

**Maine Debt Collection & Disclosure Hearing Helper (PTLA)**

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## **Introduction**

This Hearing Helper is a tool to help you prepare for and represent yourself at your {{ hearing\_type }} in Maine {{ court\_type }} Court. It is not legal advice, and you should talk with a lawyer about your case if you can – but this tool can help you navigate the process if you are on your own.

## **You have to go to a {{ hearing\_type }}, now what?**

{%p if hearing\_type == ‘Debt Collection Hearing’ and court\_type == ‘Small Claims’ %}

**Wait! You said you are being sued for a debt in Maine Small Claims Court?**

If you are being sued in Small Claims court by a debt collector, or being sued for a credit card or student loan debt in Small Claims - the company suing you may be breaking Maine law.

If this is your situation, Pine Tree Legal Assistance may be able to help. [Contact PTLA](https://ptla.org/contact-us).

{%p endif %}

### **About the Debt Collection Process in Maine**

There are two stages to the debt collection process in Maine.

**Stage 1 - The Debt Collection Hearing**:

{%p if hearing\_type == ‘Debt Collection Hearing’ %}

**This is where you are in the process**

{%p endif %}

* You are sued for the first time and the court will decide whether you owe the money.
* During this stage, you should make sure to tell the court all the reasons you don’t think you owe the money.
* At this stage, it’s possible that a creditor’s attorney would be willing to dismiss the case if you show them you are ‘collections proof’ under Maine law and can’t afford to pay the debt. Read on to learn more about what it means to be ‘collections proof’ and what you can do if this is your situation.

This tool will help you determine if you have any income or property you could be forced to turn over – or if your income and property are exempt from collections under Maine law.

**Stage 2 - The Disclosure Hearing**:

{%p if hearing\_type == ‘Disclosure Hearing’ %}

**This is where you are in the process**

{%p endif %}

* If you lose at the Debt Collection Hearing and a judge says you owe the money and enters judgment, you have 30 days to pay.
* If you do not pay within 30 days, the creditor takes you to court for a second stage, called a “Disclosure.”
* At a Disclosure, the only issue is whether you have income and assets that you can be forced to turn over to pay the debt.
* There are very specific rules about what you should be forced to turnover. Sometimes a creditor’s lawyer or even a judge might try to make you turn over property that is protected, or “exempt”, by the law.

This tool will help you determine if your income and property is protected, or exempt, under Maine law.

{%p if hearing\_type == ‘Debt Collection Hearing’ and court\_type == ‘Small Claims’ %}

### **Debt Collection Hearings in Small Claims Court**

Basically, Small Claims is a simplified court process. Small Claims are limited to $6,000.00. [Read the Court’s brochure to learn more about the Small Claims process](https://www.courts.maine.gov/help/guides/sc-guide.pdf#:~:text=Small%20claims%20court%20provides%20a%20speedy%20and%20inexpensive,you%20are%20on%20the%20winning%20or%20losing%20side.).

If you get a Small Claims summons, go to court on the day listed on the summons or the notice you get from the court clerk.

You may be required to go to a mediation session before any hearing with a judge. Mediation is a chance to reach an agreement if possible. It may also be your chance to tell the other side that your income and property are exempt from collections. The other side might pressure you to agree to a payment plan to avoid a hearing - **don't agree to payments that you can't make**.

If you can't reach an agreement during mediation, you will have a hearing with the judge. The hearing may be that day or at a later date. When your case is called, tell the judge your side of the story. Bring all papers, photos or records you may need to support your story. You should also bring any important first-hand witnesses.

## **How to use this tool for a Debt Collection Hearing**

In a debt collection case, your income and property probably won’t come up in the hearing. But if you already know that your income and property are exempt from collections, sometimes the other side will agree to drop the case before the hearing.

It isn’t worth it to them to go through the debt collection and disclosure hearings if you can already show that in the end, they won’t be able to collect any money from you. You can use this Hearing Helper to organize your information and show the creditor that you may be ‘collections proof.’

{%p endif %}

{%p if hearing\_type == ‘Disclosure Hearing’ %}

## **About Disclosure Hearings**

If you were sued on a debt and lost your case, your next step may be 'disclosure.’' The person or company that you owe the debt to can use this “disclosure” process to get more information about your income and assets. They then use this information to figure out how to collect the debt you owe them.

The person or company you owe the debt to is called a ‘creditor.’ At the end of the disclosure hearing, the judge will decide whether you have anything the law allows the creditor to take. The judge will also decide how much your payments on the debt should be, and when you need to make those payments.

The creditor may talk with you and ask you to agree to set up a payment plan on the debt. The most important thing to remember about a debt collection or disclosure hearing is that **you do not need to agree to make payments if your income and property are exempt from collections – and the court cannot order you to pay from those exempt incomes or properties.**

{%p endif %}

{%p if hearing\_type == ‘Debt Collection Hearing’ and court\_type == ‘District’ %}

### **Debt Collection Hearings in District Court**

When you are sued in District Court, you must file a written answer within 20 days of the day the Complaint and Summons are delivered to you. If you do not file a written answer within 20 days, you will likely lose the case by default.

