



Ohio Revised Code

Section 2329.70 Application for appointment of trustee.

Effective: March 30, 1999

Legislation: Senate Bill 170 - 122nd General Assembly

Any person upon whom a demand has been made in accordance with section 2716.02 of the Revised Code may apply to any judge of a county court or judge of a municipal court within this state in whose jurisdiction the person resides or, if the person is not a resident of this state, in whose jurisdiction the person's place of employment is located for the appointment of a trustee to receive that portion of the personal earnings of the debtor that is not exempt from execution, garnishment, attachment, or proceedings in aid of execution and any additional sums that the debtor voluntarily pays or assigns to the trustee. The person shall file with the person's application a full, accurate, and complete statement, under oath, of the names of the person's secured and unsecured creditors with liquidated claims, their addresses, and the amount due to each of them. Upon that application and filing, the judge shall appoint a trustee to distribute the funds to the creditors of the debtor at the time of the application and filing.

If a debtor fails, through mistake or otherwise, to list a creditor, that creditor or debtor may apply to the court, with notice to the other party, to list the omitted creditor in the trusteeship. Any person who becomes a creditor after the appointment of a trustee may be listed in the trusteeship, and that creditor shall share in any distribution made by the trustee after the next ensuing distribution.

No proceedings in garnishment, attachment, or aid of execution or other action or proceeding to subject the personal earnings of the debtor to the payment of claims shall be brought or maintained by any creditor as long as at least the amount of the personal earnings of the debtor that is not exempt from execution, garnishment, attachment, or proceedings in aid of execution is paid to the trustee at regular intervals as fixed by the county court judge or the municipal court judge. This section does not prohibit creditors from recovering judgment against the debtor or prohibit levy, under a writ of attachment or execution, upon any other property that is not exempt from execution.

The maintaining of proceedings in garnishment, attachment, aid of execution, or otherwise in violation of this section is prohibited and may be prevented by a writ of prohibition in addition to all other remedies provided by law. The judge of the county court or municipal court shall provide by



rule or otherwise for notice to creditors, the authentication and proof of claims, the time and manner of payment by the debtor, the distribution of funds, the bond of the trustee if required, and all other matters necessary or proper to carry into effect the jurisdiction conferred by this section.

The personal earnings of the debtor that are exempted by law shall not be liable to the plaintiff for the costs of any proceedings brought to recover a judgment for debt, damage, fine, or amercement or for the costs of any proceedings in garnishment, attachment, or aid of execution to satisfy that judgment, if the debtor has listed that creditor as to name, amount of that creditor's claim, and the amount due on that claim and makes payment as provided for in this section.

Upon an application for a trustee, a judge of the court in which the application is made shall designate the clerk of the court to act as trustee, and the clerk shall serve as trustee without additional compensation. The clerk's official bond shall be construed as conditioned upon the fulfillment of the trust, and no additional bond shall be required.

The trusteeship shall terminate upon the failure of the debtor to make the payments required by this section in accordance with the rules established by the county court or municipal court. The privileges conferred by this section that exempt that debtor's personal earnings from proceedings in garnishment, attachment, or aid of execution or any other action or proceeding to subject the personal earnings of that debtor to the payment of claims or judgments shall terminate upon that neglect.

If a trusteeship is dismissed for nonpayment as provided by this section, the trusteeship shall not be reinstated, and the debtor shall not be permitted to file for a new trusteeship for a period of six months from date of the dismissal of the trusteeship, unless, upon motion supported by affidavit, the debtor proves to the satisfaction of the court that the failure to maintain the trusteeship agreement was not due to willful neglect.