

New laws protect Social Security, Veterans Benefits and other public benefits from garnishment

New state and federal laws protect two months of public benefits from bank account garnishments

New 2011 federal regulations, which went into effect on May 1, 2011, protect:

**Social Security and SSI
Veterans benefits
Federal Railroad retirement benefits and Railroad unemployment and sickness benefits
Federal Civil Service Retirement System benefits and Federal Employee Retirement System benefits**

A new 2011 Oregon law, Senate Bill 926, which went into effect on August 5, 2011, revises Oregon procedures to be consistent with the federal procedures, and protects:

**Public assistance payments from the state of Oregon or an Oregon state agency
Unemployment Compensation from the state of Oregon or an Oregon state agency
Payments from a public or private retirement plan
Workers Compensation
Black Lung benefits**

The protected amount is equal to the amount of benefits received in the last two months

The "protected amount" is an amount equal to the total of benefits received in the last two months before the garnishment if the benefits are received by direct deposit or electronic payment to the financial institution. This protected amount is not subject to garnishment if the recipient's bank account is garnished.

(NOTE: In 2009, Oregon became one of the first states to protect benefits from bank account garnishment, enacting a law which protected the amount of one month's benefits. These new 2011 laws increase the protected amount to two months' benefits.)

The benefits must be received by direct deposit or electronic payment

When a financial institution receives a writ of garnishment, it must perform an account review of the debtor's accounts to determine if any of these protected benefits have been received by direct deposit or electronic payment in the last two months prior to the garnishment. If so, the total amount of the benefits received during the last two months is protected from garnishment.

Benefits that are received by check and then deposited in the bank account are not protected from garnishment (but if they are exempt, the debtor can file a **Challenge to Garnishment** to recover them after they have been garnished). **SEE The difference between "protected from garnishment" and "exempt from garnishment."**

The benefits are automatically protected

The debtor/beneficiary does not have to do anything to receive the protection. Under previous Oregon law, financial institutions could require persons opening new accounts to fill out an Affidavit to identify such benefits. Under the new laws, the protection is automatic. It will not be necessary to fill out an Affidavit.

There will be no garnishment fees against protected amounts

The new laws prohibit a financial institution from charging any garnishment fees against any protected amount.

The debtor will receive a notice from the financial institution with details about the garnishment and the protected amount

When a financial institution receives a writ of garnishment, it must send a notice to the debtor which explains the garnishment and specifies the name of the garnishment creditor, the balance in the account(s), the protected amount, the amount subject to garnishment, and any garnishment fees. [SAMPLE NOTICE](#)

The difference between "protected from garnishment" and "exempt from garnishment"

Property that is "EXEMPT from garnishment" can be seized by a judgment creditor, and the debtor has to go to court to get it back, which may take several months.

All Social Security and SSI, and up to \$7,500 in exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, remain exempt when deposited in a bank account.

Property that is "PROTECTED from garnishment" cannot be seized by a judgment creditor, so the debtor does not lose use of the money and does not have to go to court to get it back.

Some benefits, such as Social Security and SSI, are both "PROTECTED from garnishment" and "EXEMPT from garnishment."

Amounts in excess of the protected amount may be garnished but may still be recovered if they are exempt benefits

If the account contains more than the protected amount, the excess amount will be garnished, and the debtor will have to file a Challenge to Garnishment to recover any amounts which are exempt.

For example, if a person receives direct deposit of Social Security benefits in the amount of \$1,000 per month, but has a total of \$2,500 in Social Security benefits in their account when the bank receives the writ of garnishment, the bank will protect \$2,000 and will pay \$500 to the creditor.

-- But since all Social Security benefits remain exempt when placed in a bank account, the debtor can file a Challenge to Garnishment to recover the \$500 that was paid to the creditor.

-- On the other hand, if the \$500 excess amount did not come from Social Security or other exempt benefits, the creditor would be entitled to keep the garnished funds.

Additional information and resources

Before benefits were protected from bank account garnishments, any bank account could be garnished even if it contained such benefits. The debtor then had to file a Challenge to Garnishment and go to court to recover the benefits. The court process often took several months during which time the debtor did not have use of their benefits for food, shelter, utilities, medical needs and other expenses. Even if the debtor eventually recovered the funds, they could owe hundreds of dollars in bank garnishment fees, overdraft fees, and late charges, and could face eviction, utility shut-offs and other hardships due to the loss of their benefits.

[Notice of exempt property and instructions for challenge to garnishment](#) - a list of all Oregon exemptions and instructions for filing a Challenge to Garnishment in court to recover exempt money which has been garnished by a creditor (*the debtor should receive a copy of this form if they have any money garnished)

[Challenge to Garnishment form](#) - a form which the debtor may file with the court to recover money which is exempt from garnishment or which was improperly garnished (*the debtor should receive a copy of this form if they have any money garnished)

[Information for Debtors - How to protect your assets from creditors in Oregon](#) - more information about debts, judgments, debt collection and garnishment