

(b) When any window on the vehicle is composed of, covered by, or treated with any material that has a highly reflective or mirrored appearance;

(c) When any side window or rear window is composed of or treated with any material so as to obstruct or substantially reduce the driver's clear view through the window or has a light transmittance of less than 50 percent plus or minus three percent in the visible light range or a luminous reflectance of more than 20 percent plus or minus three percent; or

(d) When any material has been applied after August 1, 1985, to any motor vehicle window without an accompanying permanent marking which indicates the percent of transmittance and the percent of reflectance afforded by the material. The marking must be in a manner so as not to obscure vision and be readable when installed on the vehicle.

This subdivision does not apply to glazing materials which:

(a) have not been modified since the original installation, nor to original replacement windows and windshields, that were originally installed or replaced in conformance with Federal Motor Vehicle Safety Standard 205;

(b) were required to satisfy prescription needs of the driver of the vehicle and the driver is in possession of such prescription;

(c) were applied to the rear windows of a pickup truck as defined in section 168.011, subdivision 29, or to the rear windows or the side windows on either side behind the driver's seat of a van as defined in section 168.011, subdivision 28, or of any vehicle used to transport human remains by funeral establishments holding a permit under the provisions of section 149.08.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective August 1, 1983, with the exception of subdivision 4, clause (d) which is effective August 1, 1985.

Approved June 1, 1983

CHAPTER 235 — S.F.No. 769

An act relating to property exempt from attachment, garnishment, or levy of execution; requiring notice to judgment debtors prior to delivery of funds owed to the judgment debtor by any third party to satisfy a creditor's claim; providing for an exemption notice within certain time limits; providing penalties for failure to send the exemption notice; clarification of certain exempt funds; providing for an increase in the amount of household goods exempt; amending Minnesota Statutes 1982, sections 548.15; 550.041; 550.14; 550.141, by adding a subdivision; 550.37, subdivisions 4, 13, 14, 19, 20, and 24, and by adding a subdivision; 571.41, subdivisions 5 and 6, and by adding subdivisions; 571.42; and 571.67.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

Section 1. Minnesota Statutes 1982, section 548.15, is amended to read:

548.15 DISCHARGE OF RECORD.

Upon the satisfaction of a judgment, whether wholly or in part, or as to all or any of several defendants, the clerk shall enter the satisfaction in the judgment roll, and note ~~the same it~~, with ~~the its~~ date thereof, on the docket. If the docketing is upon a transcript from another county, the entry on the docket shall be sufficient. A judgment shall be deemed satisfied when there is filed with the clerk:

(1) An execution satisfied, to the extent stated in the sheriff's return thereon on it;

(2) A certificate of satisfaction signed and acknowledged by the judgment creditor;

(3) A like certificate signed and acknowledged by the attorney of the creditor, unless his authority as attorney has previously been revoked and an entry of the revocation made upon the register; ~~but~~ the authority of an attorney to satisfy a judgment ~~shall cease~~ ceases at the end of six years from its entry;

(4) An order of the court, made on motion, requiring the execution of a certificate of satisfaction, or directing satisfaction to be entered without it;

(5) Where a judgment is docketed on transcript, a copy of either of the foregoing documents, certified by the clerk of the court in which the judgment was originally entered and in which the originals were filed.

A satisfaction made in the name of a partnership ~~shall be~~ is valid if executed by a member ~~thereof of it~~ while the partnership continues. The judgment creditor, or his attorney while his authority continues, may also satisfy a judgment of record by a brief entry on the register, signed by him and dated and witnessed by the clerk, who shall note the satisfaction on the margin of the docket. When a judgment is satisfied otherwise than by return of execution, the judgment creditor or his attorney shall give a certificate ~~thereof of it~~ within ten days after the satisfaction.

Sec. 2. Minnesota Statutes 1982, section 550.041, is amended to read:

550.041 SUMMARY EXECUTION OF SMALL JUDGMENT DEBTS.

Subdivision 1. COVERAGE. When a judgment creditor proposes to make execution on a judgment debt ~~of not more than \$2,500~~ from money owed to the judgment debtor by a third party, the execution may be made by the attorney for the judgment creditor or sheriff, or their agents, through a registered or certified letter or by personal service to the third party containing a copy of the execution. Upon receipt, the third party shall remit as much of the amount due

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under section 550.04 , but not more than \$5,000, as his own debt equals to the sheriff or attorney who shall proceed in all other respects like the sheriff making a similar execution. No more than \$5,000 may be recovered in an execution pursuant to this section.

