A bill for an act

relating to creditor remedies; prohibiting prejudgment garnishment in certain circumstances; amending Minnesota Statutes 2008, sections 551.05, subdivisions 1a, 3, 4, by adding a subdivision; 571.71; 571.72, subdivision 4; 571.79; 571.912; 571.914, subdivisions 1, 2, 4; 571.93, subdivision 1; repealing Minnesota Statutes 2008, sections 551.05, subdivisions 5, 6; 571.914, subdivision 3.

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

Section 1. Minnesota Statutes 2008, 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 $10,000, 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 DISTRICT COURT

County of .... JUDICIAL DISTRICT

(Judgment
..... Creditor)

..... (Judgment Debtor)

TO: Judgment 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 the Minnesota Family Investment Program (MFIP), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), 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 benefits, 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 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.**

NOTE: You may help resolve your claim faster if you send to the creditor's attorney written proof or documents that show why your money is exempt. If you have questions regarding the documents to send as proof of an exemption, call the creditor's attorney. If you do not send written proof and the creditor's attorney has questions about your exemption claim, the creditor's attorney may object to your claim which may result in a further delay in releasing your exempt funds.

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 personally served on you, or within 13 days from the date the objection is mailed 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.

.....

.....

.....

.....

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 at the address indicated above.

.....

DEBTOR

DATED: ....

.....

.....

DEBTOR ADDRESS

.....

DEBTOR TELEPHONE NUMBER

Sec. 2. Minnesota Statutes 2008, section 551.05, subdivision 3, is amended to read:

Subd. 3. **Objection to exemption claim.** ~~Objection shall be interposed by mailing or delivering one copy of the written objection to the financial institution and one copy of the written objection to the judgment debtor along with a copy of the judgment debtor's claimed exemption form. Both copies of an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section. The written objection must be substantially in the form specified in subdivision 5.~~ If a judgment creditor objects to a judgment debtor's exemption claim, the judgment creditor shall obtain from the court administrator or a designated motion calendar deputy a date and time for an evidentiary hearing on its objection. The judgment creditor shall serve on the judgment debtor and financial institution, personally or by first class mail, a notice of hearing on creditor's objection to debtor's exemption claim in the form specified in subdivision 3a, on the same day that it obtains the hearing date. The hearing date obtained by the judgment creditor must be no earlier than five business days and no later than ten business days from the date the judgment creditor requests and obtains the hearing date. An order stating whether the judgment debtor's funds are exempt must be issued by the court within three days of the date of the hearing.

Sec. 3. Minnesota Statutes 2008, section 551.05, is amended by adding a subdivision to read:

Subd. 3a. **Notice of hearing on judgment creditor's objection to judgment debtor's exemption claim.** The judgment creditor's notice of hearing on its objection to the judgment debtor's exemption claim must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
County of	..... JUDICIAL DISTRICT
..... (Judgment Creditor)	NOTICE OF
..... (Judgment Debtor)	HEARING ON
..... (Garnishee) (Third Party)	JUDGMENT CREDITOR'S OBJECTION TO JUDGMENT DEBTOR'S EXEMPTION CLAIM

The judgment creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):

.....

.....

.....

A hearing will be held in this case on (Date) at (Time) at (Place) to resolve whether your funds at (Financial Institution) are exempt. You have claimed that such funds are exempt because .....

.....

.....

.....

At the hearing, you will have to prove that your funds are exempt. If you do not attend the hearing, the judge may order that your funds be released to the judgment creditor. The judge will issue an order within three days of the hearing regarding whether your funds are exempt.

Because the judgment creditor objected to your exemption claim, your financial institution will retain the funds you claim to be exempt until it receives: (1) a written release from either the judgment creditor or you; or (2) an order from the court regarding whether your funds are exempt.

Dated: .....

.....

Judgment Creditor or Creditor's Attorney

.....

..... Address

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim and objection. Failure to do so could delay the court's decision.)

