

Subdivision 1. **LEGISLATIVE AUTHORITY.** Claims and demands arising out of injury to or death of a patient of a state institution under the control of the commissioner of human services or the veterans homes board of directors or an inmate of a state correctional facility while performing assigned duties shall be presented to, heard, and determined by the legislature.

Presented to the governor May 11, 1993

Signed by the governor May 14, 1993, 4:04 p.m.

CHAPTER 156—S.F.No. 384

An act relating to creditors remedies; regulating executions and garnishments; providing that executions and garnishments on child support judgments are effective until the judgments are satisfied; exempting child support payments from execution; amending Minnesota Statutes 1992, sections 550.135, subdivision 10; 550.136, subdivisions 3, 4, and 5; 550.143, subdivision 3; 550.37, subdivision 15; 551.04, subdivisions 2 and 11; 551.05, subdivision 1a; 551.06, subdivisions 3, 4, and 5; 570.025, subdivision 6; 570.026, subdivision 2; 571.72, subdivision 7; 571.73, subdivision 3; 571.912; 571.922; and 571.923.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 550.135, subdivision 10, is amended to read:

Subd. 10. **FORMS.** No judgment creditor shall use a form that contains alterations or changes from the statutory forms that mislead judgment debtors as to their rights and the execution procedure generally. If a court finds that a judgment creditor has used a misleading form, the judgment debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from additional proceedings, and an amount not to exceed \$100. All forms must be clearly legible and printed in not less than the equivalent of 10-point type. A form that uses both sides of a sheet must clearly indicate on the front side that there is additional information on the back side of the sheet.

Forms, including the statutory forms, used in executions upon earnings for the satisfaction of judgments for child support must be changed by the creditor to reflect the fact that the 70-day period of effectiveness does not apply to these executions if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied.

Sec. 2. Minnesota Statutes 1992, section 550.136, subdivision 3, is amended to read:

Subd. 3. **LIMITATION ON LEVY ON EARNINGS.** Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of

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an individual for any pay period subjected to an execution levy may not exceed the lesser of:

(1) 25 percent of the judgment debtor's disposable earnings; or

(2) the amount by which the judgment debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the levy may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received); or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received).

Execution levies under this section on judgments for child support are effective until the judgments are satisfied if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied.

No court may make, execute, or enforce an order or any process in violation of this section.

Sec. 3. Minnesota Statutes 1992, section 550.136, subdivision 4, is amended to read:

Subd. 4. **MULTIPLE LEVIES ON EARNINGS.** Except as otherwise provided in this chapter or section 518.611, subdivision 6, the priority of multiple earnings execution levies is determined by the order in which the execution lev-

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ies were served on the employer. If the employer is served with two or more writs of execution at the same time on the same day, the writ of execution issued pursuant to the first judgment entered has priority. If two or more execution levies are served on the same day and are based on judgments entered on the same day, then the employer shall select the priority of the earnings levies. However, in all cases except earnings execution levies on judgments for child support if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied, the execution levies shall be effective no longer than 70 days from the date of the service of the writ of execution.

Sec. 4. Minnesota Statutes 1992, section 550.136, subdivision 5, is amended to read:

Subd. 5. **EARNINGS ATTACHABLE.** (a) Subject to the exemptions provided by sections 550.37 and 571.922, and any other applicable statute, and except as otherwise provided in paragraph (b), the service of a writ of execution under this chapter attaches all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the writ of execution. "Paydays" means the days upon which the third party pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular paydays, paydays means the 15th day and the last day of each month. If the levy attaches less than \$10, the third party shall not retain and remit the sum.

(b) The service of a writ of execution on a judgment for child support attaches to all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods until the judgment is satisfied if the judgment creditor is a county and the third party is notified by the county when the judgment is satisfied.

