

§ 63.2-1929. Orders to withhold and to deliver property of debtor; issuance and service; contents; right to appeal; answer; effect; delivery of property; bond to release; fee; exemptions

A. After notice containing an administrative support order has been served or service has been waived or accepted, an opportunity for a hearing has been exhausted, and a copy of the order furnished as provided for in § 63.2-1916, or whenever a court order for child or child and spousal support has been entered, the Commissioner is authorized to issue to any person, firm, corporation, association, or political subdivision or department of the Commonwealth orders to withhold and to deliver property of any kind, including, but not restricted to, income of the debtor, when the Commissioner has reason to believe that there is in the possession of such person, firm, corporation, association, or political subdivision or department of the Commonwealth property that is due, owing, or belonging to such debtor. The orders to withhold and to deliver shall take priority over all other debts and creditors under state law of such debtor, including the proceeds or anticipated proceeds of a personal injury or wrongful death award or settlement, except that the Department's lien shall be inferior to those liens created under § 8.01-66.2 or 8.01-66.9, any statutory right of subrogation accruing to a health insurance provider, and the lien of the attorney representing the injured person in the personal injury or wrongful death action. However, orders to withhold and to deliver shall not take priority with respect to a prior payroll deduction or income withholding order pursuant to § 20-79.1, 20-79.2, 63.2-1923, or 63.2-1924. The Department shall have the sole authority to negotiate settlement of its liens. Settlement of the Department's support liens does not affect the remaining support arrearages.

B. The order to withhold shall also be served upon the debtor within a reasonable time thereafter, and shall state the amount of the support debt accrued. The order shall state in summary the terms of §§ 63.2-1925 and 63.2-1930 and shall be served in the manner prescribed for the service of a warrant in a civil action, by certified mail, return receipt requested, or by electronic means. The order to withhold shall advise the debtor that this order has been issued to cause the property of the debtor to be taken to satisfy the debt and advise of property that may be exempted from this order. The order shall also advise the debtor of a right to appeal such order based upon a mistake of fact and that if no appeal is made within 10 days of being served, his property is subject to be taken.

C. If the debtor believes such property is exempt from this debt, within 10 days of the date of service of the order to withhold, the debtor may file an appeal to the Commissioner stating any exemptions that may be applicable. If the Commissioner receives a timely appeal, a hearing shall be promptly scheduled before a hearing officer upon reasonable notice to the obligee. The Commissioner may delegate authority to conduct the hearing to a duly qualified hearing officer who shall consider the debtor's appeal. Action by the Commissioner under the provisions of this chapter to collect such support debt shall be valid and enforceable during the pendency of any appeal.

The decision of the hearing officer shall be in writing and shall set forth the debtor's rights to

appeal an adverse decision of the hearing officer pursuant to § [63.2-1943](#). The decision shall be served upon the debtor in accordance with the provisions of § [8.01-296](#), [8.01-327](#), or [8.01-329](#), mailed to the debtor at his last known address by certified mail, return receipt requested, or provided by electronic means or service may be waived. A copy of such decision shall also be provided to the obligee. Such decision shall establish whether the debtor's property is exempt under state or federal laws and regulations.

D. Any person, firm, corporation, association, or political subdivision or department of the Commonwealth upon whom service has been made is hereby required to answer such order to withhold within 10 days, exclusive of the day of service, under oath and in writing, and shall file true answers to the matters inquired of therein. In the event that there is in the possession of any such person, firm, corporation, association, or political subdivision or department of the Commonwealth any property that may be subject to the claim of the Department, such property shall be withheld immediately upon receipt of the order to withhold, together with any additional property received by such person, firm, corporation, association, or political subdivision or department of the Commonwealth valued up to the amount of the order until receipt of an order to deliver or release. The property shall be delivered to the Commissioner upon receipt of an order to deliver; however, distribution of the property shall not be made during pendency of all appeals. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, or political subdivision or department of the Commonwealth subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the Treasurer of Virginia. The person, firm, corporation, association, or political subdivision or department of the Commonwealth herein specified shall be entitled to receive from such debtor a fee of \$5 for each answer or remittance on account of such debtor. The foregoing is subject to the exemptions contained in §§ [63.2-1925](#) and [63.2-1933](#).

E. Delivery to the Commissioner shall serve as full acquittance and the Commonwealth warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the Commissioner pursuant to this chapter.

F. An order issued to an employer for withholding from the earnings of an employee or independent contractor pursuant to this section shall conform to § [20-79.3](#). The rights and obligations of an employer with respect to the order are set out in § [20-79.3](#).

1974, c. 413, § [63.1-256](#); 1975, cc. 54, 311; 1976, c. 357; 1977, c. 662; 1980, c. 243; 1983, c. 481; 1984, c. 652; 1985, c. 488; 1987, c. 640; 1988, c. 906; 1990, cc. 896, 950; 1992, c. 716; 1998, c. [727](#); 2002, c. [747](#); 2003, cc. [929](#), [942](#); 2016, c. [29](#); 2020, c. [722](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.