action. If you have any questions regarding whether your judgment is final or whether you can attach wages upon your judgment,

contact an attorney to assist you. Note that landlords are able to attach no more than ten (10%) percent of the net wages per pay period, and cannot collect wages which would place the debtor's net income below the Poverty Income Guidelines currently in effect. Other exemptions may be available to an abused person or a victim, and law may develop further in that regard.

These new statewide rules will supersede local rules on the same topic, which have been enacted by various Courts of Common Pleas throughout Pennsylvania. With the small amount permitted to be attached, it may still take some time to collect from a tenant who is employed. However, with patience the entire amount of the outstanding judgment may now be collectable without expending significant amounts on court costs or attorneys fees. Thus, these rules will provide a wonderful opportunity for landlords to collect on heretofore uncollectible judgments.