

60-734. Order of garnishment when garnishment is to attach earnings; service of process; length of and effect of order; administrative fee; accounting and record. This section must apply if the garnishment is to attach earnings of the judgment debtor.

(a) The order of garnishment must be substantially in compliance with the forms set forth by the judicial council.

(b) The order of garnishment and the appropriate form for the garnishee's answer must be served on the garnishee in the same manner as process is to be served pursuant to K.S.A. 60-301 through 60-313, and amendments thereto, at the garnishee's business or office location and this must be considered proper service. A copy of the answer form must be served if the garnishment order is not served electronically. If the party having requested the garnishment is notified by the garnishee that the judgment debtor has never been employed by the garnishee or the judgment debtor's employment has been terminated, the party seeking the garnishment must forthwith file a release with the clerk of the court of such garnishment.

(c) The order of garnishment must have the effect of attaching the nonexempt portion of the judgment debtor's earnings for all pay periods which end while the order is in effect. The order must remain in effect until either of the following occur, whichever is sooner: (1) The judgment is paid; or (2) the garnishment is released. The party for whom the garnishment is issued must file a release with the clerk of the court upon satisfaction of the judgment and provide a copy thereof to the defendant and garnishee. Nonexempt earnings are earnings which are not exempt from wage garnishment pursuant to K.S.A. 60-2310, and amendments thereto. Computation of the nonexempt portion of the judgment debtor's wages for the pay period or periods covered by the order must be made in accordance with the directions accompanying the garnishee's answer form pursuant to the order of garnishment. The order of garnishment must also constitute an order of the court directing the garnishee to pay to the judgment creditor all earnings which are to be withheld by the garnishee under the order of garnishment as more particularly provided in the answer of the garnishee. A party or the court may request a written explanation of the garnishee's computations of earnings withheld during any pay period and the explanation must be submitted by affidavit to all parties and the court within 14 days after such request. Service of the request must be in the same manner as process is to be served pursuant to K.S.A. 60-301 through 60-313, and amendments thereto.

(d) Except as provided further, from income due the judgment debtor, the garnishee may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each 30 day period for which income is withheld. From income due the judgment debtor, which is child support, the garnishee may withhold and retain to defray the garnishee's costs, an administrative fee of \$10 for each 30 day period for which income is withheld. Such administrative fee must be in addition to the amount required to be withheld under the order for garnishment. If the addition of this fee causes the total amount withheld to exceed the restrictions imposed by subsection (b) of K.S.A. 60-2310, and amendments thereto, the fee must be deducted from the amount withheld.

(e) The party having requested the garnishment must provide the garnishee the unsatisfied balance of the judgment at the time of issuance of the order of garnishment.

(f) For any continuing garnishment, the party having requested the garnishment must maintain an accounting and record of the judgment reflecting thereon all garnishment proceeds received and applied, all interest accrued thereon, and any and all credits applied in satisfaction thereof, and the remaining unsatisfied balance of such judgment. The party requesting the garnishment must produce a copy of such accounting and record upon request of the court. The garnishee may request in writing by first class mail the unsatisfied balance from the judgment creditor or, if represented by an attorney, such request may also be by facsimile or electronic mail with read receipt confirmation. If the garnishee fails to receive a response within seven days following the request, the garnishee may submit a written statement to the judgment creditor or, if represented, to the judgment creditor's attorney, in the same fashion as the original request, advising that the garnishee intends to stop withholding earnings pursuant to the garnishment order 14 days following the date of the statement unless the garnishee receives written notice of objection from the judgment creditor or judgment creditor's attorney, as well as the requested unsatisfied balance. If no objection is timely received by the garnishee, the garnishee will thereafter have no duty to withhold earnings.

History: L. 2002, ch. 198, § 7; L. 2010, ch. 85, § 1; July 1.