Subd. 2. EXEMPTION NOTICE. If this section is used to enforce a judgment against a debtor who is a natural person by executing on funds of the judgment debtor held on deposit at any financial institution, the judgment creditor shall serve two copies of an exemption notice with the copy of the execution. The notice shall be substantially in the form set out in section 17. Failure of the judgment creditor to send the exemption notice renders the execution void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds which have previously been garnished in compliance with section 571.41, the judgment creditor is not required to serve an additional exemption notice. In that event, the execution shall only be effective as to the funds which were subject to the prior garnishment.

Subd. 3. DUTY OF FINANCIAL INSTITUTION; EXEMPTION; OBJECTION. Upon receipt of the execution and exemption notices, the financial institution shall attach and bind as much of the amount due under section 550.04 as his own debt equals. Within two business days after receipt of the judgment creditor's letter, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The exemption notice shall be served by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution prior to the expiration of 14 days after the exemption notices are mailed to the judgment debtor, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff or attorney who shall proceed in all other respects like the sheriff making a similar execution. If the judgment debtor elects to claim an exemption, he shall complete the exemption notice, affix his signature under penalty of perjury, and deliver one copy to the financial institution and one copy to the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to serve the executed exemption notice does not constitute a waiver of any right he may have to an exemption. Upon timely receipt of a claim of exemption, the financial institution shall remit as much of the amount due under section 550.04 as his own debt equals to the sheriff or attorney from funds not claimed to be exempt by the judgment debtor. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the correspondence containing the executed exemption notice mailed to the judgment creditor or the date of personal delivery of the executed exemption notice to the judgment creditor, unless within that time a timely objection to the exemption is interposed by the judgment creditor. Objection is made by mailing or delivering one copy of a written objection to the claim of exemption to the financial institution and one copy of the objection to

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the judgment debtor. Upon timely receipt of a written objection from the judgment creditor, the financial institution shall retain the funds claimed to be exempt. Unless the third party receives a notice of motion and motion from the judgment debtor asserting exemption rights within ten days after receipt of the objection, the financial institution shall remit as much of the amount due under section 550.04 as his own debt equals to the sheriff or attorney representing the judgment creditor. Either the judgment creditor or the judgment debtor may bring a motion to determine the validity of an exemption claim by following the procedure set out in section 17. 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, it shall retain the funds claimed to be exempt until otherwise ordered by a court. However, at any time during the procedure specified in this subdivision, the judgment debtor or the judgment creditor may, by a writing dated subsequent to the service of the 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. 4. 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 shall 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 his attorney for fees, the attorney's fee award shall be made directly to the attorney and 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 shall be liable for damages for complying with this section. Both copies of an exemption claim or 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.

Subd. 5. COSTS; SATISFACTION. The attorney shall be allowed no costs from any party other than the judgment creditor for execution in accordance with this section. The attorney or judgment creditor making such the execution shall endorse thereon on it partial satisfaction by amount or the total satisfaction and return the original execution to the clerk of that court, within ten days after the satisfaction, for filing without charge.

Sec. 3. Minnesota Statutes 1982, section 550.14, is amended to read:

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550.14 LEVY ON OTHER PERSONAL PROPERTY.

Subdivision 1. PROPERTY COVERED. Other personal property shall be levied on by leaving a certified copy of the execution, and a notice specifying the property levied on, with the person holding the same it; or, if a debt, with the debtor; or, if stock or an interest in stock of a corporation, with the president, secretary, treasurer, cashier, or managing agent thereof of it.