Sec. 5. Minnesota Statutes 1992, section 550.143, subdivision 3, is amended to read:

Subd. 3. **EXEMPTION NOTICE.** If the levy is on funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, the judgment creditor or its attorney shall provide the sheriff with two copies of an exemption notice, which must be substantially in the form set forth below. The sheriff shall serve both copies of the exemption notice on the financial institution, along with the writ of execution. Failure of the sheriff to serve the exemption notices renders the levy void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds that have previously been garnished in compliance with section 571.71, the judgment creditor is not required to serve additional exemption notices. In that event, the execution levy shall only be effective as to the funds

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that were subject to the prior garnishment. Upon receipt of the writ of execution and exemption notices, the financial institution shall retain as much of the amount due under section 550.04 as the financial institution has on deposit owing to the judgment debtor, but not more than 110 percent of the amount remaining due on the judgment.

STATE OF MINNESOTA
COUNTY OF
.....(Judgment Creditor)
.....(Judgment Debtor)
TO: Debtor

DISTRICT COURT
..... JUDICIAL DISTRICT

EXEMPTION NOTICE

An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on (Bank or other financial institution where you have an account.)

Your account balance is \$.....

The amount being held is \$.....

However, all or a portion of the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) relief based on need. This includes: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);

(3) unemployment compensation, workers' compensation, or veterans' benefits;

(4) an accident, disability, or retirement pension or annuity;

(5) life insurance proceeds;

(6) the earnings of your minor child and any child support paid to you; or

(7) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car).

The following funds are also exempt:

(8) all earnings of a person in category (1);

(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;

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(10) 75 percent of every debtor's after tax earnings; and

(11) all of a judgment debtor's after tax earnings below 40 times the federal minimum wage.

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first-in, first-out method is used. This means money deposited first is spent first.) The money being sought by the judgment creditor is being held in your account to give you a chance to claim an exemption.

TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the judgment creditor's attorney. In the event that there is no attorney for the judgment creditor, then the notice shall be sent directly to the judgment creditor. The address for the judgment creditor's attorney or the judgment creditor is set forth below. Both copies must be mailed or delivered on the same day.

If the financial institution does not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the sheriff or the judgment creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be held until it is decided.

IF YOU CLAIM AN EXEMPTION:

(1) nonexempt money can be turned over to the judgment creditor or sheriff;

(2) the financial institution will keep holding the money claimed to be exempt; and

(3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

IF THE JUDGMENT CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:

the institution will hold the money until a court decides if your exemption claim is valid, **BUT ONLY IF** the institution gets a copy of your court motion papers asserting the exemption **WITHIN TEN DAYS** after the objection is mailed or given to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.

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MOTION TO DETERMINE EXEMPTION:

At any time after your funds have been held, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the court administrator of the above court.

PENALTIES:

If you claim an exemption in bad faith, or if the judgment creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

.....
.....
.....
.....
Name and address of (Attorney for) Judgment Creditor

EXEMPTION:

(a) Amount of exemption claim.

// I claim ALL the funds being held are exempt.

// I claim SOME of the funds being held are exempt.

The exempt amount is \$.....

(b) Basis for exemption.

Of the 11 categories listed above, I am in category number (If more than one category applies, you may fill in as many as apply.) The source of the exempt funds is the following:

.....
.....
.....

(If the source is a type of relief based on need, list the case number and county:

case number:

county:)

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above named creditor or its attorney only whether or not I am or have been a recipient of

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relief based on need or an inmate of a correctional institute within the last six months.

I have mailed or delivered a copy of the exemption notice to the judgment creditor or judgment creditor's attorney if represented.

DATED:

 DEBTOR

 DEBTOR ADDRESS

Sec. 6. Minnesota Statutes 1992, section 550.37, subdivision 15, is amended to read:

Subd. 15. The earnings of the minor child of any debtor and any child support paid to any debtor, or the proceeds thereof, by reason of any liability of such debtor not contracted for the special benefit of such minor child.