You should have gotten a simple form answer with the papers telling you that you are being sued for a debt. Follow the instructions on that form and return it to the court within 20 days to avoid losing your case by default. If you need another copy of that form, you can [find it on the Maine Judicial Branch website](https://mjbportal.courts.maine.gov/CourtForms/FormsLists/DownloadForm?strFormNumber=BCCP-2021).

Try to get a lawyer’s advice if you are sued for a debt in District Court. This is very important if you believe that you don’t owe some or all of the money or have other legal defenses. You can [contact Pine Tree](https://ptla.org/contact-us) – we may be able to help in these cases.

## **How to use this tool for a Debt Collection Hearing**

In a debt collection case, your income and property probably won’t come up in the hearing. But if you already know that your income and property are exempt from collections, sometimes the other side will agree to drop the case before the hearing.

It isn’t worth it to them to go through the debt collection and disclosure hearings if you can already show that in the end, they won’t be able to collect any money from you. You can use this Hearing Helper to organize your information and show the creditor that you may be ‘collections proof.’

{%p endif %}

## **Income and Assets – are you ‘collections proof?’**

Maine law recognizes that there are certain basic things a person needs in order to live. Some property and income cannot be taken from you unless you agree. This may mean that even if you owe a debt, go to court, and lose, the company that owns your debt may not be able to collect any money from you because of the amount or type of income you have and your assets are exempt from collections under Maine law. This is often called being ‘collections proof’ - and if this is your situation you should not be ordered to pay a debt from your exempt income or assets.

On the next page you will see your ‘Income and Assets Report.’ This tool has organized the information you gave about your income and assets, and will let you know if they may be considered exempt from most debt collection or not. It only covers the most common income and property types, but includes more information after your report about other exemptions in case you need it.

# **Your Income and Assets Report**

## **Income**

Some kinds of income are exempt from collections under Maine law – this means you cannot be ordered to pay certain debts out of this income.

**I have income from:**

{%p if income\_type\_wage %}

Wages or other income from work in the amount of {{ wage\_amount | currency }} each week.

{%p endif %}

{%p if income\_type\_wage %}

Of this income from wages {% if wage\_amount < 566.00 %} all of it {% elif wage\_amount > 566.00 and wage\_amount < 754.68 %} the first $566.00 {% else %} ¾ of it {% endif %} **is exempt from collections**.

{%p endif %}

{%p if income\_type\_TANF %}

TANF in the amount of {{ TANF\_amount | currency }} each month **which is exempt from collections**.

{%p endif %}

{%p if income\_type\_SSI %}

Social Security & SSI in the amount of {{ SSI\_amount | currency }} each month **which is exempt from collections**.

{%p endif %}

{%p if income\_type\_VA %}

Veterans Benefits in the amount of {{ VA\_amount | currency }} each month **which is exempt from collections**.

{%p endif %}

{%p if income\_type\_WC %}

Worker’s Compensation in the amount of {{ WC\_amount | currency }} each month **which is exempt from collections**. {%p endif %}

{%p if income\_type\_MERB %}

Maine State Retirement Benefits in the amount of {{ MERB\_amount | currency }} each month **which is exempt from collections**.

{%p endif %}

{%p if income\_type\_UI %}

Unemployment Compensation in the amount of {{ UI\_amount | currency }} each month **which is exempt from collections**.

{%p endif %}

{%p if income\_type\_Support %}

Spousal support or other support necessary for supporting myself or my dependents, including child support payments in the amount of {{ Support\_amount | currency }} each month **which is exempt from collections**.

{%p endif %}

{%p if income\_type\_PA %}

Other forms of public aid (like General Assistance) in the amount of {{ PA\_amount | currency }} each month **which is exempt from collections**.

{%p endif %}

{%p if income\_type\_TAX %}

Earned Income Tax Credit and Additional Child Tax Credit in the amount of {{ TAX\_amount | currency }} from my most recent income tax filing **which is exempt from collections**.

{%p endif %}

## **Property**

Some property is totally exempt from debt collections (unless you have put it up as collateral) – this means a creditor can’t take this property to pay a debt.

‘Equity’ means the amount of the value of your property that is available to you, after accounting for existing liens or financing like a mortgage or loan you still owe on.

**I have the following property:**

{%p if property\_type\_home\_standard %}

I own a home and have approximately {{ home\_equity\_amount | currency }} in equity. **Under Maine law, up to $80,000 in home equity is exempt from collections.**

{%p endif %}

{%p if property\_type\_home\_increase %}

I own a home and have approximately {{ home\_equity\_amount | currency }} in equity. Because {% if home\_minor\_dep %} a minor dependent lives with me {% elif home\_disabled\_dep %} I have a dependent who is age 60 or older or disabled {% else %} I am age 60 or older, or disabled {% endif %} **under Maine law up to $160,000 in home equity is exempt from collections**.

{%p endif %}

{%p if property\_type\_home\_additional %}

I also own {{ additional\_home\_number | int }} other home(s) or piece(s) of property that in total have approximately {{ additional\_home\_equity\_amount | currency }} in equity.

