A bill for an act

relating to creditor remedies; modifying garnishment instructions, forms, procedures, and exemptions; amending Minnesota Statutes 2008, sections 550.143; 550.37, subdivision 14; 551.05; 571.71; 571.72, by adding subdivisions; 571.911; 571.912; 571.913; 571.914; 571.925.

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

Section 1. Minnesota Statutes 2008, section 550.143, is amended to read:

550.143 LEVY ON FUNDS AT A FINANCIAL INSTITUTION.

Subdivision 1. **Procedure.** When the sheriff is levying upon funds at a financial institution, this section must be complied with, in addition to the general provisions set forth in section 550.135.

Subd. 2. **Disclosure form.** Along with the writ of execution, the notice, instructions, and the exemption notice described in subdivision 3, the sheriff shall serve upon the financial institution an execution disclosure form which must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT
.... (Judgment Creditor)	
against	FINANCIAL INSTITUTIONS
.... (Judgment Debtor)	EXECUTION
and	DISCLOSURE
....(Third Party)	

On the ..... day of ...., ..., the time of service of execution herein, there was due and owing the judgment debtor from the third party the following:

(1) Money. Enter on the line below any amounts due and owing the judgment debtor, except earnings, from the third party.

....

(2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the third party claims against the amount set forth on line (1). State the facts by which such setoff, defense, lien, or claim is claimed. (Any indebtedness to a third party incurred by the judgment debtor within ten days prior to the receipt of the first execution levy on a debt is void as to the judgment creditor.)

....

(3) Exemption. Enter on the line below any amounts or property claimed by the judgment debtor to be exempt from execution.

....

(4) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property.

....

(5) Enter on the line below the total of lines (2), (3), and (4).

....

(6) Enter on the line below the difference obtained (never less than zero) when line (5) is subtracted from the amount on line (1).

....

(7) Enter on the line below 110 percent of the amount of the judgment creditor's claim which remains unpaid.

....

(8) Enter on the line below the lesser of line (6) and line (7). You are hereby instructed to remit this amount only if it is $10 or more.

....

AFFIRMATION

I, ... (person signing Affirmation), am the third party or I am authorized by the third party to complete this nonearnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated: ....

Signature

....

Title

....
Telephone Number

Subd. 3. **Notice, instructions, and 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 a notice, instructions, and two copies of an exemption notice, which must be substantially in the form set forth below. The sheriff shall serve the notice, instructions, and both copies of the exemption notice on the financial institution, along with the writ of execution. Failure of the sheriff to serve the notice, instructions, and 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 that were subject to the prior garnishment. Upon receipt of the writ of execution, notice, instructions, 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~~ ~~DISTRICT COURT~~
~~COUNTY OF~~ ~~............................~~ ~~.....................~~ ~~JUDICIAL DISTRICT~~

~~..~~ ~~(Judgment Creditor)~~
~~..~~ ~~(Judgment 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 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.**~~

~~**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 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 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 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 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 at the address indicated above.~~

	~~...~~
	~~DEBTOR~~
~~DATED: ....~~	~~...~~
	~~...~~
	~~...~~
	~~DEBTOR ADDRESS~~
	~~...~~
	~~DEBTOR TELEPHONE NUMBER~~

Subd. 3a. **Form of notice.** The notice required by subdivision 3 must be provided as a separate form and must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT

.... (Creditor)

.... (Debtor)

.... (Financial institution)

IMPORTANT NOTICE

YOUR FUNDS HAVE BEEN LEVIED

The Creditor has frozen money in your account at your financial institution.

Your account balance is $.......

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

The amount being held will be frozen for 14 days from the date of this notice.

Some of your money in your account may be protected (the legal word is exempt). You may be able to get it sooner than 14 days if you act quickly and follow the instructions on the next page.

The attached exemption form lists some different sources of money in your account that may be protected. If your money is from one or more of these sources, place a check on the line on the form next to the sources of your money. If it is from one of these sources, the Creditor cannot take it.

BUT, **you must follow the instructions and return the exemption form and copies of your bank statements from the last 60 days** to have the bank unfreeze your money. If you do not follow the instructions, your financial institution will give the money to the Sheriff. If that happens and it is protected, you can still get it back from the Creditor later, but that is not as easy to do as filling in the form now.

See next pages for instructions and the exemption form.

Subd. 3b. **Form of instructions.** The instructions required by this section must be in a separate form and must be substantially in the following form:

INSTRUCTIONS

Note: The creditor is who you owe the money to. You are the debtor.

1. Fill out both of the attached exemption forms in this packet.

If you check one of the lines, you should also give proof that shows that some or all of the money in your account is from one or more of the protected sources. Creditors may ask for a hearing if they question your exemptions. To avoid a hearing:

Case numbers should be added to the form. Copies of documents should be sent with the form.

NOTICE: YOU MUST SEND TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) COPIES OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS BEFORE THE LEVY. Keep a copy of your bank statements in case there are questions about your claim. If you do not send to the creditor's attorney (or to the creditor, if no attorney) bank statements with your exemption claim, the financial institution may release your money to the sheriff.

2. **Sign** the exemption forms. **Make one copy to keep for yourself.**

3. **Mail or deliver** the other copies of the form by (insert date).

BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.

One copy of the form and the copies of your bank statements go to:

....
(Insert name of creditor or creditor's attorney)

....
(Insert address of creditor or creditor's attorney)

One copy goes to:

....
(Insert name of bank)
....
(Insert address of bank)

HOW THE PROCESS WORKS

If You Do Not Send in the Exemption Form and Bank Statements:

14 days after the date of this letter some or all of your money may be turned over to the creditor or to the sheriff.

If You Send in the Exemption Form and Bank Statements:

Any money that is NOT protected can be turned over to the sheriff.