Sec. 7. Minnesota Statutes 1992, section 551.04, subdivision 2, is amended to read:

Subd. 2. **PROPERTY ATTACHABLE.** Subject to the exemptions provided by subdivision 3 and section 550.37, and any other applicable statute, the service of a writ of execution under this chapter attaches:

(a) Except as otherwise provided in paragraph (c), all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the writ of execution. "Payday" means the day upon which the third party pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular paydays, payday means the 15th day and the last day of each month.

(b) All other nonexempt indebtedness or money due or belonging to the judgment debtor and owing by the third party or in the possession or under the control of the third party at the time of service of the writ of execution, whether or not the same, has become payable. The third party shall not be compelled to pay or deliver the same before the time specified by any agreement unless the agreement was fraudulently contracted to defeat an execution levy or other collection remedy.

(c) For an execution on a judgment for child support, all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor within the pay period in which the writ of execution is served and within all subsequent pay periods until the judgment is satisfied if the judgment creditor is a county and the third party is notified by the county when the judgment is satisfied.

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Sec. 8. Minnesota Statutes 1992, section 551.04, subdivision 11, is amended to read:

Subd. 11. **FORMS.** No judgment creditor shall use a form that contains alterations or changes from the statutory forms that mislead judgment debtors as to their rights and the execution procedure generally. If a court finds that a judgment creditor has used a misleading form, the judgment debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from additional proceedings, and an amount not to exceed \$100. All forms must be clearly legible and printed in not less than the equivalent of 10-point type. A form that uses both sides of a sheet must clearly indicate on the front side that there is additional information on the back side of the sheet.

Forms, including the statutory forms, used in executions upon earnings for the satisfaction of judgments for child support must be changed by the creditor to reflect the fact that the 70-day period of effectiveness does not apply to these executions if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied.

Sec. 9. Minnesota Statutes 1992, section 551.05, subdivision 1a, is amended to read:

Subd. 1a. **EXEMPTION NOTICE.** If the writ of execution is being used by the attorney to levy funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, the attorney for the judgment creditor shall serve with the writ of execution two copies of an exemption notice. The notice must be substantially in the form set forth below. Failure of the attorney for the judgment creditor to send the exemption notice renders the execution levy void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds that have previously been garnished in compliance with section 571.71, the attorney for judgment creditor is not required to serve an additional exemption notice. In that event, the execution levy shall only be effective as to the funds that were subject to the prior garnishment. Upon receipt of the writ of execution and exemption notices, the financial institution shall retain as much of the amount due under section 550.04 as the financial institution has on deposit owing to the judgment debtor, but not more than 100 percent of the amount remaining due on the judgment, or \$5,000, whichever is less.

The notice informing a judgment debtor that an execution levy has been used to attach funds of the judgment debtor to satisfy a claim must be substantially in the following form:

STATE OF MINNESOTA
County of
.....(Judgment Creditor)
.....(Judgment Debtor)
TO: Judgment Debtor

DISTRICT COURT
.....JUDICIAL DISTRICT

EXEMPTION NOTICE

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An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on (bank or other financial institution where you have an account).

Your account balance is \$.....

The amount being held is \$.....

However, all or a portion of the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) relief based on need. This includes: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);

(3) unemployment compensation, workers' compensation, or veterans' benefits;

(4) an accident, disability, or retirement pension or annuity;

(5) life insurance proceeds;

(6) the earnings of your minor child and any child support paid to you; or

(7) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car).

The following funds are also exempt:

(8) all earnings of a person in category (1);

(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;

(10) 75 percent of every judgment debtor's after tax earnings; or

(11) all of a judgment debtor's after tax earnings below 40 times the federal minimum wage.

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first-in, first-out method is used. This means

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money deposited first is spent first.) The money being sought by the judgment creditor is being held in your account to give you a chance to claim an exemption.

TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the judgment creditor's attorney. The address for the judgment creditor's attorney is set forth below. Both copies must be mailed or delivered on the same day.

If they do not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the attorney for the judgment creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be held until it is decided.

