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#### TCA§ 26-2-217(c)(1) & (2)

"(1)... duty of the court <u>clerk promptly to</u> <u>notify the garnishee of the satisfaction of the</u> <u>judgment</u> and the expiration of the lien of garnishment.

(2) The judgment creditor shall notify the court clerk of the balance due upon a judgment whenever the creditor causes the issuance or revival of a garnishment thereon.

Furthermore, the judgment creditor shall notify the court clerk when the judgment has been satisfied."

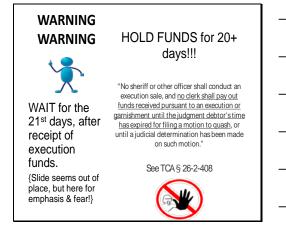
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## Look for <u>3 things</u>, before issuing/signing the <u>execution form</u>. [See TCA 26-1-203 & TRCP 62]:

- Final Judgment is, at least, 30 days old. {Clerk should count the 1st day the day after the entry/filing date of the Judgment.}
- No MOTION(s) filed, i.e. Motion to Alter or Amend, Motion for New Trial, etc.
- No satisfaction of judgment filed.









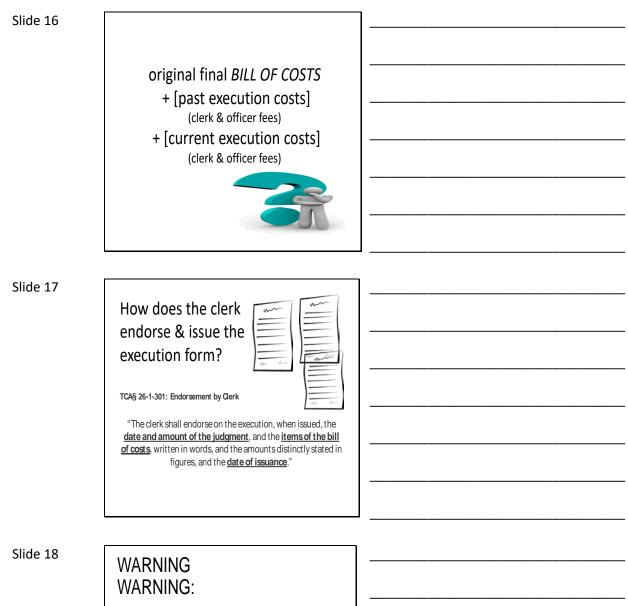
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## TIP: 💽

Clerk may want to ensure that the balance due on the *BILL OF COSTS*, is included within the TOTAL amount wanted from the execution, in addition to the clerk's fee for issuance.







"Any clerk neglecting § 26-1-301 or § 26-1-302 is liable to a penalty of one hundred twenty-five dollars (\$125), to be recovered by action, one-half ( $\frac{1}{2}$ ) to the informer and the other one-half ( $\frac{1}{2}$ ) to the state, to damages at the suit of the party aggrieved, and commits a <u>Cass C</u> misdemeanor, for which, on conviction, such <u>clerk shall</u> یں در conviction, <u>be removed</u> from office." See TCA§ 26-1-303.



## Rule Docket Entries Required (or possible jail\*)

The clerk shall also enter upon the execution docket {now, <u>computerized rule docket entry</u>} the date of the issuance of such execution, and to what county and officer issued; the return of the officer, with the date of such return; the dates and amounts of all moneys received into or paid out of the office thereon; the <u>entries to be made at the time of the issuance, receipt, or</u>

payment, as the case may be.

See TCA § 26-1-302 & See TCA § 26-1-303\*.

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#### \$25 STANDARD POST-JUDGMENT CLERK FEE [TCA8-21-401(i)(1)]

**FEES** 

"Unlessotherwise provided, court clerks in criminal and civil cases in all courts shall charge a standard post-judgment fee of twenty-five dollars (\$25.00). This fee shall be charged per occurrence and shall be charged regardless of whether judgment is enforced by garnishment, execution, levy or other process. This fee shall also apply to post-judgment interrogatories, publications, motions to set installment payments, and orders and pleas."

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## FEES continued...

SHERIFFS & CONSTABLES [TCA 8-21-901(a)(2) & (5)]

(A)For a **levy** of an execution **on property** or levy of an attachment or other process to seize property for the purpose of securing satisfaction of a judgment yet to be rendered or for executing a writ of replevin or writ of possession