If the Creditor Does Not Object:

The financial institution will unfreeze your money six business days after the institution gets your completed form.

If the Creditor Objects:

The money you have said is protected on the form will be held by the bank. The creditor has six business days to object (disagree) and ask the court to hold a hearing. You will receive a Notice of Objection and a Notice of Hearing.

The financial institution will hold the money until a court decides whether your money is protected or not. Some reasons a creditor may object are because you did not send copies of your bank statements or other proof of the benefits you received. Be sure to include these when you send your exemption form.

You may want to talk to a lawyer for advice about this process. If you are low income you can call Legal Aid.

PENALTIES:

If you claim that your money is protected and a court decides you made that claim in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an additional amount of up to $100. For example, it may be bad faith if you claim you receive government benefits that you do not receive.

If the creditor made a bad faith objection to your claim that your money is protected, the court can order them to pay costs, actual damages, attorney fees, and an additional amount of up to $100.

Subd. 3c. **Form of exemption form.** The exemption form required by this subdivision must be sent as a separate form and must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT

.... (Creditor)

.... (Debtor)

.... (Financial institution)

EXEMPTION FORM

A. **HOW MUCH MONEY IS PROTECTED**

.... I claim ALL of the money being frozen by the bank is protected.

.... I claim SOME of the money is protected. The amount I claim is protected is $.......

B. **WHY THE MONEY IS PROTECTED**

My money is protected because I get it from one or more of the following places: **(Check all that apply)**

.... **Government benefits**

Government benefits include, but are not limited to, the following:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance.

LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT

....

LIST THE CASE NUMBER AND COUNTY

Case Number: ....

County: ....

Government benefits also include:

.... **Social Security benefits**

.... **Unemployment benefits**

.... **Workers' compensation**

.... **Veterans benefits**

If you receive any of these government benefits, include copies of any documents you have that show you receive Social Security, unemployment, workers' compensation, or veterans benefits.

.... **Other assistance based on need**

You may have assistance based on need from another source that is not on the list. If you do, check this box, and fill in the source of your money on the line below:

Source: ....

Include copies of any documents you have that show the source of this money.

EARNINGS

ALL or SOME of your earnings (wages) may also be protected.

.... **All of your earnings (wages) are protected if:**

.... You get government benefits (see list of government benefits)

.... You currently receive other assistance based on need

.... You have received government benefits in the last six months

.... You were in jail or prison in the last six months

If you check one of these lines, your wages are only protected for 60 days after they are deposited in your account so **you MUST send the creditor a copy of BANK STATEMENTS** that show what was in your account **for the 60 days right before the bank froze your money**.

.... **Some of your earnings (wages) are protected.**

If all of your earnings are not exempt, then some of your earnings are still protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

75 percent of your wages (after taxes are taken out); or

(insert the sum of the current federal minimum wage) multiplied by 40.

OTHER EXEMPT FUNDS

The money from the following are also completely protected after they are deposited in your account.

.... **An accident, disability, or retirement pension or annuity**

.... **Payments to you from a life insurance policy**

.... **Earnings of your child who is under 18 years of age**

.... **Child support**

.... **Money paid to you from a claim for damage or destruction of property** Property includes household goods, farm tools or machinery, tools for your job, business equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes, furniture, or appliances.

.... **Death benefits paid to you**

I give permission to any agency that has given me cash benefits to give information about my benefits to the above-named creditor, or its attorney. The information will **ONLY** concern whether I get benefits or not, or whether I have gotten them in the past six months.

If I was an inmate in the last six months, I give my permission to the correctional institution to tell the above-named creditor that I was an inmate there.

YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) AND THE BANK. REMEMBER TO INCLUDE A COPY OF YOUR BANK STATEMENTS FOR

THE PAST 60 DAYS. FILL IN THE BLANKS BELOW AND GO BACK TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.

I have mailed or delivered a copy of this form to:

....

(Insert name of creditor or creditor's attorney)

....

(Insert address of creditor or creditor's attorney)

I have also mailed or delivered a copy of this exemption form to my bank at the address listed in the instructions.

DATED: ....

DEBTOR

....

DEBTOR ADDRESS

....

DEBTOR TELEPHONE NUMBER

Subd. 4. **Effect of exemption notice.** Within two business days after receipt of the writ of execution ~~and~~, notice, instructions, and two copies of the exemption ~~notices~~ notice, the financial institution shall serve upon the judgment debtor the notice, instructions, and two copies of the exemption notice. The financial institution shall serve ~~the notice~~ these forms by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the notice, instructions, and exemption notices are mailed to the judgment debtor, the funds remain subject to the execution levy and shall be remitted to the sheriff within ~~seven~~ six business days. If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the debtor containing the exemption notices. The judgment debtor is also required to include copies of bank statements for the prior 60 days with the exemption notice delivered to the attorney for the judgment creditor. In the event that there is no attorney for the judgment creditor, then the notice and bank statements must be sent directly to the judgment creditor. Failure of the judgment debtor to deliver the executed exemption notice or copies of the required bank statements for the prior 60 days does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the debtor remain subject to the execution levy. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of ~~seven~~ six business days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the judgment creditor interposes an objection to the exemption.

Subd. 5. **Objection ~~to exemption claim~~ and request for hearing.** (a) An objection shall be interposed within six business days of receipt by the creditor of an exemption claim from the debtor, by mailing or delivering one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing to the financial institution and one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing 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~~ Notice of Objection and Notice of Hearing must be substantially in the form specified in subdivision 7.

(b) The court administrator may charge a fee of $1 for the filing of a Notice of Objection and Notice of Hearing. Upon the filing of a Notice of Objection and Notice of Hearing, the court administrator shall schedule the matter for hearing no sooner than five business days but no later than seven business days from the date of filing. A debtor may request continuance of the hearing by notifying the creditor and the court. The court shall schedule the continued hearing within seven days of the original hearing date.