IF YOU CLAIM AN EXEMPTION:

(1) nonexempt money can be turned over to the judgment creditor or sheriff;

(2) the financial institution will keep holding the money claimed to be exempt; and

(3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

IF THE JUDGMENT CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:

the institution will hold the money until a court decides if your exemption claim is valid, **BUT ONLY IF** the institution gets a copy of your court motion papers asserting the exemption **WITHIN TEN DAYS** after the objection is mailed or given to you. You may wish to consult an attorney at once if the judgment creditor objects to your exemption claim.

MOTION TO DETERMINE EXEMPTION:

At any time after your funds have been held, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the court administrator of the above court.

PENALTIES:

If you claim an exemption in bad faith, or if the judgment creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

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.....

 Name and address of (Attorney
 for) Judgment Creditor

EXEMPTION:

(a) Amount of exemption claim.

// I claim ALL the funds being held are exempt.

// I claim SOME of the funds being held are exempt.

The exempt amount is \$.....

(b) Basis for exemption.

Of the 11 categories listed above, I am in category number (If more than one category applies, you may fill in as many as apply.) The source of the exempt funds is the following:

.....

(If the source is a type of relief based on need, list the case number and county:

case number:

county:)

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above named judgment creditor's attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institute within the last six months.

I have mailed or delivered a copy of the exemption notice to the judgment creditor's attorney.

DATED:

.....
 DEBTOR

 DEBTOR ADDRESS

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Sec. 10. Minnesota Statutes 1992, section 551.06, subdivision 3, is amended to read:

Subd. 3. **LIMITATION ON LEVY ON EARNINGS.** Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to an execution levy may not exceed the lesser of:

(1) 25 percent of the judgment debtor's disposable earnings; or

(2) the amount by which the judgment debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the levy may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received); or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received).

Execution levies under this section on judgments for child support are effective until the judgments are satisfied if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied.

No court may make, execute, or enforce an order or any process in violation of this section.

Sec. 11. Minnesota Statutes 1992, section 551.06, subdivision 4, is amended to read:

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Subd. 4. **MULTIPLE LEVIES ON EARNINGS.** Except as otherwise provided in this chapter or section 518.611, subdivision 6, the priority of multiple earnings execution levies is determined by the order in which the execution levies were served on the employer. If the employer is served with two or more writs of execution at the same time on the same day, the writ of execution issued pursuant to the first judgment entered has priority. If two or more execution levies are served on the same day and are based on judgments entered on the same day, then the employer shall select the priority of the earnings levies. However, in all cases except earnings execution levies on judgments for child support if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied, the execution levies shall be effective no longer than 70 days from the date of the service of the writ of execution.

Sec. 12. Minnesota Statutes 1992, section 551.06, subdivision 5, is amended to read:

Subd. 5. **EARNINGS ATTACHABLE.** (a) Subject to the exemptions provided by sections 550.37 and 551.06, subdivision 3, and any other applicable statute, and except as otherwise provided in paragraph (b), the service of a writ of execution under this chapter attaches all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the writ of execution. "Paydays" means the days upon which the third party pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular paydays, paydays means the 15th day and the last day of each month. If the levy attaches less than \$10, the third party shall not retain and remit the sum.

(b) The service of a writ of execution on a judgment for child support attaches to all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods until the judgment is satisfied if the judgment creditor is a county and the third party is notified by the county when the judgment is satisfied.

Sec. 13. Minnesota Statutes 1992, section 570.025, subdivision 6, is amended to read:

Subd. 6. **NOTICE.** The respondent shall be served with a copy of the preliminary attachment order issued pursuant to this section together with a copy of all pleadings and other documents not previously served, including any affidavits upon which the claimant intends to rely at the subsequent hearing and a transcript of any oral testimony given at the preliminary hearing upon which the claimant intends to rely and a notice of hearing. Service shall be in the manner prescribed for personal service of a summons unless that service is impracticable or would be ineffective and the court prescribes an alternative method of service calculated to provide actual notice to the respondent.

