

6-20/550.00 Public Entities Immune from Garnishment

• 6-20/550.10 State and Local Governments

Unless authorized by statute, a public entity is not subject to garnishment. ([Irilarry v. City of San Diego, 186 CA 535](#)) This exemption cannot be waived by their officers or agents. ([Vaughn v. Condon, 52 CA 713](#)) City and county housing authorities come under this exemption. If money is owing and unpaid to the judgment debtor by a public entity, the judgment creditor may file, in the manner provided in this article, an abstract of the money judgment or a certified copy of the money judgment, together with an affidavit that states that the judgment creditor desires the relief provided by the article and states the exact amount then required to satisfy the judgment. The judgment creditor may state in the affidavit any fact tending to establish the identity of the judgment debtor.

Promptly after filing the abstract or certified copy of the judgment and the affidavit with the public entity, the judgment creditor shall serve notice of the filing on the judgment debtor. Service shall be made personally or by mail. ([CCP 708.730](#)) Earnings of a public employee are subject to wage garnishment. ([CCP 706.010-706.154](#))

• 6-20/550.20 Federal Government

Except for earnings withholding orders, the United States Government is not subject to garnishment. ([Buchanan v. Alexander, 45 U.S. 20, 4 Howard 20](#); [U.S. v. Morton, 467 U.S. 822, 104 S.Ct. 2769](#))

Patent rights cannot be garnished. ([Peterson v. Sheriff, 115 C 211](#))

• 6-20/550.30 Bail or Other Property in Custody of Officer

Even though a political agency may not be subject to attachment or execution, an official of such agency may, under some circumstances, be subject to garnishment when he has property of the debtor in his possession or under his control. For example, a garnishment may be effectively served upon an officer of the law, such as a chief of police or sheriff, who is holding property, not under the custody of the law, as bailee of the debtor. ([Coffee v. Haynes, 124 C 561](#))

Property of a prisoner taken from him upon his arrest by an officer charged with that duty is not subject to attachment or garnishment. By reason of public policy, it is held to be *in custodia legis* in order to avoid any possible abuse of criminal process. This rule does not apply, however, where the property was taken after a final conviction in a criminal case. ([Emmanuel v. Sichofsky, 198 CA 713](#)) Another exception to this rule is that a garnishment may be enforced where it appears that criminal process has not been abused, and the money garnished was obtained by the criminal acts of the debtor from the attaching claimant. ([Golden Gate C.P. Co. v. Superior Court, 1 CA 2d 426](#))

Bail money deposited with the clerk of the court in a criminal case may be reached by a creditor of the depositor through an ordinary garnishment served on the clerk of the court after the bail has been exonerated. ([Dunsmoor v. Furstenfeldt, 88 CA 522](#); [Credit Bureau of San Diego v. Getty, 61 CA 2d Supp. 823](#))

Trust funds held by the county treasurer are, in legal contemplation, in the possession of the official or agency that deposited the funds, with the county treasurer as its depository. ([Jensen v. Evans, 13 CA 2d 401](#); [Credit Bureau of San Diego v. Getty, 61 CA 2d Supp. 823](#))