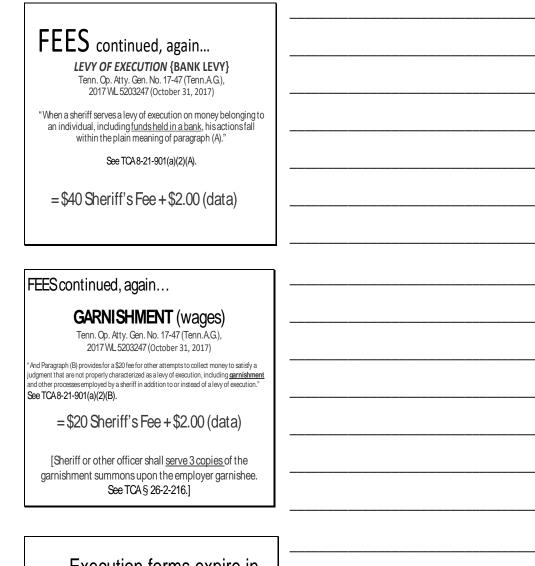
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(B)For collecting money to satisfy a judgment, whether by execution, fieri facias, garnishment or other process, in civil cases each time collection is attempted

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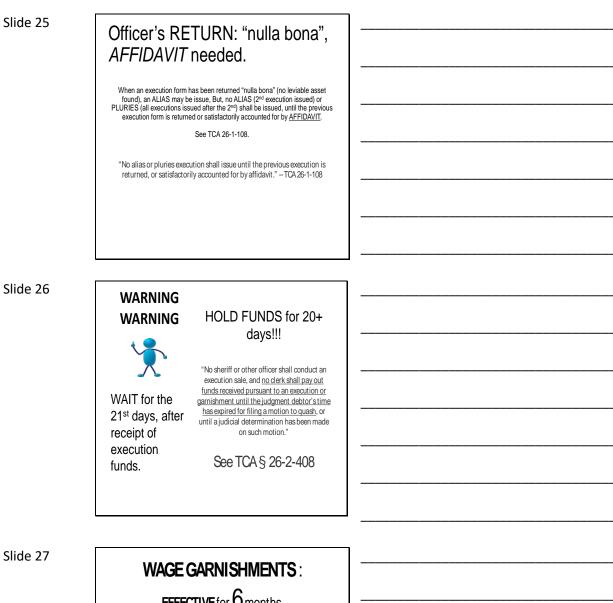
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# Execution forms expire in 30 days!

All executions issuing from the Supreme Court, Court of Appeals, **Circuit, Chancery, Criminal** and special courts, as well as **Ceneral Sessions**, shall be returnable within thirty (30) days after the date of their issuance. See TCA § 26-1-401.



## WAGE GARNISHMENTS : EFFECTIVE for 6 months. 2018 Amendment to TCA 26-2-216(b)(2) RE Garnishment Summons NOTICE substitution of "earnings" for "wages", and "six (6) months" for "three (3) months"

#### ${\tt See } \underline{language in the execution form} \{ {\tt found in \, TCA \, \S \, 26-2-216} \}:$

"The garnishment creates a lien on a portion of your earnings until the judgment is satisfied, or for six (6) months, whichever occurs first."

See also TCA § 26-2-214:

"The <u>lien shall continue</u> as to subsequent earnings <u>until the total amount due</u> upon the judgment and costs is paid or satisfied, or until the expiration of the payment period immediately prior to **six (6) calendar months** after service of the execution, whichever occurs first."

### WARNING WARNING:

"Any clerk, who fails or refuses to issue execution as prescribed in this section, forfeits five hundred dollars (\$500), to be recovered by action, and is <u>liable</u> to the party aggrieved in damages, and commits a <u>Class Cmisdemeanor</u>, for which, upon conviction, such <u>clerk shall be removed</u> from office."

See TCA § 26-1-207.



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## \$10,000 Personal Property Exemption\*, plus<u>other exemptions</u>

Each defendant is entitled to file a personal property exemption up to \$10,000, which may include items of personalty, money & bank account funds. - TCA\$ 26-2-103

Other exemptions include necessary wearing apparel, family pictures, family Bible, school books, State pensions, certain retirement plan funds, certain medical/health savings, certain insurance benefits, implements, professional books, or tools of the trade (\$1,900 in value), VAbenefits, Social Security benefits, unemployment compensation, Families First program benefit or local public assistance benefit, disability/illness /unemployment benefit.

THERE ARE FORMS FOR THIS!!!

