

CHAPTER 155—H.F.No. 1189

An act relating to counties; permitting counties to spend money for broadcast facilities; amending Minnesota Statutes 1990, section 375.164.

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

Section 1. Minnesota Statutes 1990, section 375.164, is amended to read:

375.164 NONCOMMERCIAL BROADCAST FACILITIES AND TELEVISION TRANSLATOR STATIONS, ~~CONSTRUCTION BY COUNTY~~.

The county board may appropriate annually from the county general revenue fund an amount necessary to fund the construction, acquisition, improvement, operation, or maintenance of a translator station ~~in the county or a non-commercial television broadcast facility~~ to receive and transmit television broadcasting signals that can be received by residents of the county.

Presented to the governor May 20, 1991

Signed by the governor May 23, 1991, 7:05 p.m.

CHAPTER 156—H.F.No. 594

An act relating to money; enacting the uniform foreign-money claims act; making clarifying and technical changes to garnishment and execution laws; amending Minnesota Statutes 1990, sections 550.136, subdivisions 3 and 10; 551.06, subdivisions 3 and 10; 571.75, subdivision 2; and 571.922; proposing coding for new law in Minnesota Statutes, chapter 548.

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

Section 1. ~~[548.40]~~ DEFINITIONS.

For purposes of sections 1 to 14:

(1) "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day next preceding the date on which money, in accordance with sections 1 to 14, is:

(i) paid to a claimant in an action or distribution proceeding;

(ii) paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

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(iii) used to recoup, set-off, or counterclaim in different moneys in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims is asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to section 4.

(9) "Person" means an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding two days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

Sec. 2. [548.41] SCOPE.

(a) Sections 1 to 14 apply only to a foreign-money claim in an action or distribution proceeding.

(b) Sections 1 to 14 apply to foreign-money issues even if other law under the conflict of laws rules of this state applies to other issues in the action or distribution proceeding.

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Sec. 3. [548.42] VARIATION BY AGREEMENT.

(a) The effect of sections 1 to 14 may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(b) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different monies for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

Sec. 4. [548.43] DETERMINING MONEY OF THE CLAIM.

(a) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(b) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(1) regularly used between the parties as a matter of usage or course of dealing;

(2) used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(3) in which the loss was ultimately felt or will be incurred by the party claimant.

Sec. 5. [548.44] DETERMINING AMOUNT OF THE MONEY OF CERTAIN CONTRACT CLAIMS.

(a) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(b) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding 30 days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(c) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

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Sec. 6. [548.45] ASSERTING AND DEFENDING FOREIGN-MONEY CLAIM.

(a) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(b) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(c) A person may assert a defense, set-off, recoupment, or counterclaim in any money without regard to the money of other claims.

(d) The determination of the proper money of the claim is a question of law.

Sec. 7. [548.46] JUDGMENTS AND AWARDS ON FOREIGN-MONEY CLAIMS; TIMES OF MONEY CONVERSION; FORM OF JUDGMENT.

(a) Except as provided in subsection (c), a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(b) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(c) Assessed costs must be entered in United States dollars.

(d) Each payment in United States dollars must be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(e) A judgment or award made in an action or distribution proceeding on both (i) a defense, set-off, recoupment, or counterclaim and (ii) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and specify the rates of exchange used.

(f) A judgment substantially in the following form complies with subsection (a):

IT IS ADJUDGED AND ORDERED, that Defendant (insert name) pay to Plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate—see section 9) percent a year or, at the option of the judgment debtor, the number of United States dollars which will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.

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(g) If a contract claim is of the type covered by section 5(a) or (b), the judgment or award must be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars which will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(h) A judgment must be docketed and indexed in foreign money in the same manner, and has the same effect as a lien, as other judgments. It may be discharged by payment.

Sec. 8. [548.47] CONVERSIONS OF FOREIGN MONEY IN DISTRIBUTION PROCEEDING.

The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

Sec. 9. [548.48] PREJUDGMENT AND JUDGMENT INTEREST.