Subd. 2. EXEMPTION NOTICE. If this section is used to enforce a judgment against a judgment debtor who is a natural person by executing on funds of the judgment debtor held on deposit at any financial institution, the judgment creditor shall cause to be served with the execution two copies of an exemption notice. The notice shall be substantially in the form set out in section 17. If the judgment creditor fails to supply the exemption notice to the sheriff, the sheriff shall take no action. Failure of the sheriff to serve the exemption notice shall render the execution void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds which have previously been garnished in compliance with section 571.41, the judgment creditor shall not be required to serve an additional exemption notice. In that event, the execution shall only be effective as to the funds which were subject to the prior garnishment.

Subd. 3. DUTY OF FINANCIAL INSTITUTION; EXEMPTION; OBJECTION. Upon receipt of the execution and exemption notices, the financial institution shall attach and bind as much of the amount due under section 550.04 as his own debt equals. Within two business days after receipt of the judgment creditor's execution of the execution and exemption notices, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The exemption notice shall be served 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 financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff. If the judgment debtor elects to claim an exemption, he shall complete the exemption notice, affix his signature under penalty of perjury, and deliver one copy to the financial institution and one copy to the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to serve the executed exemption notice does not constitute a waiver of any right he may have to an exemption. Upon timely receipt of a claim of exemption, the financial institution shall remit as much of the amount due under section 550.04 as his own debt equals to the sheriff from funds not claimed to be exempt by the judgment debtor. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the correspondence containing the executed exemption notice mailed to the judgment creditor, or the date of personal delivery of the executed exemption notice to the judgment creditor, unless within that

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time a written objection to the claim of exemption is interposed by the judgment creditor. Objection is made by mailing or delivering one copy of the objection to the financial institution, and one copy to the judgment debtor. Upon timely receipt of a written objection from the judgment creditor, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a notice of motion and motion from the judgment debtor asserting an exemption within ten days after receipt of the objection, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff. Either the judgment creditor or the judgment debtor may bring a motion to determine the validity of an exemption claim by following the procedure set out in section 17. 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. However, at any time during the procedure specified in this subdivision, the judgment debtor or the judgment creditor may, by a writing dated subsequent to the service of the 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. 4. SUBSEQUENT PROCEEDINGS. 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 shall 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 his attorney for fees, the attorney's fee award shall be made directly to the attorney and 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 shall be liable for damages for complying with this section. Both copies of an exemption claim or 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.

Sec. 4. Minnesota Statutes 1982, section 550.141, is amended by adding a subdivision to read:

Subd. 3. SERVICE OF EXECUTION. If the execution has not been served within one year after service of the notice, the judgment creditor shall serve another notice upon the judgment debtor prior to serving the execution on

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his employer. If more than one year has passed since the most recent execution, the judgment creditor shall serve another notice upon the judgment debtor no less than ten days prior to service of a subsequent execution on his employer.

Sec. 5. Minnesota Statutes 1982, section 550.37, subdivision 4, is amended to read:

Subd. 4. **PERSONAL GOODS.** (a) All wearing apparel, one watch, utensils, and foodstuffs of the debtor and his family; and (b) household furniture, household appliances, phonographs, radio and television receivers of the debtor and his family, not exceeding ~~\$3,000~~ \$4,500 in value. The exemption provided by this subdivision may not be waived except with regard to purchase money security interests. Except for a pawnbroker's possessory lien, a nonpurchase money security interest in the property exempt under this subdivision is void.

Provided however, If a debtor has property of the type which would qualify for the exemption under clause (b) of this subdivision, of a value in excess of ~~\$3,000~~ \$4,500 an itemized list of the exempt property, together with the value of each item listed, shall be attached to the security agreement at the time a security interest is taken, and a creditor may take a nonpurchase money security interest in the excess over ~~\$3,000~~ \$4,500 by requiring the debtor to select his exemption in writing at the time the loan is made.

Sec. 6. Minnesota Statutes 1982, section 550.37, is amended by adding a subdivision to read:

Subd. 4a. **ADJUSTMENT OF DOLLAR AMOUNTS.** (a) The dollar amounts in subdivision 4 shall change periodically as provided in this subdivision to the extent of changes in the implicit price deflator for the gross national product, 1972 = 100, compiled by the United States department of commerce, and hereafter referred to as the index. The index for December, 1982, is the reference base index.

(b) The designated dollar amounts shall change on July 1 of each-even numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more. The portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts stated in subdivision 4.

