



October 29, 2007

Office of the Comptroller of the Currency  
250 E Street, SW, Mail Stop 1-5  
Washington, DC 20219  
Attn: Docket ID OCC-2007-0015

Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
Attn: Docket No. OP-1294

Mr. Robert E. Feldman, Executive Secretary  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
Attn: Comments

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G. Street, NW  
Washington, DC 20552  
Attn: ID OTS-2007-0018

**Re: Proposed Guidance on Garnishment of Exempt Federal Benefit Funds**

Federal Banking Regulators:

Thank you for the opportunity to present comments on the above-referenced proposal. The Kansas Bankers Association is a non-profit trade organization with 338 of the 340 Kansas banks as members.

We appreciate the concern on behalf of the federal banking regulators with regard to garnishments procedures and the hardship that a garnishment may cause on account holders when exempt Federal benefit funds are involved.

## **Garnishment of Exempt Federal Benefit Funds**

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We would first like to point out that typically, when a bank receives a garnishment to be processed, it is because one of its customers has been on the receiving end of a judgment. The garnishing party is the judgment creditor and the garnished customer is the judgment debtor. The bank (garnishee) is in no way privy to the cause of action or any of the court proceedings as it is typically not a party to the case. It becomes involved in the process merely because it is the holder of the funds which are subject to the judgment. In other words, the bank does not receive any benefit from the judgment because it is really just a third party to the underlying issue.

The procedures that Kansas banks must follow with regard to processing garnishments on customers of the bank are found in the Kansas Code of Civil Procedure. State law is very specific with regard to the actions a bank must take after receiving a garnishment. Under Kansas law, a garnishee (bank being garnished) must file an Answer with the Clerk of the Court within ten days of receiving the garnishment. Within ten days of receiving the Answer, the Clerk of the Court must send a Notice to the garnished customer/judgment debtor which explains the garnishment process and the types of funds that are exempt from attachment or execution by the judgment creditor.

Kansas law specifically places the burden to claim that the funds in the garnished account are exempt from garnishment on the shoulders of the garnished customer. At the very latest, this claim could be made before the Court within 20 days of the funds being temporarily frozen. In most cases, all required notices are sent prior to the ten-day deadline and so a claim of exemption could be registered even earlier.

Kansas, like most states, has a body of case law on the subject of garnishments that supplements the state civil procedure code. Every bank is charged with the knowledge of this as well, as case law has provided guidance on such issues as joint accounts and priorities among competing creditors.

It is possible that some states have not adequately addressed the prompt identification of the exemption of funds that are the subject of a garnishment, however, we believe it is a matter for state legislatures to decide. As mentioned before, the role of the garnishee is purely procedural. Once a procedure is established by state law through the state's civil procedure code, it is the obligation of the garnishee to follow that law to the letter. If a garnishee fails to comply, there are penalties in place that serve as punishment.

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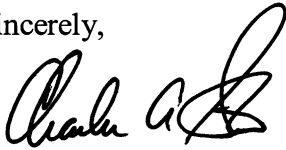
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In conclusion, we would strongly urge the Federal banking agencies to recognize the work that the state legislatures have done in this area. We believe that procedural matters such as these are the purview of the state lawmakers. Regardless of new guidance issued as a result of this proposal, every bank is still bound to comply with the state law in submitting its Answer to the Court and ultimately, submitting funds in accordance with the Court's Order. As described, Kansas law does provide protection to the garnished customer having exempt funds in the account which is the subject of the garnishment.

It is unfortunate, but our members find that they are inundated with garnishments on any given day. It would be unduly burdensome to expect the financial institution/garnishee to monitor the contents of every garnished account.

Again, thank you for the opportunity to present comments on this very important issue.

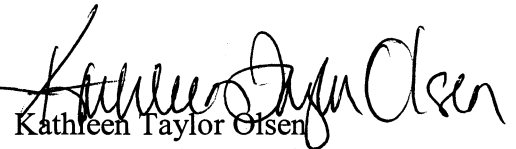
Sincerely,



Charles A. Stones  
President



Terri D. Thomas  
SVP-Director of Legal



Kathleen Taylor Olsen  
SVP-General Counsel