(c) 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.

Subd. 6. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing from the ~~judgment~~ creditor or its attorney within the specified ~~seven-day~~ six-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 sheriff 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~~ The financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court or upon mutual agreement of the parties.

Subd. 7. **Form of Notice of Objection and Notice of Hearing.** (a) The ~~written objection to the judgment debtor's claim of exemption~~ Written Objection and Notice of Hearing 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 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 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 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.~~

~~...~~

~~Judgment Creditor or Attorney~~

STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF .... | .... JUDICIAL DISTRICT

....

(Creditor)

CREDITOR'S NOTICE OF OBJECTION AND NOTICE OF HEARING ON EXEMPTION CLAIM

....

(Debtor)

....

(Financial Institution)

(DEBTOR)

....

ADDRESS

....

....

....

....

....

(CREDITOR OR CREDITOR'S ATTORNEY)

NOTICE OF HEARING

The creditor objects to your exemption claim. This hearing is to resolve your exemption claim.

Hearing Date: ....

Time: ....

Hearing Place: ....

The creditor objects to your claim of exemption from levy of execution for the following reason(s):

....

....

....

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

If the creditor receives all documents and materials supporting your exemption claim before the hearing date, the creditor may agree with your exemption claim and you might still be able to avoid a hearing.

Because a court hearing will be held on your claim that your funds are protected, your financial institution will retain the funds until it receives an order from the court or upon mutual agreement between you and your creditor.

~~Subd. 8.~~ ~~**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~~
....	~~(Third Party)~~	~~NOTICE FOR HEARING~~

~~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)~~

~~...~~

~~(DEBTOR PHONE NUMBER)~~

~~...~~

~~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.)~~

Subd. 9. **Release of funds.** At any time during the procedure specified in this section, the judgment debtor or the judgment creditor may, by a writing dated after the service of the execution, direct the sheriff or the financial institution to release the funds in question to the other party. Upon receipt of a release, the sheriff or the financial institution shall release the funds as directed.

Subd. 10. **Subsequent proceedings; bad faith claims.** If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed $100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed $100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and, if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. Both copies of an exemption claim or 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.

Sec. 2. Minnesota Statutes 2008, section 550.37, subdivision 14, is amended to read:

Subd. 14. **Public assistance.** All ~~relief~~ government assistance based on need, and the earnings or salary of a person who is a recipient of ~~relief~~ government assistance based on need, shall be exempt from all claims of creditors including any contractual setoff or security interest asserted by a financial institution. For the purposes of this chapter, ~~relief~~ government assistance based on need includes ~~MFIP, work first, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance~~ but is not limited to Minnesota family investment program, general assistance medical care, Supplemental Security Income, medical assistance, MinnesotaCare, payment of Medicare part B premiums or receipt of part D extra help, MFIP diversionary work program, work participation cash benefit, Minnesota supplemental assistance, emergency Minnesota supplemental assistance, general assistance, emergency general assistance, emergency assistance or county crisis funds, energy or fuel assistance, and food support. The salary or earnings of any debtor who is or has been an eligible recipient of ~~relief~~ government assistance based on need, or an inmate of a correctional institution shall, upon the debtor's return to private employment or farming after having been an eligible recipient of ~~relief~~ government assistance based on need, or an inmate of a correctional institution, be exempt from attachment, garnishment, or levy of execution for a period of six months after the debtor's return to employment or farming and after all public assistance for which eligibility existed has been terminated.

The exemption provisions contained in this subdivision also apply for 60 days after deposit in any financial institution, whether in a single or joint account. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. Agencies distributing ~~relief~~ government assistance and the correctional institutions shall, at the request of creditors, inform them whether or not any debtor has been an eligible recipient of ~~relief~~ government assistance based on need, or an inmate of a correctional institution, within the preceding six months.

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

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

Subdivision 1. **Procedure.** When levying upon funds at a financial institution, this section must be complied with, in addition to the general provisions specified in section 551.04.

Subd. 1a. **Notice, instructions, and 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 a notice, instructions, and two copies of an exemption notice. The notice, instructions, and exemption notice must be substantially in the form set forth below. Failure of the attorney for the judgment creditor to send ~~the exemption notice~~ these forms 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.

Subd. 1b. **Form of notice.** 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 a separate form and 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~~

STATE OF MINNESOTA | DISTRICT COURT
COUNTY OF .... | .... JUDICIAL DISTRICT

.... (Creditor)

.... (Debtor)

.... (Financial institution)

IMPORTANT NOTICE

YOUR FUNDS HAVE BEEN LEVIED

The Creditor has frozen money in your account at your financial institution.

Your account balance is $.......

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

The amount being held will be frozen for 14 days from the date of this notice.

Some of your money in your account may be protected (the legal word is exempt). You may be able to get it sooner than 14 days if you act quickly and follow the instructions on the next page.

The attached exemption form lists some different sources of money in your account that may be protected. If your money is from one or more of these sources, place a check on the line on the form next to the sources of your money. If it is from one of these sources, the Creditor cannot take it.

BUT, **you must follow the instructions and return the exemption form and copies of your bank statements from the last 60 days** to have the bank unfreeze your money. If you do not follow the instructions, your financial institution will give the money to the Creditor. If that happens and it is protected, you can still get it back from the Creditor later, but that is not as easy to do as filling in the form now.

See next pages for instructions and the exemption form.

Subd. 1c. **Form of instructions.** The instructions required must be in a separate form and must be substantially in the following form:

INSTRUCTIONS

Note: The creditor is who you owe the money to. You are the debtor.