(a) With respect to a foreign-money claim, recovery of prejudgment or preaward interest and the rate of interest to be applied in the action or distribution proceeding, except as provided in subsection (b), are matters of the substantive law governing the right to recovery under the conflict-of-laws rules of this state.

(b) The court or arbitrator shall increase or decrease the amount of prejudgment or preaward interest otherwise payable in a judgment or award in foreign money to the extent required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.

(c) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this state.

Sec. 10. [548.49] ENFORCEMENT OF FOREIGN JUDGMENTS.

(a) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment must be entered as provided in section 7, whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(b) A foreign judgment may be docketed in accordance with any rule or statute of this state providing a procedure for its recognition and enforcement.

(c) A satisfaction or partial payment made upon the foreign judgment, on proof thereof, must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

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(d) A judgment entered on a foreign-money claim only in United States dollars in another state must be enforced in this state in United States dollars only.

Sec. 11. [548.50] DETERMINING UNITED STATES DOLLAR VALUE OF FOREIGN-MONEY CLAIMS FOR LIMITED PURPOSES.

(a) Computations under this section are for the limited purposes of the section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(b) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court-required undertaking, must be ascertained as provided in subsections (c) and (d).

(c) A party seeking process, costs, bond, or other undertaking under subsection (b) shall compute in United States dollars the amount of the foreign money claimed from a bank-offered spot rate prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court-required undertaking.

(d) A party seeking the process, costs, bond, or other undertaking under subsection (b) shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

Sec. 12. [548.51] EFFECT OF CURRENCY REVALORIZATION.

(a) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(b) If substitution under subsection (a) occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a like conversion of the former money.

Sec. 13. [548.52] SUPPLEMENTARY GENERAL PRINCIPLES OF LAW.

Unless displaced by particular provisions of sections 1 to 14, the principles of law and equity, including the law merchant, and the law relative to capacity

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to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement the provisions of sections 1 to 14.

Sec. 14. [548.53] SHORT TITLE.

Sections 1 to 14 may be cited as the uniform foreign-money claims act.

Sec. 15. Minnesota Statutes 1990, section 550.136, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 16. Minnesota Statutes 1990, section 550.136, subdivision 10, is amended to read:

Subd. 10. EXECUTION EARNINGS DISCLOSURE FORM AND WORKSHEET FOR CHILD SUPPORT JUDGMENTS. The judgment creditor shall provide to the sheriff for service upon a child support judgment debtor's employer an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF .....	..... JUDICIAL DISTRICT
	FILE NO.
..... (Judgment Creditor)	
against	EARNINGS
..... (Judgment Debtor)	EXECUTION
and	DISCLOSURE
..... (Third Party)	

DEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers' compensation, or unemployment compensation.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

.....
Yes	No

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INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the sheriff within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the sheriff and deliver a copy of the disclosure and worksheet to the judgment debtor within ten days after the last payday that falls within the 70-day period. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of judgment debtor's payday.

(3) COLUMN B. Enter judgment debtor's gross earnings for each payday.

(4) COLUMN C. Enter judgment debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

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

(b) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12

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weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

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

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) COLUMN E. Subtract the amount in column D from the amount in column C, and enter here.

(7) COLUMN F. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you incurred within ten days prior to your receipt of the first execution levy may not be set off against the earnings otherwise subject to this levy. Any wage assignment made by the judgment debtor within ten days prior to your receipt of the first execution levy is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column F E if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) (7) COLUMN G F. Subtract the amount in column F E from the amount in column E D and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

AFFIRMATION

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

Dated:

Signature

Title

Telephone Number

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EARNINGS DISCLOSURE WORKSHEET

		Debtor's Name
A	B	C
Payday	Gross	Disposable
Date	Earnings	Earnings
1.	\$.....	\$.....
2. ....	.....	.....
3. ....	.....	.....
4. ....	.....	.....
5. ....	.....	.....
6. ....	.....	.....
7. ....	.....	.....
8. ....	.....	.....
9. ....	.....	.....
10. ....	.....	.....
D	<u>E</u>	<u>F</u> <u>E</u>
Either 50, 55,	Column C	Setoff, Lien,
60, or 65% of	minus	Adverse
Column C	Column D	Interest, or
		Other Claims
1.	=====
2.	=====
3.	=====
4.	=====
5.	=====
6.	=====
7.	=====
8.	=====
9.	=====
10.	=====
		<u>G</u> <u>F</u>
		Column <u>E</u> <u>D</u>
		minus
		Column <u>F</u> <u>E</u>
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
	TOTAL OF COLUMN <u>G</u> <u>F</u> \$