(c) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the department of commerce. If the index is superseded, the index referred to in this section is the one represented by the

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department of commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(d) The commissioner of banks shall announce and publish:

(1) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (b); and

(2) promptly after the changes occur, changes in the index required by paragraph (c) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if he relies on dollar amounts either determined according to paragraph (b) or appearing in the last publication of the commissioner announcing the then current dollar amounts.

Sec. 7. Minnesota Statutes 1982, section 550.37, subdivision 13, is amended to read:

Subd. 13. **WAGES.** All wages not subject to garnishment by the provisions of section 571.55. A subsequent attachment, garnishment or levy of execution shall impound only that pay period's nonexempt disposable earnings not subject to a prior attachment, garnishment or levy of execution, but in no instance shall more than an individual's total nonexempt disposable earnings in that pay period be subject to attachment, garnishment or levy of execution. Garnishments shall impound the nonexempt disposable earnings in the order of their service upon the employer. The disposable earnings exempt from garnishment are exempt as a matter of right, whether claimed or not by the person to whom due. ~~Such~~ The exemptions may not be waived. ~~Such~~ The exempt disposable earnings are payable by the employer when due. ~~Such~~ The exempt disposable earnings shall also be exempt for 20 days after deposit in any financial institution, whether in a single or joint account. This 20-day exemption ~~shall~~ also apply applies to any contractual set-off or security interest asserted by a financial institution in which ~~said~~ the earnings are deposited by the individual. In tracing ~~said~~ 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. As used in this section, the term "financial institution" ~~shall include~~ includes credit unions. Nothing in this paragraph shall be ~~construed to void or supersede~~ any valid assignment of wages or transfer of funds held on account made prior to the attachment, garnishment, or levy of execution.

Sec. 8. Minnesota Statutes 1982, section 550.37, subdivision 14, is amended to read:

Subd. 14. **PUBLIC ASSISTANCE.** All relief based on need, and the wages or salary of a person who is a recipient of relief based on need, shall be

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exempt from all claims of creditors including any contractual set-off or security interest asserted by a financial institution. For the purposes of this chapter, relief based on need shall ~~include~~ includes AFDC, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance. The salary or wages of any debtor who is or has been a recipient of relief based on need, or an inmate of a correctional institution shall, upon his return to private employment after having been a recipient of relief 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 his return to employment and after all public assistance has been terminated. ~~He may take advantage of such six months salary or wage exemption provisions only once in every three years.~~ The exemption provisions contained in this subdivision shall also apply for 60 days after deposit in any financial institution, whether in a single or joint account. In tracing ~~said~~ 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 and the correctional institutions shall, at the request of creditors, inform them whether or not any debtor has been a recipient of relief based on need, or an inmate of a correctional institution, within ~~such~~ period of the preceding six months.

Sec. 9. Minnesota Statutes 1982, section 550.37, subdivision 19, is amended to read:

Subd. 19. **WAIVER.** The exemption of the property listed in subdivisions 2, 3, and 5 to ~~11~~, and 12a may not be waived except by a statement in substantially the following form, in bold face type of a minimum size of 12 points, signed and dated by the debtor at the time of the execution of the contract surrendering the exemption, immediately adjacent to the listing of the property: "I understand that some or all of the above property is normally protected by law from the claims of creditors, and I voluntarily give up my right to that protection for the above listed property with respect to claims arising out of this contract."

Sec. 10. Minnesota Statutes 1982, section 550.37, subdivision 20, is amended to read:

Subd. 20. **TRACEABLE FUNDS.** The exemption of funds from creditors' claims, provided by subdivisions 9, 10, 11, and 15, and 24, shall not be affected by the subsequent deposit of ~~said~~ the funds in a bank or any other financial institution, whether in a single or joint account, ~~so long as said~~ if the funds ~~can be~~ are traceable to their exempt source. In tracing ~~said~~ 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. No bank or other financial institution shall be liable for damages for complying with process duly issued out of any court for the collection of a debt even if the funds affected by ~~said~~ the process are subsequently determined to have been exempt.