1. Fill out both of the attached exemption forms in this packet.

If you check one of the lines, you should also give proof that shows that some or all of the money in your account is from one or more of the protected sources. Creditors may ask for a hearing if they question your exemptions. To avoid a hearing:

Case numbers should be added to the form. Copies of documents should be sent with the form.

NOTICE: YOU MUST SEND TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) COPIES OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS BEFORE THE LEVY. Keep a copy of your bank statements in case there are questions about your claim. If you do not send to the

creditor's attorney (or to the creditor, if no attorney) bank statements with your exemption claim, the financial institution may release your money to the creditor.

2. **Sign** the exemption forms. **Make one copy to keep for yourself.**

3. **Mail or deliver** the other copies of the form by (insert date).

BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.

One copy of the form and the copies of your bank statements go to:

....

(Insert name of creditor or creditor's attorney)

....

(Insert address of creditor or creditor's attorney)

One copy goes to:

....

(Insert name of bank)

....

(Insert address of bank)

HOW THE PROCESS WORKS

If You Do Not Send in the Exemption Form and Bank Statements:

14 days after the date of this letter some or all of your money may be turned over to the creditor pursuant to Minnesota statute.

If You Send in the Exemption Form and Bank Statements:

Any money that is NOT protected can be turned over to the creditor.

If the Creditor Does Not Object:

The financial institution will unfreeze your money six business days after the institution gets your completed form.

If the Creditor Objects:

The money you have said is protected on the form will be held by the bank. The creditor has six business days to object (disagree) and ask the court to hold a hearing. You will receive a Notice of Objection and a Notice of Hearing.

The financial institution will hold the money until a court decides whether your money is protected or not. Some reasons a creditor may object are because you did not send copies of your bank statements or other proof of the benefits you received. Be sure to include these when you send your exemption form.

You may want to talk to a lawyer for advice about this process. If you are low income you can call Legal Aid.

PENALTIES:

If you claim that your money is protected and a court decides you made that claim in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an additional amount of up to $100. For example, it may be bad faith if you claim you receive government benefits that you do not receive.

If the creditor made a bad faith objection to your claim that your money is protected, the court can order them to pay costs, actual damages, attorney fees, and an additional amount of up to $100.

Subd. 1d. **Form of exemption form.** The exemption form required by this subdivision must be a separate form and must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT
.... (Creditor)	
.... (Debtor)	
.... (Financial institution)	

EXEMPTION FORM

A. **HOW MUCH MONEY IS PROTECTED**

.... I claim ALL of the money being frozen by the bank is protected.

.... I claim SOME of the money is protected. The amount I claim is protected is $.......

B. **WHY THE MONEY IS PROTECTED**

My money is protected because I get it from one or more of the following places: **(Check all that apply)**

.... **Government benefits**

Government benefits include, but are not limited to, the following:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance.

LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT

....

LIST THE CASE NUMBER AND COUNTY

Case Number: ....

County: ....

Government benefits also include:

.... **Social Security benefits**

.... **Unemployment benefits**

.... **Workers' compensation**

.... **Veterans benefits**

If you receive any of these government benefits, include copies of any documents you have that show you receive Social Security, unemployment, workers' compensation, or veterans benefits.

.... **Other assistance based on need**

You may have assistance based on need from another source that is not on the list. If you do, check this box, and fill in the source of your money on the line below:

Source: ....

Include copies of any documents you have that show the source of this money.

EARNINGS

ALL or SOME of your earnings (wages) may also be protected.

.... **All of your earnings (wages) are protected if:**

.... You get government benefits (see list of government benefits)

.... You currently receive other assistance based on need

.... You have received government benefits in the last six months

.... You were in jail or prison in the last six months

If you check one of these lines, your wages are only protected for 60 days after they are deposited in your account so **you MUST send the creditor a copy of BANK STATEMENTS** that show what was in your account **for the 60 days right before the bank froze your money**.

.... **Some of your earnings (wages) are protected.**

If all of your earnings are not exempt, then some of your earnings are still protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

75 percent of your wages (after taxes are taken out); or

(insert the sum of the current federal minimum wage) multiplied by 40.

OTHER EXEMPT FUNDS

The money from the following are also completely protected after they are deposited in your account.

.... **An accident, disability, or retirement pension or annuity**

.... **Payments to you from a life insurance policy**

.... **Earnings of your child who is under 18 years of age**

.... **Child support**

.... **Money paid to you from a claim for damage or destruction of property**
Property includes household goods, farm tools or machinery, tools for your job, business equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes, furniture, or appliances.

.... **Death benefits paid to you**

<u>I give permission to any agency that has given me cash benefits to give information about my benefits to the above-named creditor, or its attorney. The information will **ONLY** concern whether I get benefits or not, or whether I have gotten them in the past six months.</u>

<u>If I was an inmate in the last six months, I give my permission to the correctional institution to tell the above-named creditor that I was an inmate there.</u>

<u>**YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) AND THE BANK. REMEMBER TO INCLUDE A COPY OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS. FILL IN THE BLANKS BELOW AND GO BACK TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.**</u>

<u>I have mailed or delivered a copy of this form to:</u>

<u>..</u>
<u>(Insert name of creditor or creditor's attorney)</u>

<u>..</u>
<u>(Insert address of creditor or creditor's attorney)</u>

<u>I have also mailed or delivered a copy of this exemption form to my bank at the address listed in the instructions.</u>

<u>DATED: ....</u> <u>..</u>
<u>DEBTOR</u>
<u>..</u>
<u>DEBTOR ADDRESS</u>
<u>..</u>
<u>DEBTOR TELEPHONE NUMBER</u>

Subd. 2. **Effect of exemption notice.** Within two business days after receipt of the execution levy and <u>the notice, instructions, and two copies of the</u> exemption notices, the financial institution shall serve upon the judgment debtor <u>the notice, instructions, and</u> two copies of the exemption notice. The financial institution shall serve the notice by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the judgment debtor, the funds remain subject to the execution levy and shall be remitted to the judgment creditor's attorney within ~~seven~~ <u>six business</u> days. If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. <u>The debtor is also required to include copies of bank statements for the prior 60 days with the exemption notice. In the event that there is no attorney for the</u>

judgment creditor, the notice must be sent directly to the judgment creditor. Failure of the judgment debtor to deliver the executed exemption notice or copies of the required bank statements for the prior 60 days does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the judgment debtor remain subject to the execution levy. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of ~~seven~~ six business days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the attorney for the judgment creditor interposes an objection to the exemption.

