



VIRGINIA
LEGAL AID
SOCIETY

After the Court Has Already Issued a Judgment

WHAT CAN HAPPEN AFTER SOMEONE OBTAINS A JUDGMENT AGAINST ME?

Once someone obtains a money judgment against you, that judgment accrues interest until it is paid in full. Generally, that rate is the standard judgment rate, currently 6% per year, and interest starts accruing from the date of the judgment. If you had signed a contract agreeing to pay a higher rate of interest, that rate of interest would apply. In some situations, including those in which there was a contract for interest, interest could start accruing from a date earlier than the date of judgment.

There are several steps a creditor can take to collect **after** getting a judgment against you. You **cannot**, however, be put in jail for not paying a bill.

These things are listed below.

First, a creditor could try to garnish your employment wages. A regular judgment creditor can only take a maximum of 25% of your wages after taxes. You must be left with at least 40 times minimum wage after taxes (\$290.00) each week. If you have dependent minor children and your gross household income does not exceed \$1,750 per month, then you can claim additional exempt wages per week, as follows: \$34 for one child, \$52 for two children, and \$66 for three or more children.

Regular creditors cannot garnish Social Security benefits and most other public benefits. Social Security and other public benefits can be garnished for child or spousal support, or for some debts due to the government.

Second, a creditor could try to levy on personal property you own. Most personal property such as furniture and clothes is exempt. If any creditor tries to levy on property

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you own, contact Virginia Legal Aid Society or a private attorney immediately for further assistance.

A creditor could try to garnish your bank accounts. A creditor can obtain all the money in your bank account up to the amount of the judgment, plus interest and court costs. If you only have Social Security or other exempt funds in your account, however, you can get that money back by filing an exemption claim with the court.

If you have federal benefits, such as Social Security or SSI, directly deposited into your bank account, the bank is required to protect up to two months' worth of such deposits from garnishment and can't freeze those funds. The bank must make those two months' worth of federal benefits fully available to you for writing checks, making withdrawals, etc. If you have funds in your bank account in addition to two months' worth of directly deposited federal benefits, then you will need to file a claim of exemptions in court to get those additional funds released to you. Also, the bank is not allowed to charge any garnishment fees against the protected federal benefits. However, if it's the federal government or a state child support agency that's trying to garnish your bank account, then these rules on protecting your direct-deposited federal benefits do not apply.

A creditor could also place a lien against your real estate. A judgment creditor can even bring a separate lawsuit to force the sale of your property to pay its judgment. This very rarely happens, however. Usually the judgment creditor just places a lien against your real estate by docketing the judgment in the Circuit Court of the county where you own land. If and when you try to sell the property, the buyer makes sure you pay the judgment off at the time the property is sold.

You could be summoned into court to answer debtors' interrogatories about what property and income you have. If you receive a summons to appear, then you do have to go to court. If you do not appear, the court can hold you in contempt and even jail you for failure to appear.

In addition to the specifically listed items of exempt personal property, an individual can claim an additional \$5,000.00 exemption (\$10,000 if 65 or older) in personal or real property by preparing and filing a homestead deed. An additional \$10,000 can be claimed by disabled veterans. The amount a person can homestead, however, is a lifetime amount. (If a person homesteads \$5,000.00 worth of property, he or she cannot claim an additional \$5,000.00 homestead exemption in the future.)

Even if someone obtains a judgment against you, you can continue to make payments on the bill, as you are able to do so. Remember, however, that your current bills, such as your mortgage, electricity, and telephone are more important and should be paid first. If your debts exceed your assets or you are at risk of losing property because of

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post judgment collection activities, you might also consider discussing your options with an attorney who handles bankruptcy cases.

Paying off the judgment in full, including interest and any fees or costs ordered by the court, is called “satisfaction of the judgment.” The judgment creditor is required to notify the clerk of court within 30 days after the debtor has fully paid off (satisfied) the judgment. The clerk will then mark it on the docket as satisfied. If the creditor fails to notify the clerk within 30 days after satisfaction, then the debtor may make a motion to the court to have the judgment marked as satisfied. If the debtor can prove it was paid off in full, then the judge will order that the record show the judgment as being satisfied. The judge may also require the creditor to pay the debtor for the costs of making this motion.

If you are served with any papers about court or a judgment you owe, do not ignore them. If you are unsure what they mean, contact Virginia Legal Aid Society (1-866-543-5243) or any private attorney of your choice for further advice.

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Free Legal information by Web and Phone: www.vlas.org and
1-866-LegalAid (534-5243)

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