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The notice of hearing served upon the respondent shall be signed by claimant or the attorney for claimant and shall provide, at a minimum, the following information in substantially the following language:

NOTICE OF HEARING

To: (the respondent)

The (insert name of court) Court has ordered the sheriff to seize some of your property. The court has directed the sheriff to seize the following specific property: (insert list of property). (List other action taken by the court). Some of your property may be exempt from seizure. See the exemption notice below.

The Court issued this Order based upon the claim of (insert name of claimant) that (insert name of claimant) is entitled to a court order for seizure of your property to secure your payment of any money judgment that (insert name of claimant) may later be obtained against you and that immediate action was necessary.

You have the legal right to challenge (insert name of claimant) claims at a court hearing before a judge. The hearing will be held at the (insert place) on (insert date) at (insert time). You may attend the court hearing alone or with an attorney. After you have presented your side of the matter, the court will decide what should be done with your property until the lawsuit against you is finally decided.

IF YOU DO NOT ATTEND THIS HEARING, THE COURT MAY ORDER THE SHERIFF TO KEEP PROPERTY THAT HAS BEEN SEIZED.

EXEMPTION NOTICE

An order of attachment is being served upon you. Some of your property is exempt and cannot be seized. The following is a list of some of the more common exemptions. It is not complete and is subject to section 550.37, and other state and federal laws. If you have questions about an exemption, you should obtain competent legal advice.

1. A homestead or the proceeds from the sale of a homestead.
2. Household furniture, appliances, phonographs, radios, and televisions up to a total current value of \$4,500 at the time of attachment.
3. A manufactured (mobile) home used as your home.
4. One motor vehicle currently worth less than \$2,000 after deducting any security interests.
5. Farm machinery used by someone principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$5,000.

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6. Relief based on need. This includes Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Minnesota Supplemental Assistance, and General Assistance.

7. Social Security benefits.

8. Unemployment compensation, workers' compensation, or veterans' benefits.

9. An accident disability or retirement pension or annuity.

10. Life insurance proceeds or the earnings of your minor child and any child support paid to you.

11. Money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a manufactured (mobile) home, or a car).

Sec. 14. Minnesota Statutes 1992, section 570.026, subdivision 2, is amended to read:

Subd. 2. **SERVICE.** The claimant's motion to obtain an order of attachment together with the claimant's affidavit and notice of hearing shall be served in the manner prescribed for service of a summons in a civil action in district court unless that service is impracticable or would be ineffective and the court prescribes an alternative method of service calculated to provide actual notice to the respondent. If the respondent has already appeared in the action, the motion shall be served in the manner prescribed for service of pleadings subsequent to the summons. The date of hearing shall be fixed in accordance with Rule 6 of the Minnesota Rules of Civil Procedure, unless a different date is fixed by order of the court.

The notice of hearing served upon the respondent shall be signed by the claimant or the attorney for the claimant and shall provide, at a minimum, the following information in substantially the following language:

NOTICE OF HEARING

TO: (the respondent)

A hearing will be held (insert place) on (insert date) at (insert time) to determine whether the sheriff shall seize nonexempt property belonging to you to secure a judgment that may be entered against you.

You may attend the court hearing alone or with an attorney. After you have presented your side of the matter, the court will decide what should be done with your property until the lawsuit which has been commenced against you is finally decided.

If the court directs the sheriff to seize and secure the property while the law-

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suit is pending, you may still keep the property until the lawsuit is decided if you file a bond in an amount set by the court.

IF YOU DO NOT ATTEND THIS HEARING, THE COURT MAY ORDER YOUR NONEXEMPT PROPERTY TO BE SEIZED.

EXEMPTION NOTICE

Some of your property is exempt and cannot be attached. The following is a list of some of the more common exemptions. It is not complete and is subject to section 550.37, and other state and federal laws. If you have questions about an exemption you should obtain competent legal advice.