Subd. 3. **~~Objection to exemption claim~~ Objections and request for hearing.** An objection shall be interposed, within six business days of receipt by the creditor of an exemption claim from the debtor, by mailing or delivering one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing to the financial institution and one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing 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~~ Notice of Objection and Notice of Hearing form must be substantially in the form ~~specified~~ set out in subdivision 5.

The court administrator may charge a fee of $1 for the filing of a Notice of Objection and Notice of Hearing. Upon the filing of a Notice of Objection and Notice of Hearing, the court administrator shall schedule the matter for hearing no sooner than five business days but no later than seven business days from the date of filing. A debtor may request continuance of the hearing by notifying the creditor and the court. The court shall schedule the continued hearing within seven days of the original hearing date.

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.

Subd. 4. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing from the ~~judgment~~ creditor within the specified ~~seven-day~~ six-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 otherwise ordered by the court, upon mutual agreement of the parties, or until the garnishment lapses pursuant to subdivision 7.

Subd. 5. **Form of Notice of Objection and Notice of Hearing.** ~~(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~~

(a) The Written Objection and Notice of Hearing must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT

....
(Creditor)

CREDITOR'S NOTICE OF OBJECTION AND NOTICE OF HEARING ON EXEMPTION CLAIM

....
(Debtor)

....
(Financial Institution)

(DEBTOR)
....
ADDRESS
....
....

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

....

NOTICE OF HEARING

The creditor objects to your exemption claim. This hearing is to resolve your exemption claim.

Hearing Date: ....
Time: ....
Hearing Place: ....

The creditor objects to your claim of exemption from levy of execution for the following reason(s):

....

....

....

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

If the creditor receives all documents and materials supporting your exemption claim before the hearing date, the creditor may agree with your exemption claim and you might be able to avoid a hearing.

Because a court hearing will be held on your claim that your funds are protected, your financial institution will retain the funds until it receives an order from the court or upon mutual agreement between you and the 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.)~~

Subd. 7. **Release of funds.** At any time during the procedure specified in this section, the judgment debtor or the attorney for the judgment creditor may, by a writing dated after the service of the writ of execution, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Subd. 8. **Subsequent proceedings; bad faith claims.** If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed $100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed $100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. Both copies of an exemption claim or 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.

Sec. 4. 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;

(2) at any time ~~40~~ <u>45</u> 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.<u> Garnishment under this clause is effective only after the Notice of Intent</u>

to Garnish form in section 571.72, subdivision 11, and the Exemption form in section 571.72, subdivision 10, are served on the debtor at any time 20 or more days after the service of the Summons and Complaint and, in addition, the creditor does not receive an Answer from the debtor within 25 days after service of the Notice of Intent to Garnish. The Notice of Intent to Garnish form and the Exemption form must be substantially in the form set forth in section 571.72, subdivisions 10 and 11. If a creditor sends a Notice of Intent to Garnish form to a debtor under this clause, the creditor cannot obtain a default judgment against the debtor under rule 55.01(a) of the Minnesota Rules of Civil Procedure for the District Court until 25 days after the service of the Notice of Intent to Garnish form. 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) at any time after entry of a money judgment in the civil action.

Sec. 5. Minnesota Statutes 2008, section 571.72, is amended by adding a subdivision to read:

Subd. 10. **Exemption notice for prejudgment garnishment.**

EXEMPTION NOTICE

IMPORTANT NOTICE: A garnishment summons may be served on your employer, bank, or other third parties without any further court proceeding or notice to you. See the attached Notice of Intent to Garnish for more information.

The following money and wages may be protected (the legal word is exempt) from garnishment:

1. Financial institutions/bank

Some of the money in your account may be protected because you receive government benefits from one or more of the following places:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance or county crisis funds,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance,

Social Security benefits,

Unemployment benefits,

Workers' compensation,

Veterans benefits.

Sending the creditor's attorney (or creditor, if no attorney) a copy of BANK STATEMENTS that show what was in your account for the past 60 days may give the creditor enough information about your exemption claim to avoid a garnishment.

2. Earnings

All or some of your earnings may be completely protected from garnishment if:

All of your earnings (wages) may be protected if:

You get government benefits (see list of government benefits)

You currently receive other assistance based on need

You have received government benefits in the last six months

You were in jail or prison in the last six months

Your wages are only protected for 60 days after they are deposited in your account so **it would be helpful if you immediately send the undersigned creditor a copy of BANK STATEMENTS** that show what was in your account **for the past 60 days**.

Some of your earnings (wages) may be protected if:

If all of your earnings are not exempt, some of your earnings may still be protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

75 percent of your wages (after taxes are taken out); or

(insert the sum of the current federal minimum wage) multiplied by 40.

The money from the following are also exempt for 20 days after they are deposited in your account.

An accident, disability, or retirement pension or annuity

Payments to you from a life insurance policy

Earnings of your child who is under 18 years of age

Child support

Money paid to you from a claim for damage or destruction of property. Property includes household goods, farm tools or machinery, tools for your job, business equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes, furniture, or appliances.