Sec. 4. Minnesota Statutes 2008, section 551.05, subdivision 4, is amended to read:

Subd. 4. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a written objection from the judgment creditor within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. ~~Unless the financial institution receives a request for hearing and notice of hearing from the judgment debtor asserting exemption rights within ten days after receipt of a written objection to the exemption,~~ The funds remain subject to the execution levy as if no claim of exemption had been made ~~and shall be remitted to the judgment creditor's attorney within seven days. If a request for hearing and notice of hearing to determine the validity of a claim of exemption is received by the financial institution within the period provided, it shall retain the funds claimed to be exempt until otherwise ordered by the court~~. The

financial institution shall retain the funds claimed to be exempt until it receives: (1) a written release from either the judgment creditor or judgment debtor; or (2) an order stating whether the funds are exempt.

Sec. 5. Minnesota Statutes 2008, section 571.71, is amended to read:

571.71 GARNISHMENT; WHEN AUTHORIZED.

As an ancillary proceeding to a civil action for the recovery of money, a creditor may issue a garnishment summons as provided in this chapter against any third party in the following instances:

(1) at the time the civil action is commenced or at any time after the commencement of the civil action, but before the entry of a judgment, if the court orders the issuance of the garnishment summons pursuant to section 571.93; or

~~(2) at any time 40 days or more after service of the summons and complaint upon the debtor in the civil action when a judgment by default could have, but has not, been entered pursuant to rule 55.01(a) of the Minnesota Rules of Civil Procedure for the District Courts. No filing of a pleading or other documents by the creditor is required to issue a garnishment summons under this clause; however, the creditor must comply with the service requirement of section 571.72, subdivision 4; or~~

~~(3)~~ (2) at any time after entry of a money judgment in the civil action.

Sec. 6. Minnesota Statutes 2008, section 571.72, subdivision 4, is amended to read:

Subd. 4. **Service of garnishment summons on debtor.** A copy of the garnishment summons and copies of all other papers served on the garnishee must be served by mail at the last known mailing address of the debtor not later than five days after the service is made upon the garnishee. ~~The first time a garnishment summons is served on the debtor pursuant to section 571.71, clause (2), the creditor shall also serve a copy of the affidavit of service of the original summons and complaint.~~ Service of the garnishment documents on the debtor is effective upon mailing.

Sec. 7. Minnesota Statutes 2008, section 571.79, is amended to read:

571.79 DISCHARGE OF A GARNISHEE.

Except as provided in paragraph ~~(h)~~ (g), the garnishee, after disclosure, shall be discharged of any further retention obligation to the creditor with respect to a specific garnishment summons when one of the following conditions are met:

(a) The garnishee discloses that the garnishee is not indebted to the debtor or does not possess any money or other property belonging to the debtor that is attachable as

defined in section 571.73, subdivision 3. The disclosure is conclusive against the creditor and discharges the garnishee from any further obligation to the creditor other than to retain all nonexempt disposable earnings, indebtedness, money, and property of the debtor which was disclosed.

(b) The garnishee discloses that the garnishee is indebted to the debtor as indicated on the garnishment disclosure form. The disclosure is conclusive against the creditor and discharges the garnishee from any further obligation to the creditor other than to retain all nonexempt disposable earnings, indebtedness, money, and property of the debtor that was disclosed.

~~(c) If the garnishee was served with a garnishment summons before entry of judgment against the debtor by the creditor in the civil action and the garnishee has retained any disposable earnings, indebtedness, money, or property of the debtor, 270 days after the garnishment summons is served the garnishee is discharged and the garnishee shall return any disposable earnings, indebtedness, money, and property to the debtor.~~

~~(d)~~ (c) If the garnishee was served with a garnishment summons after entry of judgment against the debtor by the creditor in the civil action and the garnishee has retained any disposable earnings, indebtedness, money, or property of the debtor, 180 days after the garnishment summons is served the garnishee is discharged and the garnishee shall return any disposable earnings, other indebtedness, money, and property to the debtor.