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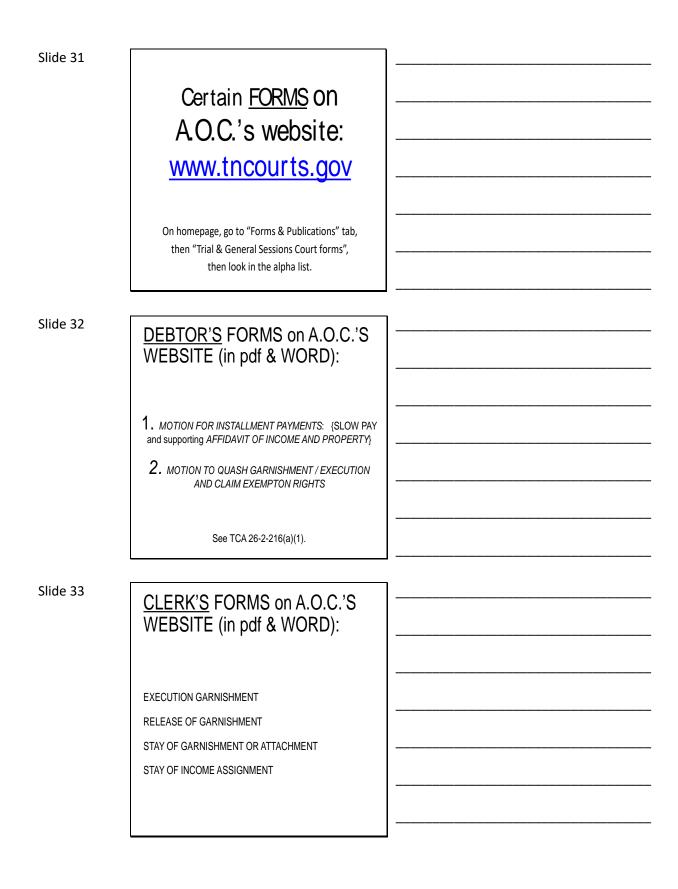
See TCA§ 26-2-103, 104, 105, 110, 111.

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# CTAS has required forms: www.ctas.tennessee.edu

#### See TCA § 26-2-409

"The University of Tennessee county technical assistance service shall provide clerks of court with forms for judgment debtors to use in filing a motion to quash an execution or garnishment on the ground of exemption rights, in otherwise asserting their exemption rights, or in filing a motion to pay a judgment by installments."





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## JUDGMENTS: alive for 10 years

Tennessee Rules of Civil Procedure Rule 69.04

Creditor can file a <u>MOTION TO EXTEND JUDGMENT</u> for another 10 years. Copy of the motion shall be mailed [by the judgment creditor] to the last known address of the judgment debtor.

If <u>no response</u> is filed by the judgment debtor within 30 days of the filed MOTION, the <u>MOTION shall be granted without further notice or hearing</u>, and an ORDER extending the judgment shall be entered by the court.

If a <u>response</u> is filed within 30 days of the filing date of the MOTION, the MOTION should be <u>set for hearing</u>.

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Duty of "*Garnishee"* [3<sup>RD</sup>party holding debtor's property]

Tennessee Rules of Civil Procedure Rule 69.05(1)

"Awrit of garnishment served on a garnishee holding property of the judgment debtor <u>requires the garnishee</u> to answer the writ and <u>make an accounting to the court</u>.

Property includes a judgment debtor's realty, personalty, money, wages, corporate stock, choses in action (whether due or not), and court judgments."

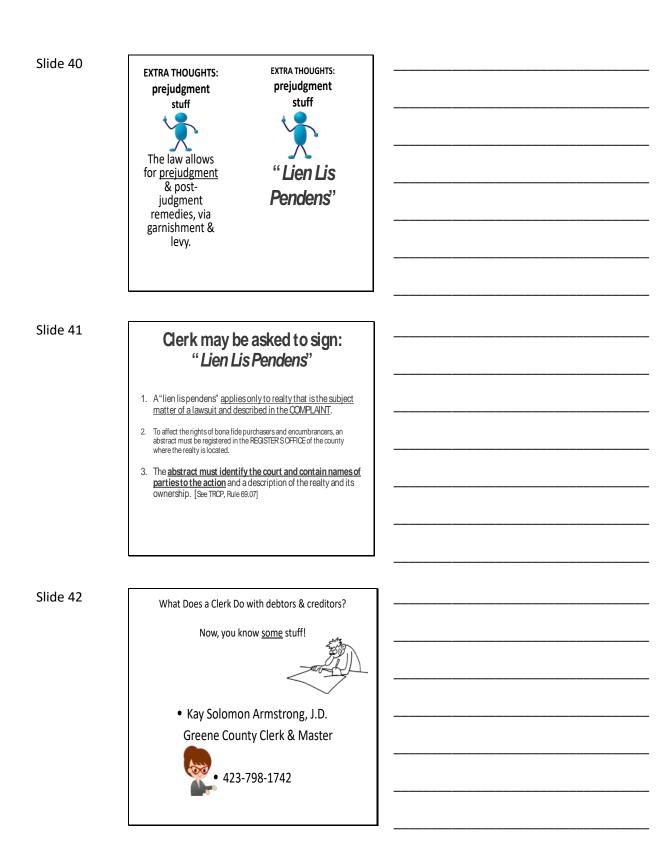
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Duty of "Garnishee" continued....

Tennessee Rules of Civil Procedure Rule 69.05(3)

Within **10 days** of service, the <u>garnishee shall file a written</u> <u>answer with the court accounting for any property</u> of the judgment debtor held by the garnishee.

Within **30 days** of service, the <u>garnishee shall file with the court</u> <u>any money or wages</u> (minus statutory exemptions) otherwise payable to the judgment debtor.



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