Death benefits paid to you.

YOU WILL BE ABLE TO CLAIM THESE EXEMPTIONS WHEN YOU RECEIVE A NOTICE. You will get the notice at least ten days BEFORE a wage garnishment. BUT if the creditor garnishes your bank account, you will not get the notice until AFTER the account has been frozen. IF YOU BELIEVE THE MONEY IN YOUR BANK ACCOUNT OR YOUR WAGES ARE EXEMPT, YOU SHOULD IMMEDIATELY CONTACT THE PERSON BELOW. YOU SHOULD TELL THEM WHY YOU THINK YOUR ACCOUNT OR WAGES ARE EXEMPT TO SEE IF YOU CAN AVOID GARNISHMENT.

Creditor ....

Creditor address ....

Creditor telephone number ....

Sec. 6. Minnesota Statutes 2008, section 571.72, is amended by adding a subdivision to read:

Subd. 11. **Notice of intent to garnish.** The notice of intent to garnish must be in substantially the following form:

IMPORTANT! READ THIS CAREFULLY!

NOTICE OF INTENT TO GARNISH

....	against	....
Plaintiff/Creditor		*Defendant/Debtor*

Your money, property, or earnings are in danger of being garnished because you did not send a written "Answer" to the Summons and Complaint served on you over 20 days ago.

There may not be a case filed in court, BUT because you did not send a written "Answer" the creditor may serve a garnishment summons on your employer, bank, or other third parties. This means that your money or wages can be garnished (held or taken). Under Minnesota law, this can happen any time 20 days after the date you receive this notice.

There will be **NO COURT HEARING** or any further notice to you prior to a garnishment if you do nothing. There may not be a file open at the Clerk of the Court's office. **There are things you can do to avoid a garnishment, but you must act quickly.**

Please read these instructions carefully. **You have 20 days** to do one of the following:

1. **Send an Answer.** If you do not think you owe the money or if you have a legal reason that you did not pay, send a written "Answer" to the Summons and Complaint. Your "Answer" should tell the creditor why you think you do not owe some or all of the money. Contact a lawyer if you do not know what to do, need help with an answer, or have any questions about the debt.

2. **Claim an Exemption.** Even if you do not have a defense to the complaint, some of your money may be protected (the legal word is exempt) from garnishment. This means it is protected and cannot be taken. The creditor will send you a form to claim these exemptions at a later time, **but you can possibly avoid the garnishment** by contacting the person below **immediately** to claim your exemption. Attached to this notice is a list of exemptions you may be able to claim.

3. **If you do not have a defense and your money is not exempt** you can **call** the person below before the 20 days are up and try to set up a payment plan that works for both you and your creditor. You can contact the person below at any time to try to work out a payment plan, but if you wait too long or cannot agree on a payment plan, they may garnish your wages, bank accounts, or assets.

If you do not do any of these things, your money can be garnished. The creditor can garnish your wages, bank accounts, or other assets. They do not have to go to court to let you know when they start taking your money.

LAW FIRM

Dated: .... By: ....

Attorney, #

Attorneys for Plaintiff

Address

Telephone

Sec. 7. Minnesota Statutes 2008, section 571.911, is amended to read:

571.911 EXEMPTION NOTICE; DUTY OF FINANCIAL INSTITUTION.

If the garnishment summons is used to garnish funds of a debtor who is a natural person and if the funds to be garnished are held on deposit at a financial institution, the creditor shall serve with the garnishee summons a notice, instructions, and two copies of an exemption notice. The notice, instructions, and exemption notices must be substantially in the ~~form~~ forms set forth in section 571.912. Failure of the creditor to send the exemption notice renders the garnishment void, and the financial institution shall take no action. Upon receipt of the garnishment summons and exemption notices, the financial institution shall retain as much of the amount under section 571.73 as the financial institution has on deposit owing to the debtor, but not more than 110 percent of the creditor's claim.

Sec. 8. Minnesota Statutes 2008, section 571.912, is amended to read:

571.912 FORM OF NOTICE, INSTRUCTIONS, AND EXEMPTION NOTICE.

Subdivision 1. **Form of notice.** The notice, instructions, and exemption notice informing a debtor that ~~an order for attachment,~~ a garnishment summons~~, or levy by execution~~ has been used to attach funds of the debtor to satisfy a claim must be a separate notice and must be substantially in the following form:

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

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT
.... (Creditor)	
.... (Debtor)	
.... (Financial institution)	

IMPORTANT NOTICE

YOUR FUNDS HAVE BEEN GARNISHED

The Creditor has frozen money in your account at your financial institution.

Your account balance is $.......

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

The amount being held will be frozen for 14 days from the date of this notice.

Some of your money in your account may be protected (the legal word is exempt). You may be able to get it sooner than 14 days if you act quickly and follow the instructions on the next page.

The attached exemption form lists some different sources of money in your account that may be protected. If your money is from one or more of these sources, place a check on the line on the form next to the sources of your money. If it is from one of these sources, the Creditor cannot take it.

BUT, **you must follow the instructions and return the exemption form and copies of your bank statements from the last 60 days** to have the bank unfreeze your money. If you do not follow the instructions or your Creditor gets an order from the court or writ of execution, your financial institution will give the money to your Creditor. If that happens and it is protected, you can still get it back from the Creditor later, but that is not as easy to do as filling in the form now.

See next pages for instructions and the exemption form.

Subd. 2. **Form of instructions.** The instructions required must be in a separate form and must be substantially in the following form:

INSTRUCTIONS

Note: The creditor is who you owe the money to. You are the debtor.

1. Fill out **both** of the attached exemption forms in this packet.

If you check one of the lines, you should also give proof that shows that some or all of the money in your account is from one or more of the protected sources. Creditors may ask for a hearing if they question your exemptions.