~~(e)~~ (d) If the garnished indebtedness, money, or other property is destroyed without any negligence of the garnishee, the garnishee is discharged of any liability to the creditor for nondelivery of the garnished indebtedness, money, and other property.

~~(f)~~ (e) The court may, upon motion of an interested person, discharge the garnishee as to any disposable earnings, other indebtedness, money, and property in excess of the amount that may be required to satisfy the creditor's claim.

~~(g)~~ (f) The discharge of the garnishee pursuant to paragraph (a), (b), or (c)~~, or (d)~~ is not determinative of the rights of the creditor, debtor, or garnishee with respect to any other garnishment summons, even another garnishment summons involving the same parties, unless and to the extent adjudicated pursuant to the procedures described in paragraph ~~(h)~~ (g).

~~(h)~~ (g) The garnishee is not discharged if within 20 days of the service of the garnishee's disclosure or the return to the debtor of any disposable earnings, indebtedness money, or other property of the debtor, whichever is later, an interested person (1) serves a motion scheduled to be heard within 30 days of the service of the motion relating to the garnishment, or (2) serves a motion scheduled to be heard within 30 days of the service of the motion for leave to file a supplemental complaint against the garnishee, as

provided under section 571.75, subdivision 4, and the court upon proper showing vacates the discharge of the garnishee.

Sec. 8. Minnesota Statutes 2008, 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 OF .... JUDICIAL 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 the Minnesota Family Investment Program (MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), 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 benefits, 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 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.**

NOTE: You may help resolve your claim faster if you send to the creditor's attorney written proof or documents that show why your money is exempt. If you have questions regarding the documents to send as proof of an exemption, call the creditor's attorney. If you do not send written proof and the creditor's attorney has questions about your exemption claim, the creditor's attorney may object to your claim which may result in a further delay in releasing your exempt funds.

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 personally served on you, or~~

~~within 13 days from the date the objection is mailed to you~~. You may wish to consult an attorney at once if the 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 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 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 at the address indicated above.

DATED: ....
DEBTOR

.....
DEBTOR ADDRESS

.....
DEBTOR TELEPHONE NUMBER

Sec. 9. Minnesota Statutes 2008, section 571.914, subdivision 1, is amended to read:

Subdivision 1. **Objections.** ~~An objection shall be interposed by mailing or delivering one copy of the written objection to the financial institution and one copy of the written objection to the debtor. A Request for Hearing and Notice of Hearing form must accompany each copy of the written objection.~~

~~Both copies of an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.~~

~~The written objection, and Request for Hearing and Notice of Hearing, must be substantially in the forms set out in subdivisions 2 and 3.~~

~~The court shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of $1 for the filing of a Request for Hearing. Upon the filing of a Request for Hearing, the court administrator shall schedule the matter for hearing no later than five business days from the date of filing. The court administrator shall immediately send a completed copy of the request, including the hearing date, time, and place to the adverse party and to the financial institution by first class mail.~~

~~An order stating whether the debtor's funds are exempt shall be issued by the court within three days of the date of the hearing.~~

If a creditor objects to a debtor's exemption claim, the creditor shall obtain from the court administrator or a designated motion calendar deputy a date and time for an evidentiary hearing on its objection. The creditor shall serve on the debtor and garnishee, personally or by first class mail, a notice of hearing on creditor's objection to debtor's exemption claim in the form specified in subdivision 2, on the same day that it obtains the hearing date. The hearing date obtained by the creditor must be no earlier than five business days and no later than ten business days from the date the creditor requests and obtains the hearing date. An order stating whether the debtor's funds are exempt must be issued by the court within three days of the date of the hearing.

