

3100. GARNISHMENT POLICY

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Purpose

Resource One Credit Union currently administers and responds to garnishment orders, and already maintains records related to the actions taken in response to garnishment orders. Effective May 1, 2011, financial institutions that receive a garnishment order for an account are required to determine whether any Federal benefit payments were deposited to the account within 60 calendar days prior to receipt of the order and, if so, the financial institution is required to ensure that the account holder has access to an amount equal to the sum of such payments in the account or to the current balance of the account, whichever is lower. This policy demonstrates Resource One Credit Union's compliance with this rule.

Determination

The first action Resource One Credit Union takes when it receives a garnishment order is to determine whether the order was obtained by the United States or issued by a State child support enforcement agency . Resource One Credit Union also checks to see whether the order is accompanied by a Notice of Garnishment by the United States. For orders obtained by the United States, the financial institution would follow its otherwise customary procedures for handling the order. For all other orders, the credit union follows the procedures detailed in the following section.

Procedure

Once Resource One Credit Union determines the order was not obtained by the United States or issued by a State child support enforcement agency, the credit union reviews the history of the account being garnished to determine if a benefit payment was deposited into the account during the look back period (60 calendar days prior to the receipt of the order). This review includes each account owned by an individual, whether a consumer or business account. The requirement to perform an account review applies to the deposit account receiving a federal benefit payment. The final rule clarifies how the requirement applies to a master account versus a sub-account. If no benefit payments were deposited to the account during the look back period, then Resource One Credit Union follows its otherwise customary procedures for handling the order. If a benefit payment was deposited into the account during the look back period, then Resource One Credit Union follows the procedures detailed in the following section.

Protected Amount

Resource One Credit Union calculates the protected amount available to the member. “Protected amount” is defined as the lesser of (i) the sum of all benefit payments deposited to the account during the look-back period or (ii) the balance in an account on the date of account review. The credit union shall not freeze, or otherwise restrict the member’s access to, the protected amount.

Garnishment Fee

The Credit Union may not charge or collect a garnishment fee from the protected amount. However, may charge or collect a garnishment fee up to five business days after the account review, in the event that non-benefit funds become available. The fee may not exceed the amount of non-benefit deposited funds. Additionally, you may collect a garnishment fee from accounts or sub-accounts that do not contain the protected amount, in accordance with the member agreement and any applicable laws.

Notice to Account Owners

To ensure that members are aware of their rights to challenge a garnishment order Resource One Credit Union will deliver a notice explaining these rights to the owner of any account for which it conducted an account review and to which an exempt payment was directly deposited during the look-back period. The notice shall include certain information, as specified by the rule, and is sent within two business days of the completion of the account review. The Credit Union may deliver the notice to the account owners electronically pursuant to the E-Sign Act requirements.

Subsequent Action

Resource One Credit Union shall execute the account review one time upon the first service of a given garnishment order. If the same garnishment order is subsequently served again upon the financial institution, Resource One Credit Union is not required to perform another account review and is restricted from taking any action on the account. If Resource One Credit Union is subsequently served a new or different garnishment order against the same account, it shall execute a new account review. Resource One Credit Union may not require an account holder to waive any protection available under the rule, nor may it include in an account agreement terms inconsistent with the requirements of the proposed rule.

Records

Resource One Credit Union will continue to maintain records of account activity and actions taken in handling garnishment orders sufficient to demonstrate compliance with all rules for at least two years from the date of receipt of a garnishment order.

Historical Record of Policy Changes

Date Revised: May 2011

Date Ratified: May 2011

Section of Policy Change:

New Policy

Date Revised: April 2016

Date Ratified: April 2016

Section of Policy Change:

Determination

Added orders issued by a State child support enforcement agency.

Procedure

Added: This review includes each account owned by an individual, whether a consumer or business account. The requirement to perform an account review applies to the deposit account receiving a federal benefit payment. The final rule clarifies how the requirement applies to a master account versus a sub-account.

Garnishment Fee

Added: The Credit Union may not charge or collect a garnishment fee from the protected amount. However, may charge or collect a garnishment fee up to five business days after the account review, in the event that non-benefit funds become available. The fee may not exceed the amount of non-benefit deposited funds. Additionally, you may collect a garnishment fee from accounts or sub-accounts that do not contain the protected amount, in accordance with the member agreement and any applicable laws.

Notice to Account Owners

Added: The Credit Union may deliver the notice to the account owners electronically pursuant to the E-Sign Act requirements.

Records

Added: For at least two years from the date of receipt of a garnishment order.

Revised: April 2016

Ratified: April 2019