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Sec. 11. Minnesota Statutes 1982, section 550.37, subdivision 24, is amended to read:

Subd. 24. **EMPLOYEE BENEFITS.** The debtor's right to receive a payment, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

Sec. 12. Minnesota Statutes 1982, section 571.41, subdivision 5, is amended to read:

Subd. 5. **PRIOR NOTICE REQUIRED.** If the garnishee summons is to be used to garnish the earnings of an individual to enforce a judgment, or to garnish earnings prior to entry of judgment pursuant to subdivision 2, clause (a), prior to the first garnishment on any debt, the creditor shall serve upon the debtor, no less than ten days prior to the service of the garnishee summons, a notice that such a summons may be issued. If the garnishee summons has not been served within one year after service of the notice, the judgment creditor shall serve another notice upon the judgment debtor prior to serving the garnishee summons on his employer. If more than one year has passed since service of the judgment creditor's most recent garnishee summons, the judgment creditor shall no less than ten days prior to service of a subsequent garnishee summons serve notice that another garnishee summons may be served. Said ~~The~~ notice shall (1) be substantially in the form set out in this chapter. Said notice shall; (2) be served personally, in the manner of a summons and complaint, or by first class mail to the last known address of the debtor. Said notice shall; (3) inform the debtor that a garnishee summons may be served on the debtor's employer in ten days, and that the debtor may, within that time, cause to be served on the creditor a signed statement under penalties of perjury asserting an entitlement to an exemption from garnishment. Said notice shall further; (4) inform the debtor of the wage garnishment exemptions contained in section 550.37, subdivision 14. Said notice shall further; and (5) advise the debtor of the relief set forth in this chapter to which he may be entitled if a creditor in bad faith disregards a valid claim and the fee, costs, and penalty which may be assessed against a debtor who in bad faith falsely claims an exemption or in bad faith takes action to frustrate the garnishment process. If no statement of exemption is received by the creditor within ten days from the service of the notice, he may proceed with the garnishment. Failure of the debtor to serve ~~such~~ a statement shall ~~does~~ not constitute a waiver of any right he may have to an exemption. If ~~said the~~ statement of exemption is received by the creditor, he may still cause a garnishee summons to be issued; ~~however,~~ If the debtor subsequently asserts his claim of exemption successfully to the court having jurisdiction over the action, and the court finds that the creditor disregarded the claim of exemption in bad faith, the debtor shall be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. If in subsequent proceedings which may be brought

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by the debtor or creditor, the claim is not upheld, and the court finds that it was asserted in bad faith, or if the court finds that the debtor has in bad faith taken action to frustrate the garnishment process, the debtor shall be assessed costs and reasonable attorney fees resulting from said the additional proceedings, and an amount not to exceed \$100.

Sec. 13. Minnesota Statutes 1982, section 571.41, is amended by adding a subdivision to read:

Subd. 5a. EXEMPTION NOTICE. If the garnishee summons is used to garnish funds of a judgment debtor who is a natural person and if the funds to be garnished are held on deposit at any financial institution, the judgment creditor shall serve with the garnishee summons two copies of an exemption notice. The notice shall be substantially in the form set out in section 17. Failure of the judgment creditor to send the exemption notice shall render the garnishment void, and the financial institution shall take no action.

Sec. 14. Minnesota Statutes 1982, section 571.41, is amended by adding a subdivision to read:

Subd. 5b. DUTY OF FINANCIAL INSTITUTION; EXEMPTION; OBJECTION. Upon receipt of the garnishee summons and exemption notices, the financial institution shall attach and bind as much of the amount due under section 571.471 as the financial institution has on deposit owing to the judgment debtor. Within two business days after receipt of the garnishee summons and exemption notices, the financial institution shall serve upon the judgment debtor 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 shall remain subject to the garnishment summons. If the judgment debtor elects to claim an exemption, he shall complete the exemption notice, affix his signature under penalty of perjury, and deliver one copy to the financial institution and one copy to the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to serve the executed exemption notice does not constitute a waiver of any right he may have to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the judgment debtor shall remain subject to the garnishment summons. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the correspondence containing the executed exemption notice mailed to the judgment creditor, or the date of personal delivery of the executed exemption notice to the judgment creditor, unless within that time the judgment creditor interposes an objection to the exemption. Objection shall be interposed by mailing or delivering one copy of the written objection to the financial institution and one copy of the written objection to the judgment