Sec. 10. Minnesota Statutes 2008, section 571.914, subdivision 2, is amended to read:

Subd. 2. **Notice of hearing on creditor's objection to debtor's exemption claim.** ~~(a) The written objection to the debtor must be in substantially the following form:~~

~~STATE OF MINNESOTA~~ ~~DISTRICT COURT~~

~~COUNTY OF .....~~ ~~.....~~ ~~JUDICIAL DISTRICT~~

~~..... (Creditor)~~

~~..... (Debtor)~~ ~~CREDITOR'S OBJECTION~~

~~..... (Garnishee)~~ ~~TO EXEMPTION CLAIM~~

~~The creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):~~

~~.....~~

~~.....~~

~~.....~~

~~Because of this objection, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you need to do so within ten days from the date the objection was personally served on you, or within 13 days of the date the objection was mailed to you. You may request a hearing by completing the attached form and filing it with the court administrator.~~

~~1. The court shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of $1 for the filing of a Request for Hearing.~~

~~2. Upon the filing of a Request for Hearing, the clerk shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time, and place to the adverse party and to the financial institution by first class mail.~~

~~3. If it is possible that the financial institution might not receive the request mailed from the court administrator within ten days, then you may want to personally deliver a copy of the request to the financial institution after you have filed your request with the court.~~

~~4. An order stating whether your funds are exempt shall be issued by the court within three days of the date of the hearing.~~

~~If you do not file a Request for Hearing within ten days of the date the objection was personally served on you, or within 13 days from the date the objection was mailed to you, your financial institution may turn your funds over to your creditor.~~

~~If you file a Request for Hearing and your financial institution receives it within ten days of the date it received this objection, your financial institution will retain your funds~~

~~claimed to be exempt until otherwise ordered by the court, or until the garnishment lapses pursuant to Minnesota Statutes, section 571.79.~~

~~.....~~

~~(CREDITOR OR CREDITOR'S ATTORNEY.)~~

The creditor's notice of hearing on its objection to the debtor's exemption claim must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	..... JUDICIAL DISTRICT
..... (Creditor)	NOTICE OF
..... (Debtor)	HEARING ON
..... (Garnishee) (Third Party)	CREDITOR'S OBJECTION TO DEBTOR'S EXEMPTION CLAIM

The creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):

.....

.....

.....

A hearing will be held in this case on (Date) at (Time) at (Place) to resolve whether your funds at (Financial Institution) are exempt. You have claimed that such funds are exempt because .....

.....

.....

At the hearing, you will have to prove that your funds are exempt. If you do not attend the hearing, the judge may order that your funds be released to the judgment creditor. The judge will issue an order within three days of the hearing regarding whether your funds are exempt.

Because the creditor objected to your exemption claim, your financial institution will retain the funds you claim to be exempt until it receives: (1) a written release from either the creditor or you; or (2) an order from the court regarding whether your funds are exempt.

Dated: .....

.....

Judgment Creditor or Creditor's Attorney

.....

..... Address

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim and objection. Failure to do so could delay the court's decision.)

Sec. 11. Minnesota Statutes 2008, section 571.914, subdivision 4, is amended to read:

Subd. 4. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a written objection from the creditor within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. ~~Unless the financial institution receives a request for hearing from the debtor asserting exemption rights within ten days after receipt of the written objection to the exemption,~~ The funds remain subject to the garnishment summons as if no claim of exemption had been made. ~~If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided, the financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court, or until the garnishment lapses pursuant to section 571.79.~~ The financial institution shall retain the funds claimed to be exempt until it receives: (1) a written release from either the creditor or debtor; or (2) an order stating whether the funds are exempt.