1. A homestead or the proceeds from the sale of a homestead.
2. Household furniture, appliances, phonographs, radios, and televisions up to a total current value of \$4,500 at the time of attachment.
3. A manufactured (mobile) home used as your home.
4. One motor vehicle currently worth less than \$2,000 after deducting any security interests.
5. Farm machinery used by someone principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$5,000.
6. Relief based on need. This includes Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Minnesota Supplemental Assistance, and General Assistance.
7. Social Security benefits.
8. Unemployment compensation, workers' compensation, or veterans' benefits.
9. An accident disability or retirement pension or annuity.
10. Life insurance proceeds or the earnings of your minor child and any child support paid to you.
11. Money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a manufactured (mobile) home, or a car).

Sec. 15. Minnesota Statutes 1992, section 571.72, subdivision 7, is amended to read:

Subd. 7. **FORMS.** No creditor shall use a form that contains alterations or changes from the statutory forms that mislead debtors as to their rights and the garnishment procedure generally. If a court finds that a creditor has used a mis-

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leading form, the debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from additional proceedings, and an amount not to exceed \$100. All forms must be clearly legible and printed in not less than the equivalent of 10-point type. A form that uses both sides of a sheet must clearly indicate on the front side that there is additional information on the back side of the sheet.

Forms, including the statutory forms, used in garnishments of earnings for the satisfaction of judgments for child support must be changed by the creditor to reflect the fact that the 70-day period of effectiveness does not apply to these garnishments if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied.

Sec. 16. Minnesota Statutes 1992, section 571.73, subdivision 3, is amended to read:

Subd. 3. **PROPERTY ATTACHABLE.** Subject to the exemptions provided by sections 550.37 and 571.922 and any other applicable statute, the service of a garnishment summons under this chapter attaches:

(1) except as otherwise provided in clause (4), all unpaid nonexempt disposable earnings owed or to be owed by the garnishee and earned or to be earned by the debtor within the pay period in which the garnishment summons is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the garnishment summons. "Payday" means the day upon which the garnishee pays earnings to the debtor in the ordinary course of business. If the debtor has no regular paydays, "payday" means the 15th day and the last day of each month;

(2) all other nonexempt indebtedness, money, or other property due or belonging to the debtor and owing by the garnishee or in the possession or under the control of the garnishee at the time of service of the garnishment summons, whether or not the same has become payable. The garnishee shall not be compelled to pay or deliver the same before the time specified by any agreement unless the agreement was fraudulently contracted to defeat a garnishment or other collection remedy; ~~and~~

(3) all other nonexempt intangible or tangible personal property of the debtor in the possession or under the control of the garnishee at the time of service of the garnishment summons, including property of any kind due from or in the hands of an executor, administrator, personal representative, receiver, or trustee, and all written evidences of indebtedness whether or not negotiable or not yet underdue or overdue; and

(4) for a garnishment on a judgment for child support by a county, all unpaid nonexempt disposable earnings owed or to be owed by the garnishee and earned or to be earned by the debtor within the pay period in which the garnishment summons is served and within all subsequent pay periods until the judgment is satisfied.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 17. Minnesota Statutes 1992, section 571.912, is amended to read:

571.912 **FORM OF EXEMPTION NOTICE.**

The notice informing a debtor that an order for attachment, garnishment summons, or levy by execution has been used to attach funds of the debtor to satisfy a claim must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OFJUDICIAL DISTRICT
.....(Creditor)	
.....(Debtor)	
TO: Debtor	EXEMPTION NOTICE

An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on (bank or other financial institution) where you have an account.

Your account balance is \$.....

The amount being held is \$.....

However, all or a portion of the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) relief based on need. This includes: Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);

(3) unemployment compensation, workers' compensation, or veterans' benefits;

(4) an accident, disability, or retirement pension or annuity;

(5) life insurance proceeds;

(6) the earnings of your minor child and any child support paid to you; or

(7) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car).