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creditor. Upon receipt of a written objection from the judgment creditor within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a notice of motion and motion from the judgment debtor asserting exemption rights within ten days after receipt of the written exemption, the funds shall remain subject to the garnishment summons as if no claim of exemption has been made. Either the judgment creditor or the judgment debtor may bring a motion to determine the validity of an exemption claim by following the procedure set out in section 17. If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided, the financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court, or until the garnishment lapses pursuant to section 571.69. However, at any time during the procedure specified in this subdivision, the judgment debtor or the judgment creditor may, by a writing dated subsequent to the service of the 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.

Sec. 15. Minnesota Statutes 1982, section 571.41, is amended by adding a subdivision to read:

Subd. 5c. **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 shall 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 his attorney for fees, the attorney's fee award shall be made directly to the attorney and 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 garnishee shall be liable for damages for complying with this section. Both copies of an exemption claim or 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.

Sec. 16. Minnesota Statutes 1982, section 571.41, subdivision 6, is amended to read:

Subd. 6. FORM OF NOTICE. The ten day notice informing a judgment debtor that a garnishee summons may be used to garnish the wages of an individual to enforce a judgment, shall be substantially in the following form:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

STATE OF MINNESOTA)
) ss
 County of) Court

..... (Judgment Creditor)
 (Judgment Debtor)

Garnishment Exemption Notice

The State of Minnesota

To the above named Judgment Debtor:

Please take notice that a Garnishment Summons may be served upon your employer, without any further court proceedings or notice to you, ten days or more from the date hereof. Your wages ~~may be exempted~~ are completely exempt from garnishment if you are now a recipient of relief based on need, if you have been a recipient of such relief 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, only AFDC, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance. It does not include Social Security, ~~unemployment compensation, food stamps, or workers' compensation.~~

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

You may wish to contact the attorney for the Judgment Creditor in order to arrange for a settlement of the debt.

PENALTIES

1. Be advised that even if you claim an exemption, a Garnishment Summons may still be served on your employer. If your wages 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 fees plus an amount not to exceed \$100.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Dated:

(Attorney for) Judgment Creditor
Address
Telephone

I hereby claim under penalty of perjury that my wages 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. There is no limit to the number of times this exemption may be claimed.)

.....
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.) I am aware that I am not permitted by law to use this exemption for more than one six month period every three years, and that I may be penalized if I violate this law.

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

(3) I have been an inmate of a correctional institution within the last six months, and I have not claimed this exemption within the last three years. (Specify the correctional institution and location.)

.....
Correctional Institution Location

I hereby authorize any agency that has distributed relief to me or any correctional institution wherein in which I was an inmate to disclose to the above-named creditor or his attorney whether or not I was a recipient of relief based on need or an inmate of a correctional institution within the last six months.

.....
Judgment Debtor
Address

Sec. 17. Minnesota Statutes 1982, section 571.41, is amended by adding a subdivision to read:

Subd. 7. FORM OF EXEMPTION NOTICE. The notice informing a judgment debtor that a writ of attachment, garnishee summons, or levy of execution has been used to attach and bind funds of the judgment debtor to satisfy a claim shall be substantially in the following form:

Changes or additions are indicated by underline, deletions by strikeout.

EXEMPTION NOTICE

STATE OF MINNESOTA
COUNTY OF

.....Court

.....(Judgment Creditor)

.....(Judgment Debtor)

To.....(Judgment Debtor):

A writ of attachment, garnishee 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, 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 AFDC, Medical Assistance, Supplemental Security Income (SSI), Minnesota Supplemental Assistance, General Assistance, and General Assistance Medical Care.

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

(3) Unemployment compensation, workers' compensation, or veteran's benefits.

(4) An accident, disability, or retirement pension or annuity.

(5) Life insurance proceeds, or the earnings of your minor child.

(6) 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:

(7) All wages of a person in category (1).

(8) All wages 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.

(9) Seventy-five percent of every wage earner's after tax earnings.

(10) All of a wage earner's after tax earnings below 40 times the federal minimum wage (this equals \$134 for a 40-hour week).