To avoid a hearing:

Case numbers should be added to the form.

Copies of documents should be sent with the form.

NOTICE: YOU MUST SEND TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) COPIES OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS BEFORE THE GARNISHMENT. Keep a copy of your bank statements in case there are questions about your claim. If you do not send to the creditor's attorney (or to the creditor, if no attorney) bank statements with your exemption claim, the financial institution may release your money to the creditor once the creditor gives the financial institution a court order directing it to turn over the funds.

2. **Sign** the exemption forms. **Make one copy to keep for yourself.**

3. **Mail or deliver** the other copies of the form by (insert date).

BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.

One copy of the form and the copies of your bank statements go to:

....

(Insert name of creditor or creditor's attorney)

....

(Insert address of creditor or creditor's attorney)

One copy goes to:

....

(Insert name of bank)

....

(Insert address of bank)

HOW THE PROCESS WORKS

If You Do Not Send in the Exemption Form and Bank Statements:

14 days after the date of this letter some or all of your money may be turned over to the creditor once they get an order from the court telling the financial institution to do this.

If You Send in the Exemption Form and Bank Statements:

Any money that is NOT protected can be turned over to the creditor once they get an order from the court.

If the Creditor Does Not Object:

The financial institution will unfreeze your money six business days after the institution gets your completed form.

If the Creditor Objects:

The money you have said is protected on the form will be held by the bank. The creditor has six business days to object (disagree) and ask the court to hold a hearing. You will receive a Notice of Objection and a Notice of Hearing.

The financial institution will hold the money until a court decides whether your money is protected or not. Some reasons a creditor may object are because you did not send copies of your bank statements or other proof of the benefits you received. Be sure to include these when you send your exemption form.

You may want to talk to a lawyer for advice about this process. If you are low income you can call Legal Aid.

PENALTIES:

If you claim that your money is protected and a court decides you made that claim in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an additional amount of up to $100. For example, it may be bad faith if you claim you receive government benefits that you do not receive.

If the creditor made a bad faith objection to your claim that your money is protected, the court can order them to pay costs, actual damages, attorney fees, and an additional amount of up to $100.

Subd. 3. **Exemption notice.** The exemption notice must be a separate form and must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT

.... (Creditor)
.... (Debtor)
.... (Financial institution)

EXEMPTION FORM

A. **HOW MUCH MONEY IS PROTECTED**

.... I claim ALL of the money being frozen by the bank is protected.

.... I claim SOME of the money is protected. The amount I claim is protected is $.......

B. **WHY THE MONEY IS PROTECTED**

My money is protected because I get it from one or more of the following places: **(Check all that apply)**

.... **Government benefits**

Government benefits include, but are not limited to, the following:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance.

LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT

....

LIST THE CASE NUMBER AND COUNTY

Case Number: ....

County: ....

Government benefits also include:

.... **Social Security benefits**

.... **Unemployment benefits**

.... **Workers' compensation**

.... **Veterans benefits**

If you receive any of these government benefits, include copies of any documents you have that show you receive Social Security, unemployment, workers' compensation, or veterans benefits.

.... **Other assistance based on need**

You may have assistance based on need from another source that is not on the list. If you do, check this box, and fill in the source of your money on the line below:

Source: ....

Include copies of any documents you have that show the source of this money.

EARNINGS

ALL or SOME of your earnings (wages) may also be protected.

.... **All of your earnings (wages) are protected if:**

.... You get government benefits (see list of government benefits)

.... You currently receive other assistance based on need

.... You have received government benefits in the last six months

.... You were in jail or prison in the last six months

If you check one of these lines, your wages are only protected for 60 days after they are deposited in your account so **you MUST send the creditor a copy of BANK STATEMENTS** that show what was in your account **for the 60 days right before the bank froze your money**.

.... **Some of your earnings (wages) are protected.**

If all of your earnings are not exempt, then some of your earnings are still protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

75 percent of your wages (after taxes are taken out); or

(insert the sum of the current federal minimum wage) multiplied by 40.

OTHER EXEMPT FUNDS

The money from the following are also completely protected after they are deposited in your account.

.... **An accident, disability, or retirement pension or annuity**

.... **Payments to you from a life insurance policy**

.... **Earnings of your child who is under 18 years of age**

.... **Child support**

.... **Money paid to you from a claim for damage or destruction of property**
Property includes household goods, farm tools or machinery, tools for your job, business equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes, furniture, or appliances.

.... **Death benefits paid to you**

I give permission to any agency that has given me cash benefits to give information about my benefits to the above-named creditor, or its attorney. The information will **ONLY** concern whether I get benefits or not, or whether I have gotten them in the past six months.

If I was an inmate in the last six months, I give my permission to the correctional institution to tell the above-named creditor that I was an inmate there.

YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) AND THE BANK. REMEMBER TO INCLUDE A COPY OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS. FILL IN THE BLANKS BELOW AND GO BACK TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.

I have mailed or delivered a copy of this form to:

....

(Insert name of creditor or creditor's attorney)

....

(Insert address of creditor or creditor's attorney)

I have also mailed or delivered a copy of this exemption form to my bank at the address listed in the instructions.

DATED: ....

DEBTOR

....

DEBTOR ADDRESS

....

