

## CHAPTER 550

## EXECUTIONS, REDEMPTION, EXEMPTIONS

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**550.011 JUDGMENT DEBTOR DISCLOSURE.**

Unless the parties have otherwise agreed, if a judgment has been docketed in district court for at least 30 days, and the judgment is not satisfied, the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail by certified mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earnings. The information must be provided on a form prescribed by the supreme court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

**History:** 1993 c 321 s 6

**550.135 SHERIFF'S LEVY ON OTHER PERSONAL PROPERTY, MONEY, OR INDEBTEDNESS.**

*[For text of subds 1 to 9, see M.S.1992]*

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

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

*[For text of subds 11 to 16, see M.S.1992]*

**History:** 1993 c 156 s 1

**550.136 SHERIFF'S LEVY OF EARNINGS.**

*[For text of subds 1 and 2, see M.S.1992]*

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 fol-

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

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

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

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

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

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

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

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

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

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

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

judgment is satisfied if the judgment creditor is a county and the third party is notified by the county when the judgment is satisfied.

*[For text of subds 6 to 13, see M.S.1992]*

**History:** 1993 c 156 s 2-4

### 550.143 LEVY ON FUNDS AT A FINANCIAL INSTITUTION.

*[For text of subds 1 and 2, see M.S.1992]*

Subd. 3. **Exemption notice.** If the levy is on funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, the judgment creditor or its attorney shall provide the sheriff with two copies of an exemption notice, which must be substantially in the form set forth below. The sheriff shall serve both copies of the exemption notice on the financial institution, along with the writ of execution. Failure of the sheriff to serve the exemption notices renders the levy void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds that have previously been garnished in compliance with section 571.71, the judgment creditor is not required to serve additional exemption notices. In that event, the execution levy shall only be effective as to the funds that were subject to the prior garnishment. Upon receipt of the writ of execution and exemption notices, the financial institution shall retain as much of the amount due under section 550.04 as the financial institution has on deposit owing to the judgment debtor, but not more than 110 percent of the amount remaining due on the judgment.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF .....

..... JUDICIAL DISTRICT

.....(Judgment Creditor)

.....(Judgment Debtor)

TO: Debtor

#### EXEMPTION NOTICE

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

Your account balance is \$.....

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

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

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

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

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

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

(5) life insurance proceeds;

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

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

The following funds are also exempt:

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

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

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

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

**TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:**

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

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

**TO CLAIM AN EXEMPTION:**

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

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

**IF YOU CLAIM AN EXEMPTION:**

- (1) nonexempt money can be turned over to the judgment creditor or sheriff;
- (2) the financial institution will keep holding the money claimed to be exempt; and
- (3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

**IF THE JUDGMENT CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:**

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

**MOTION TO DETERMINE EXEMPTION:**

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

**PENALTIES:**

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

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

Name and address of (Attorney  
for) Judgment Creditor

**EXEMPTION:**

(a) Amount of exemption claim.

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

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

The exempt amount is \$.....

(b) Basis for exemption.

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

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

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

case number: .....;

county: .....)

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

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

DATED: .....

.....  
 DEBTOR  
 .....  
 .....  
 .....

DEBTOR ADDRESS

*[For text of subds 4 to 10, see M.S.1992]*

**History:** 1993 c 156 s 5

#### **550.175 EXECUTION ON REAL PROPERTY THAT INCLUDES HOMESTEAD.**

*[For text of subds 1 and 2, see M.S.1992]*

**Subd. 3. Designation of homestead property.** The debtor must designate the legal description of the homestead property to be sold separately and the debtor's estimate of the value of the property. The homestead property designated may include any amount of the property. The designation must conform to local zoning, include the dwelling occupied by the debtor, and be compact so that it does not unreasonably affect the value of the remaining property. The debtor must serve a copy of the designation on the executing creditor, the sheriff, and the county recorder by ten business days before the sale is scheduled.

**Subd. 4. Sale of property.** (a) If the sheriff receives a homestead property designation under subdivision 3, the sheriff must offer and sell the designated homestead property, and the remaining property, separately, unless the executing creditor denies the right to the exemption, objects to the property designated, or claims the value exceeds the exemption.

(b) If the executing creditor is dissatisfied with the homestead property designation or the debtor's valuation of the property, upon proper motion to the district court of the county in which any part of the property is located, the executing creditor is entitled to a court approved designation of the homestead and a court determination of value. The court shall either approve the debtor's designation or cause the property to be surveyed and order a homestead designation consistent with the standards of subdivision 3 and require an appraisal of fair market value, as applicable. The court's designation of the homestead property must conform to the debtor's request, to the extent not inconsistent with the standards of subdivision 3.

(c) The court, in determining appraised value, shall review any appraisals provided by the debtor and executing creditor and may require a court appointed independent appraisal. The appraisals shall evaluate the property's fair market value, net of reasonable costs of sale.

(d) If the court determines that the property claimed as a homestead exceeds in value the amount of the homestead exemption or if the court determines that the property cannot be divided without material injury, the court shall order the sale of the entire property, including the designated homestead. Out of the proceeds of the sale, the court shall pay the debtor the amount of the homestead exemption and apply the balance of the proceeds of the sale on the execution.

(e) At the sale, no bid may be accepted unless it exceeds the amount of the homestead exemption. If no bid exceeds the exemption, the homestead is exempt.

(f) The cost of any court ordered survey or appraisal and of the sale must be collected on the execution, if the debtor designated as the debtor's homestead a greater quantity of property, property of greater value than the debtor was entitled to, or designated a parcel that does not meet the standards of subdivision 3. In all other cases, the costs shall be borne by the executing creditor.

*[For text of subd 5, see M.S.1992]*

**History:** 1993 c 79 s 5,6

### **550.37 PROPERTY EXEMPT.**

*[For text of subds 1 to 12, see M.S.1992]*

Subd. 12a. One motor vehicle to the extent of a value not exceeding \$2,000; or one motor vehicle to the extent of a value not exceeding \$20,000 that has been modified, at a cost of not less than \$1,500, to accommodate the physical disability making a disabled person eligible for a certificate authorized by section 169.345.

*[For text of subds 13 and 14, see M.S.1992]*

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

*[For text of subds 16 to 24, see M.S.1992]*

**History:** 1993 c 79 s 7; 1993 c 156 s 6