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*If you entered any amount in column F E for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

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

AFFIRMATION

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

Dated: Signature
..... Title Phone Number

Sec. 17. Minnesota Statutes 1990, section 551.06, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 18. Minnesota Statutes 1990, section 551.06, subdivision 10, is amended to read:

Subd. 10. **NOTICE OF LEVY ON EARNINGS, DISCLOSURE, AND WORKSHEET FOR CHILD SUPPORT JUDGMENT.** The attorney for the judgment creditor shall serve upon the judgment debtor's employer a notice of levy on earnings and an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
..... JUDICIAL DISTRICT
FILE NO.

.....(Judgment Creditor)
against

NOTICE OF LEVY ON
EARNINGS AND DISCLOSURE

.....(Judgment Debtor)
and

.....(Third Party)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, sections 551.04 and 551.06, the undersigned, as attorney for the judgment creditor, hereby makes demand and levies execution upon all earnings due and owing by you (up to \$5,000) to the judgment debtor for the amount of the judgment specified below. A copy of the writ of execution issued by the court is enclosed. The unpaid judgment balance is \$.....

This levy attaches all unpaid nonexempt disposable earnings owing or to be owed by you and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the service of this levy.

In responding to this levy, you are to complete the attached disclosure form and worksheet and mail it to the undersigned attorney for the judgment creditor, together with your check payable to the above-named judgment creditor, for the nonexempt amount owed by you to the judgment debtor or for which you are

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obligated to the judgment debtor, within the time limits set forth in the aforementioned statutes.

.....
 Attorney for the Judgment Creditor

 Address
 (...)
 Phone Number

DISCLOSURE

DEFINITIONS

“EARNINGS”: For the purpose of execution, “earnings” means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers’ compensation, or unemployment compensation.

“DISPOSABLE EARNINGS”: Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

“PAYDAY”: For the purpose of execution, “payday(s)” means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

.....

Yes No

INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to question 1 is “No,” then you must sign the affirmation below and return this disclosure to the judgment creditor’s attorney within 20

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days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the judgment creditor's attorney and deliver a copy of the disclosure and worksheet to the judgment debtor within ten days after the last payday that falls within the 70-day period. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of judgment debtor's payday.

(3) COLUMN B. Enter judgment debtor's gross earnings for each payday.

(4) COLUMN C. Enter judgment debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

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

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

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

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

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over .12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) COLUMN E. ~~Subtract the amount in column D from the amount in column C; and enter here.~~

(7) COLUMN F. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you incurred within ten days prior to your receipt of the first execution levy on a debt may not be set off against the earnings otherwise subject to this levy. Any wage assignment made by the judgment debtor within ten days prior to your receipt of the first execution levy on a debt is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column F E if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) (7) COLUMN G F. Subtract the amount in column F E from the amount in column E D and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

AFFIRMATION

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

Dated:

Signature

Title

Telephone Number

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

EARNINGS DISCLOSURE WORKSHEET

		
A	B	Debtor's Name	
Payday	Gross	C	
Date	Earnings	Disposable	
		Earnings	
1.	\$.....	\$.....	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
D	<u>E</u>	<u>F</u> <u>E</u>	
Either 50, 55,	Column C	Setoff, Lien,	
60, or 65% of	minus	Adverse	
Column C	Column D	Interest, or	
		Other Claims	
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
		<u>G</u> <u>F</u>	
		Column <u>E</u> <u>D</u>	
		minus	
		Column <u>F</u> <u>E</u>	
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
		TOTAL OF COLUMN <u>G</u> <u>F</u> \$	

New language is indicated by underline, deletions by strikeout.

property of the debtor, other than earnings, the creditor shall use the nonearnings garnishment disclosure form. Nothing contained in this paragraph limits the simultaneous use of the earnings and nonearnings garnishment disclosure forms.