Sec. 12. Minnesota Statutes 2008, section 571.93, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** The court may order the issuance of a garnishment summons before judgment ~~or default~~ in the civil action, if a summons and complaint, or copies of these documents, are filed with the appropriate court, and if, upon application to the court, it appears that any of the following grounds exist:

(1) the debtor has assigned, secreted, or disposed of, or is about to assign, secrete, or dispose of, any of the debtor's nonexempt property, with intent to delay or defraud any of debtor's creditors;

(2) the debtor has removed, or is about to remove, any of the debtor's nonexempt property from this state, with intent to delay or defraud any of debtor's creditors;

(3) the debtor has converted or is about to convert any of the debtor's nonexempt property into money or credits, for the purpose of placing the property beyond the reach of any of debtor's creditors;

(4) the debtor has committed an intentional fraud giving rise to the claim upon which the civil action is brought;

(5) the debtor has committed any act or omission, for which the debtor has been convicted of a felony, giving rise to the claim upon which the civil action is brought; or

(6) the purpose of the garnishment is to establish quasi in rem jurisdiction and

(i) debtor is a resident individual having left the state with intent to defraud creditors, or to avoid service; or

(ii) a judgment had previously been obtained in another state consistent with due process; or

(iii) the claim in the civil action is directly related to and arises from the property sought to be attached; or

(iv) no forum is available to obtain a personal judgment against the debtor in the United States or elsewhere; or

(7) the creditor has been unable to serve upon the debtor the summons and complaint in the civil action because the debtor has been inaccessible due to residence and employment in a building where access is restricted.

Sec. 13. **REPEALER.**

Minnesota Statutes 2008, sections 551.05, subdivisions 5 and 6; and 571.914, subdivision 3, are repealed.

551.05 ATTORNEY'S SUMMARY EXECUTION UPON FUNDS AT A FINANCIAL INSTITUTION.

Subd. 5. **Notice of objection.** (a) The written objection to the judgment debtor's claim of exemption must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
County of	.....JUDICIAL DISTRICT
..... (Judgment Creditor)	OBJECTION TO
..... (Judgment Debtor)	EXEMPTION CLAIM
..... (Garnishee) (Third Party)	

The judgment creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):

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

Because of this objection, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you need to do so within ten days from the date the objection was personally served on you, or within 13 days from the date the objection was mailed to you. You may request a hearing by completing the attached form and filing it with the court administrator.

1. The court administrator's office shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of $1 for the filing of a Request for Hearing.

2. Upon the filing of a Request for Hearing, the court administrator shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time, and place to the adverse party and to the financial institution by first class mail.

3. If it is possible that the financial institution might not receive the request mailed from the court administrator within ten days, then you may want to personally deliver a copy of the request to the financial institution after you have filed your request with the court.

4. An order stating whether your funds are exempt shall be issued by the court within three days of the date of the hearing.

If you do not file a Request for Hearing within ten days of the date the objection was personally served on you, or within 13 days from the date the objection was mailed to you, your financial institution may turn your funds over to your judgment creditor.

If you file a Request for Hearing and your financial institution receives it within ten days of the date it received this objection, your financial institution will retain your funds claimed to be exempt until otherwise ordered by the court.

.....
Attorney for Judgment Creditor

Subd. 6. **Request for hearing and notice for hearing.** The request for hearing accompanying the objection notice must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
County of	.....JUDICIAL DISTRICT
..... (Judgment Creditor)	REQUEST FOR HEARING
..... (Judgment Debtor)	AND NOTICE FOR HEARING
..... (Garnishee) (Third Party)	

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of ..... (Judgment Debtor) at the ..... (Financial Institution).

I believe the property being held is exempt because

.....
.....

Dated: ....

(JUDGMENT DEBTOR)

.....

(ADDRESS)

.....

HEARING DATE: ..... TIME: .....

HEARING PLACE: .....

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim and objection. Failure to do so could delay the court's decision.)

571.914 OBJECTION TO EXEMPTION CLAIM.

Subd. 3. **Request for hearing and notice for hearing.** The request for hearing accompanying the objection notice must be in substantially the following form:

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF .... JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor) REQUEST FOR HEARING AND NOTICE FOR HEARING

..... (Garnishee)

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of ..... (Debtor) at the ..... (Financial Institution).

I believe the property being held is exempt because

.....

.....

Dated: .....

(DEBTOR).....

(ADDRESS).....

HEARING DATE: ..... TIME: .....

HEARING PLACE: .....

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim. Failure to do so could delay the court's decision.)