The following funds are also exempt:

(8) all earnings of a person in category (1);

(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;

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(10) 75 percent of every debtor's after tax earnings; and

(11) all of a debtor's after tax earnings below 40 times the federal minimum wage.

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first-in, first-out method is used. This means money deposited first is spent first.) The money being sought by the creditor is being held in your account to give you a chance to claim an exemption.

TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the creditor's attorney. In the event that there is no attorney for the creditor, then such notice shall be sent directly to the creditor. The address for the creditor's attorney or the creditor is set forth below. Both copies must be mailed or delivered on the same day.

If they do not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the sheriff or the creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be held until it is decided.

IF YOU CLAIM AN EXEMPTION:

(1) nonexempt money can be turned over to the creditor or sheriff;

(2) the financial institution will keep holding the money claimed to be exempt; and

(3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

IF THE CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:

The institution will hold the money until a court decides if your exemption claim is valid, **BUT ONLY IF** the institution gets a copy of your court motion papers asserting the exemption **WITHIN TEN DAYS** after the objection is mailed or given to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.

MOTION TO DETERMINE EXEMPTION:

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At any time after your funds have been held, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the court administrator of the above court.

PENALTIES:

If you claim an exemption in bad faith, or if the creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

.....
.....
.....
.....

Name and address of (Attorney for) Judgment Creditor

EXEMPTION:

(If you claim an exemption complete the following):

(a) Amount of exemption claim.

// I claim ALL the funds being held are exempt.

// I claim SOME of the funds being held are exempt.

The exempt amount is \$.....

(b) Basis for exemption.

Of the eleven categories listed above, I am in category number (If more than one category applies, you may fill in as many as apply.) The source of the exempt funds is the following:

.....
.....
.....

(If the source is a type of relief based on need, list the case number and county:

case number:

county:)

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above named creditor or its attorney only whether or not I am or have been a recipient of

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relief based on need or an inmate of a correctional institute within the last six months.

I have mailed or delivered a copy of the exemption notice to the creditor's attorney.

DATED:
DEBTOR
DEBTOR ADDRESS

Sec. 18. Minnesota Statutes 1992, section 571.922, is amended to read:

571.922 LIMITATION ON WAGE GARNISHMENT.

Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to garnishment may not exceed the lesser of:

(1) 25 percent of the debtor's disposable earnings; or

(2) the amount by which the debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

If the judgment is for child support, the garnishment may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the garnishment summons is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received); or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over

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12 weeks old (12 weeks to be calculated to the beginning of the work week in which the garnishment summons is received).

Wage garnishments on judgments for child support are effective until the judgments are satisfied if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied.

No court may make, execute, or enforce an order or any process in violation of this section.

Sec. 19. Minnesota Statutes 1992, section 571.923, is amended to read:

571.923 MULTIPLE EARNINGS GARNISHMENTS.

Except as otherwise provided in this chapter or section 518.611, subdivision 6, the priority of multiple earnings garnishments shall be determined by the order in which the garnishment summonses were served on the employer. If the employer is served with two or more garnishment summonses at the same time on the same day, the garnishment summons issued pursuant to the first judgment entered has priority. If two or more garnishment summonses are served on the same day and are based on judgments entered on the same day or if there are two or more garnishment summonses based on prejudgment garnishment pursuant to section 571.93, then the employer shall select the priority of the earnings garnishments. However, in all cases except wage garnishments on judgments for child support if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied, garnishments shall be effective no longer than 70 days from the date of the service of the garnishment summons.

Presented to the governor May 11, 1993

Signed by the governor May 14, 1993, 1:28 p.m.

CHAPTER 157—H.F.No. 498

An act relating to St. Louis county; solid waste management; clarifying St. Louis county contracting authority to include management operations; modifying contracting procedure; amending Minnesota Statutes 1992, section 383C.807, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 383C.807, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding section 471.345 or other law, St. Louis county may contract for the acquisition, construction, improvement, maintenance, or management operation of solid waste facilities or property or property

New language is indicated by underline, deletions by ~~strikeout~~.