

PENNSYLVANIA'S NEW WAGE ATTACHMENT RULES

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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.

If your eviction action was tried in County Common Pleas Court, either in arbitration or before a judge, you can proceed to the next step below. However, if your action was only heard by a District Judge, you need more information, even if you filed a transcript of your judgment in the Court of Common Pleas. Before you file for wage attachment, you need to have proof that your case was a residential eviction, that your tenant was either personally served by a Constable, or that he or she filed papers with the District Judge in response to your action or showed up in District Court for the hearing. For existing judgments, we have been asking District Judges for letters on their official letterhead addressing these issues.

The second step is to know or find out where the tenant works. It seems basic, but some of our clients didn't think they needed to know where the tenant worked to garnish wages. You do, because the employer ends up as a party to the garnishment. You should also have an idea how much money the tenant makes, and how many people are in the tenant's "family unit" living in the same household. This is because of the limitation on wage attachment for tenants under the poverty guidelines. You can't get anything from a tenant who is below the guidelines, and you can't take enough money to put a tenant below these guidelines. The guidelines are put out by the U.S. Department of Health and Human Services, but have been adopted by the PA Supreme Court and are available on the AOPC website, which is www.AOPC.org. You should check every few months for updates, but the current numbers are as follows:

**Supreme Court of Pennsylvania
Civil Procedural Rules Committee
Poverty Income Guidelines for 2006
Expressed in Monthly Amounts**

Pennsylvania Rule of Civil Procedure 3302(b) governs the attachment of wages, salary and commissions under Section 8127(a)(3.1) of the Judicial Code. The rule requires the Prothonotary to attach to the Notice of Intent to Attach Wages "the most recent poverty income guidelines issued by the Federal Department of Health and human Services as they appear on the web site of the Civil Procedural Rules Committee." The guidelines for 2006 are set forth in the following chart:

Size of Family Unit	Poverty Guideline Monthly Amount
1	\$ 817.00
2	\$1,100.00
3	\$1,383.00
4	\$1,667.00

5	\$1,950.00
6	\$2,233.00
7	\$2,517.00
8	\$2,800.00
For each additional person, add an additional	\$ 283.00

Note this is household income, so if more than one wage earner is in the household, you would add their incomes together. Once you reasonably believe your tenant's household earns above the guidelines, you'll need to sign the landlord's statement and get the papers filed with the court. Each county gets to decide its own filing fee:

Allegheny County's fee is:	\$46.50
Butler County's fee is:	\$26.50 (plus transcript adjustment fee of \$16.25)
Washington County's fee is:	\$23.00
Westmoreland County's fee is:	\$28.50

Call your County Prothonotary to get your fee. Of course, you'll need the appropriate papers to be prepared and filed with the Court, too.

The Sheriffs and Prothonotaries are still working out how they will handle service, and the costs, in various counties, but it should cost about the same as Sheriff's service of original process. This varies by County, and by the distance from the courthouse to the tenant's current address, but often runs around \$100.00.

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 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. For all of your current eviction actions, make sure the Constables serve the tenants in person, to preserve your right to get wage attachments.