DEBTOR TELEPHONE NUMBER

~~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 571.913, is amended to read:

571.913 EFFECT OF EXEMPTION NOTICE.

Within two business days after receipt of the garnishment summons ~~and~~, the notice, instructions, and two copies of the exemption ~~notices~~ notice, the financial institution shall serve upon the debtor the notice, instructions, and two copies of the exemption notice. The financial institution shall serve ~~the notice~~ these forms by first class mail to the last known address of the debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the debtor, the funds remain subject to the garnishment summons. If the debtor elects to claim an exemption, the debtor shall complete the exemption ~~notice~~ notices, sign ~~it~~ them under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the creditor within 14 days of the date postmarked on the correspondence mailed to the debtor containing the exemption notices. The debtor is also required to include copies of bank statements for the prior 60 days with the exemption notice delivered to the attorney for the creditor. In the event that there is no attorney for the creditor, then the notice and the bank statements must be sent directly to the creditor. Failure of the debtor to deliver the executed exemption notice or copies of the required bank statements for the prior 60 days does not constitute a waiver of a claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the debtor remain subject to the garnishment summons. All money claimed to be exempt shall be released to the debtor upon the expiration of ~~seven~~ six business days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the creditor interposes an objection to the exemption.

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

571.914 OBJECTION TO EXEMPTION CLAIM.

Subdivision 1. **Objections and request for hearing.** An objection shall be interposed, within six business days of receipt by the creditor of an exemption claim from the debtor, by mailing or delivering one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing to the financial institution and one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing 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~~ Notice of Objection and Notice of Hearing~~,~~ form must be substantially in the ~~forms~~ form set out in ~~subdivisions~~ subdivision 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~~ Notice of Objection and Notice of Hearing. Upon the filing of a ~~Request for~~ Notice of Objection and Notice of Hearing, the court administrator shall schedule the matter for hearing no sooner than five business days but no later than ~~five~~ seven 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.~~ A debtor may request continuance of the hearing by notifying the creditor and the court. The court shall schedule the continued hearing within seven days of the original hearing date.

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.

Subd. 2. **Form of notice of objection and notice of hearing.** ~~(a)~~ The ~~written objection to the debtor~~ Written Objection and Notice of Hearing must be in substantially the following form:

STATE OF MINNESOTA — DISTRICT COURT

COUNTY OF .... — .... JUDICIAL DISTRICT

.... (Creditor)

.... (Debtor)

.... (Garnishee)

CREDITOR'S NOTICE OF OBJECTION ~~TO~~ AND NOTICE OF HEARING ON EXEMPTION CLAIM

....

....

....

(CREDITOR OR CREDITOR'S ATTORNEY)

....

NOTICE OF HEARING

	The creditor objects to your exemption claim. This hearing is to resolve your exemption claim.
Hearing Date:	....
Time:	....
Hearing Place:	....

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

....

....

....

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

If the creditor receives all documents and materials supporting your exemption claim before the hearing date, the creditor may agree with your claim and you can avoid a hearing.

Because ~~of this objection,~~ a court hearing will be held on your claim that your funds are protected, 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~~ until it receives an order from the court.

~~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.)~~

~~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.)~~

Subd. 4. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing 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, upon mutual agreement of the parties, or until the garnishment lapses pursuant to section 571.79.

Sec. 11. Minnesota Statutes 2008, section 571.925, is amended to read:

571.925 FORM OF NOTICE.

The ten-day notice informing a debtor that a garnishment summons may be used to garnish the earnings of an individual must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT
.... (Creditor)	
against	
	GARNISHMENT EXEMPTION
.... (Debtor)	NOTICE AND NOTICE OF
and	INTENT TO GARNISH EARNINGS
.... (Garnishee)	

PLEASE TAKE NOTICE that a garnishment summons or levy may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Some or all of your earnings are exempt from garnishment. If your earnings are garnished, your employer must show you how the amount that is garnished from your earnings was calculated. You have the right to request a hearing if you claim the garnishment is incorrect.

Your earnings are completely exempt from garnishment if you are now a recipient of ~~relief~~ assistance based on need, if you have been a recipient of ~~relief~~ assistance based on need within the last six months, or if you have been an inmate of a correctional institution in the last six months.

~~Relief based on need 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.~~

Assistance based on need includes, but is not limited to:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,
EA - emergency assistance,
MA - medical assistance,
GAMC - general assistance medical care,
EGA - emergency general assistance,
MSA - Minnesota supplemental aid,
MSA-EA - MSA emergency assistance,
Food Support,
SSI - Supplemental Security Income,
MinnesotaCare,
Medicare part B premium payments,
Medicare part D extra help,
Energy or fuel assistance.

If you wish to claim an exemption, you should fill out the appropriate form below, sign it, and send it to the creditor's attorney and the garnishee.

You may wish to contact the attorney for the creditor in order to arrange for a settlement of the debt or contact an attorney to advise you about exemptions or other rights.

PENALTIES

(1) Be advised that even if you claim an exemption, a garnishment summons may still be served on your employer. If your earnings are garnished after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed $100.

(2) HOWEVER, BE WARNED if you claim an exemption, the creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs and reasonable attorney's fees plus an amount not to exceed $100.

(3) If after receipt of this notice, you in bad faith take action to frustrate the garnishment, thus requiring the creditor to petition the court to resolve the problem, you will be liable to the creditor for costs and reasonable attorney's fees plus an amount not to exceed $100.

Dated: ....
(Attorney for) Creditor

....
Address

....
Telephone

DEBTOR'S EXEMPTION CLAIM NOTICE

I hereby claim that my earnings are exempt from garnishment because:

(1) I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received.)

....	....	....
Program	Case Number (if known)	County

(2) I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.)

....	....	....
Program	Case Number (if known)	County

(3) I have been an inmate of a correctional institution within the last six months. (Specify the correctional institution and location.)

....	....
Correctional Institution	Location

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 the 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 institution within the last six months. I have mailed or delivered a copy of this form to the creditor or creditor's attorney.

....	....
Date	Debtor
	....
	Address
	....
	Debtor Telephone Number

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	.... JUDICIAL DISTRICT
.... (Creditor)	
.... (Debtor)	
.... (Financial institution)	