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (9) and (10): 20 days.

Categories (7) and (8): 60 days.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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 this exemption claim form to the institution which sent you this notice, and one copy to the judgment creditor. Both copies must be mailed or delivered on the same day.

If they don't 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 frozen 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:

(1) 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 10 DAYS after the objection is mailed or given to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.

MOTION TO DETERMINE EXEMPTION:

At any time after your funds have been frozen, 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 clerk 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.

.....

 Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Date

(Attorney for) Judgment Creditor
Address

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 ten 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:)

Dated:

.....
Judgment Debtor
Address

Sec. 18. Minnesota Statutes 1982, section 571.41, is amended by adding a subdivision to read:

Subd. 7. FORM OF MOTION. (1) A motion to determine the validity of an exemption claim may be brought by either the judgment creditor or the judgment debtor by filing with the clerk of court out of which the attachment, garnishment, or execution issued a Request for Hearing which shall be in substantially the following form:

STATE OF MINNESOTA
COUNTY OF

..... COURT
.....

.....
Plaintiff(s),

REQUEST FOR HEARING ON
EXEMPTION CLAIM

v.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

.....
Defendant(s).

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 (not) exempt because

DATED:

.....
Judgment (Debtor, Creditor)

.....
Address

Hearing date:

Time:

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.)

(2) The court shall provide Request for Hearing forms and clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The clerk may charge a fee of \$1.00 for the filing of a Request for Hearing.

(3) 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 clerk 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.

Sec. 19. Minnesota Statutes 1982, section 571.42, is amended to read:

571.42 EFFECT OF SERVICE OF SUMMONS.

Subdivision 1. **ATTACH FOR JUDGMENT.** Except as provided in sections 571.43 and 571.50, service of the garnishee summons upon the garnishee shall attach and bind, to respond to final judgment in the action, all personal property of the judgment debtor in his possession or under his control and all indebtedness owing by him to the judgment debtor at the time of such service and all nonexempt disposable earnings earned or to be earned within that one pay period and within 30 days thereafter.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **PROPERTY ATTACHED.** Subject to the provisions of sections 550.37 and 571.55 all moneys, all nonexempt disposable earnings earned or to be earned within that ~~one~~ pay period and within 30 days thereafter and other personal property including ~~such~~ property of any kind due from or in the hands of an executor, administrator, receiver or trustee and all written evidences of indebtedness whether negotiable or not or under or overdue may be attached by garnishment, and money or any other thing due or belonging to the judgment debtor may be attached by this process before it has become payable if its payment or delivery does not depend upon any contingency, but the garnishee shall not be compelled to pay or deliver ~~the same~~ it before the time appointed by the contract.

Sec. 20. Minnesota Statutes 1982, section 571.67, is amended to read:

571.67 PENALTY IN CERTAIN GARNISHMENT PROCEEDINGS.

A party who serves or causes to be served a garnishment summons prior to judgment in the main action, except where garnishment prior to entry of judgment is permitted, is liable to the debtor named in the garnishment proceedings in the amount of \$100 plus reasonable attorneys fees and costs. Action by a judgment creditor in violation of section 550.041, 550.14, 550.141, or 571.41, causing any third party or garnishee in possession of funds owing to the judgment debtor to hold or deliver the funds to satisfy a garnishment, attachment, or levy of execution shall render the garnishment, attachment, or levy of execution void and the judgment creditor liable to the judgment debtor named in the garnishment, attachment, or execution in the amount of \$100, actual damages, and reasonable attorney fees and costs.

Approved June 1, 1983

CHAPTER 236 — S.F.No. 782

An act relating to highway traffic regulations; providing a penalty for the operation of a vehicle in a manner that endangers or is likely to endanger property or persons; amending Minnesota Statutes 1982, section 169.13, subdivision 2.

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

Section 1. Minnesota Statutes 1982, section 169.13, subdivision 2, is amended to read:

Subd. 2. **CARELESS DRIVING.** Any person who ~~shall operate or halt~~ operates or halts any vehicle upon any street or highway carelessly or heedlessly in disregard of the rights ~~or the safety~~ of others, or in a manner that endangers or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.