{%p endif %}

{%p if property\_type\_vehicle %}

I own a vehicle. My vehicle is a {{ vehicle\_year | int }} {{ vehicle\_make }} {{ vehicle\_model }}. I have approximately {{ vehicle\_equity\_amount | currency }} in equity in this vehicle. **Under Maine law up to $10,000 in equity in one vehicle is exempt from collections**.

{%p endif %}

{%p if property\_type\_vehicle\_additional %}

I also own {{ additional\_vehicle\_number | int}} other vehicle(s) and have approximately {{ additional\_vehicle\_equity\_amount | currency}} in combined total equity.

{%p endif %}

{%p if property\_type\_cash %}

I have {{ cash\_amount | currency }} in cash and bank accounts. **Under Maine law up to $3,000 in cash or bank accounts is exempt from collections.**

{%p endif %}

{%p if property\_type\_other %}

I also have {{ other\_property }}. **Under Maine law, up to $500 in value is exempt from collections.**

{%p endif %}

## **Other Exempt Property**

We have asked you about the property that most often comes up in Maine Debt Collection and Disclosure cases – but Maine law protects many other types of property. It is unlikely many of these will come up – but if they do, this is a basic list of property that is exempt from debt collection under Maine law.

* Equity in your home up to $80,000.
  + This exemption increases to $160,000 if:
    - a minor dependent lives with you, or
    - you or are at least 60 years old or disabled, or
    - you have a dependent who is at least 60 years old or disabled.
  + If you don’t own a home, you can apply this exemption to a burial plot.
* Equity in one vehicle up to $10,000.
* Cash and money in bank accounts up to $3,000.
* Equity in “tools of the trade” of up to $9,500.
* Your clothing up to $500 in value for each item.
* Equity in household furniture, appliances, and other household goods up to $500 for each item.
* Jewelry up to $1,000 in total value, and your wedding and engagement rings, up to $4,000 in total value.
* Life insurance contracts (and up to $5,000 in any accrued dividends, interest, or loan value in such contracts).
* Certain farm equipment if you are a farmer.
* A fishing boat, not longer than 46 feet, if you fish commercially.
* Certain amounts of heating fuel and cord wood.
* Your furnace, heating stoves and one cook stove.
* Prescribed health aids.
* A supply of food, seed, and gardening tools.
* You may also claim a $500.00 exemption on any property whether or not otherwise exempt.
* If you have not used all of your home equity exemption (the first item on this list), you may use up to $10,500 of the unused portion to protect your clothing, household goods, tools of trade, or personal injury award.

## **Next Steps and what to expect at court**

Now that you have a listing of all your income and property, it’s time to gather details and, if you have it, documentation about some of these items to bring to court with you.

{%p if hearing\_type == ‘Debt Collection Hearing’ %}

At your Debt Collection hearing your income and property are not the main issue – it is whether or not you owe the debt. But if you show the creditor’s lawyer that you will not be able to pay, they may dismiss the case. For your Debt Collection hearing:

* Come to court early.
* Find the courtroom your case is in and wait for your name to be called. If you are able, stand up and let the judge know you are there.
* The judge may ask you to step out of the court room and talk with the other side before your hearing.
* Be prepared to tell the court why you do not believe you owe the debt.
* Be prepared for the other side to talk with you about settling the case or setting up a payment plan. **Remember, if all of your income and property are exempt, you cannot be ordered to pay a debt – and you do not need to agree to make payments on it.**

{%p endif %}

{%p if hearing\_type == ‘Disclosure Hearing’ %}

At your Disclosure hearing your income and property are the main issue – whether or not you have anything the court can order you to turn over to pay the debt. For your Disclosure hearing:

* Come to court early.
* Find the courtroom your case is in and wait for your name to be called. If you are able, stand up and let the judge know you are there.
* The judge may ask you to step out of the court room and talk with the other side before your hearing.
* Be prepared to tell the court and the other side that some or all of your income and property are exempt from collections.
* Be prepared for the other side to talk with you about setting up a payment plan. **Remember, if all of your income and property are exempt, you cannot be ordered to pay a debt – and you do not need to agree to make payments on it.**

{%p endif %}

### **Talking to the creditor’s lawyer**

When you get to court, the creditor’s lawyer may try to get you to agree to settle the case and negotiate a payment plan with you. The court will probably encourage you to meet with the creditor's lawyer outside the courtroom. Here are some tips for talking with the lawyer:

* **If your income is exempt from collection, you do not need to agree to make payments**
* **Do** talk with the creditor’s lawyer, especially if the court asks you to do this. Talking is ok. If you talk it over, you may be able to agree on payments that you can afford. But remember – you do not need to agree to make payments if you are ‘collections proof!’
* **Do not** agree to a payment plan just because you are afraid of having a hearing, or because the creditor’s lawyer really wants you to make an agreement. It is their job to get money from you – but you have rights under Maine law!
* **Do not** agree to payments that are more than you can realistically afford. You can always get a hearing before the judge if the lawyer is requesting payments that you think are too high for you.
* **You do not need to make an agreement before the hearing**. The hearing will cover the same issues the creditor's lawyer will talk about with you.

**You can do this!**