EARNINGS DISCLOSURE FORM AND WORKSHEET

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
..... JUDICIAL DISTRICT

.....(Creditor)

.....(Debtor)

.....(Garnishee)

GARNISHMENT
EARNINGS DISCLOSURE

DEFINITIONS

“EARNINGS”: For the purpose of garnishment, “earnings” means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement.

“DISPOSABLE EARNINGS”: Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

“PAYDAY”: For the purpose of garnishment, “payday(s)” means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the debtor has no regular payday, payday(s) means the fifteenth and the last day of each month.

THE GARNISHEE MUST ANSWER THE FOLLOWING QUESTIONS:

1. Do you now owe, or within 70 days from the date the garnishment summons was served on you, will you or do you expect to owe money to the debtor for earnings?

Yes No

2. Does the debtor earn more than \$..... per week? (This amount is the federal minimum wage per week.)

Yes No

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

INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to either question 1 or 2 is "No," then you must sign the affirmation on Page 2 and return this disclosure to the creditor's attorney (or the creditor if not represented by an attorney) within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answers to both questions 1 and 2 are "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the garnishment summons was served on you, YOU MUST calculate the amount of earnings to be retained by completing Steps 3 through 11, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in Column I on the Earnings Disclosure Worksheet.

You must return this Earnings Disclosure Form and the Earnings Disclosure Worksheet to the creditor's attorney (or the creditor if not represented by an attorney) and deliver a copy to the debtor within ten days after the last payday that falls within the 70-day period.

If the claim is wholly satisfied or if the debtor's employment ends before the expiration of the 70-day period, your disclosure should be made within ten days after the last payday for which earnings were attached.

For Steps 3 through 11, "Columns" refers to columns on the Earnings Disclosure Worksheet.

3. COLUMN A. Enter the date of debtor's payday.
4. COLUMN B. Enter debtor's gross earnings for each payday.
5. COLUMN C. Enter debtor's disposable earnings for each payday.
6. COLUMN D. Enter 25 percent of disposable earnings. (Multiply Column C by .25.)
7. COLUMN E. Enter here 40 times the hourly federal minimum wage (\$...) times the number of work weeks included in each payday. (Note: If a pay period includes days in excess of whole work weeks, the additional days should be counted as a fraction of a work week equal to the number of work days in excess of a whole work week divided by the number of work days in a normal work week.)

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

- 8. COLUMN F. Subtract the amount in Column E from the amount in Column C, and enter here.
- 9. COLUMN G. Enter here the lesser of the amount in Column D and the amount in Column F.
- 10. COLUMN H. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest which would reduce the amount of earnings owing to the debtor. (Note: Any indebtedness to you incurred by the debtor within the ten days before the receipt of the first garnishment on a debt may not be set off against amounts otherwise subject to the garnishment. Any assignment of earnings made by the debtor to any party within ten days before the receipt of the first garnishment on a debt is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

- 11. COLUMN I. Enter zero in Column H if there are no claims by you or others which would reduce the amount of earnings owing to the debtor. Subtract the amount in Column H from the amount in Column G and enter here. This is the amount of earnings that you must retain for the payday for which the calculations were made.

AFFIRMATION

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

Dated:

 Signature

 Title

 Telephone Number

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

EARNINGS DISCLOSURE WORKSHEET

.....

Debtor's Name

A Payday Date	B Gross Earnings	C Disposable Earnings
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

D 25% of Column C	E 40 X Min. Wage	F Column C minus Column E
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

G Lesser of Column D and Column F	H Setoff, Lien, Adverse Interest, or Other Claims	I Column G minus Column H
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

TOTAL OF COLUMN I \$

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

*If you entered any amount in Column H for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others you must both state the names and addresses of these persons, and the nature of their claim, if known.

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

AFFIRMATION

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

Dated:

Signature

Title

Telephone Number (...).....

EARNINGS DISCLOSURE FORM AND WORKSHEET

FOR CHILD SUPPORT DEBTOR

STATE OF MINNESOTA

COUNTY OF

.....(Creditor)

.....(Debtor)

.....(Garnishee)

DISTRICT COURT

..... JUDICIAL DISTRICT

GARNISHMENT

EARNINGS DISCLOSURE

DEFINITIONS

“EARNINGS”: For the purpose of execution, “earnings” means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers’ compensation, or unemployment compensation.

“DISPOSABLE EARNINGS”: Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

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

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE GARNISHEE MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the debtor for earnings?

.....
Yes No

INSTRUCTIONS FOR COMPLETING THE EARNINGS DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the creditor's attorney (or the creditor if not represented by an attorney) within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the garnishment summons was served on you, **YOU MUST** calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. **UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.**

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the creditor's attorney (or the creditor if not represented by an attorney) and deliver a copy to the debtor within ten days after the last payday that falls within the 70-day period. If the claim is wholly satisfied or if the debtor's employment ends before the expiration of the 70-day period, your disclosure should be made within ten days after the last payday for which earnings were attached.

For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of debtor's payday.

(3) COLUMN B. Enter debtor's gross earnings for each payday.

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

(4) COLUMN C. Enter debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

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

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

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

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) COLUMN E. Subtract the amount in column D from the amount in column C, and enter here.

(7) COLUMN F. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the debtor. (Note: Any assignment of earnings made by the debtor to any party within ten days before the receipt of the first garnishment on a debt is void. Any indebtedness to you incurred by the debtor within the ten days before the receipt of the first garnishment on a debt may not be set off against amounts otherwise subject to the garnishment.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in column F E if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(8) (7) COLUMN G F. Subtract the amount in column F E from the amount in column E D and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

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

AFFIRMATION

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

Dated: Signature Title Telephone Number

EARNINGS DISCLOSURE WORKSHEET

Table with columns: A Payday Date, B Gross Earnings, C Disposable Earnings, Debtor's Name, D (50, 55, 60, or 65% of C), E (Column C minus D), F (Setoff, Lien, Adverse Interest, or Other Claims), G (Column E D minus F), and TOTAL OF COLUMN G \$.

New language is indicated by underline, deletions by strikethrough.

*If you entered any amount in column F E for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

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

AFFIRMATION

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

Dated: Signature
..... Title (...).....
..... Phone Number

NONEARNINGS DISCLOSURE FORM

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
.....(Creditor)
against
.....(Debtor) NONEARNINGS DISCLOSURE
and
.....(Garnishee)

On the day of, 19.., the time of service of garnishment summons herein, there was due and owing the debtor from the garnishee the following:

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

.....

(2) Property. Describe on the line below any personal property, instruments, or papers belonging to the debtor and in the possession of the garnishee.

.....

(3) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the garnishee claims against the amount set forth on lines (1) and (2) above. State the facts by which the setoff, defense, lien, or claim is claimed. (Any indebtedness to a garnishee incurred by the debtor within the ten days before the receipt of the first garnishment on a debt may not be set off against amounts otherwise subject to the garnishment.)

.....

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

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

.....

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

.....

(6) Enter on the line below the total of lines (4), (5), and (6).

.....

(7) Enter on the line below the difference obtained (never less than zero) when line (6) is subtracted from the sum of lines (1) and (2).

.....

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

.....

(9) Enter on the line below the lesser of line (8) and line (9). Retain this amount only if it is \$10 or more.

.....

AFFIRMATION

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

Dated:

.....
Signature

.....
Title

.....
Telephone Number

Sec. 20. Minnesota Statutes 1990, section 571.922, is amended to read:

571.922 LIMITATION ON WAGE GARNISHMENT.

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

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

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

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

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

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

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

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

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

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

Sec. 21. EFFECTIVE DATE; APPLICATION.

Sections 1 to 14 become effective January 1, 1992, and apply to actions and distribution proceedings commenced after the effective date.

Presented to the governor May 20, 1991

Signed by the governor May 23, 1991, 7:08 p.m.

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