

CHAPTER 570

ATTACHMENT

570.025 Preliminary attachment order upon extraordinary circumstances.

570.026 Attachment after notice and hearing.

570.025 PRELIMINARY ATTACHMENT ORDER UPON EXTRAORDINARY CIRCUMSTANCES.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Notice.** The respondent shall be served with a copy of the preliminary attachment order issued pursuant to this section together with a copy of all pleadings and other documents not previously served, including any affidavits upon which the claimant intends to rely at the subsequent hearing and a transcript of any oral testimony given at the preliminary hearing upon which the claimant intends to rely and a notice of hearing. Service shall be in the manner prescribed for personal service of a summons unless that service is impracticable or would be ineffective and the court prescribes an alternative method of service calculated to provide actual notice to the respondent.

The notice of hearing served upon the respondent shall be signed by claimant or the attorney for claimant and shall provide, at a minimum, the following information in substantially the following language:

NOTICE OF HEARING

To: (the respondent)

The (insert name of court) Court has ordered the sheriff to seize some of your property. The court has directed the sheriff to seize the following specific property: (insert list of property). (List other action taken by the court). Some of your property may be exempt from seizure. See the exemption notice below.

The Court issued this Order based upon the claim of (insert name of claimant) that (insert name of claimant) is entitled to a court order for seizure of your property to secure your payment of any money judgment that (insert name of claimant) may later be obtained against you and that immediate action was necessary.

You have the legal right to challenge (insert name of claimant) claims at a court hearing before a judge. The hearing will be held at the (insert place) on (insert date) at (insert time). You may attend the court hearing alone or with an attorney. After you have presented your side of the matter, the court will decide what should be done with your property until the lawsuit against you is finally decided.

IF YOU DO NOT ATTEND THIS HEARING, THE COURT MAY ORDER THE SHERIFF TO KEEP PROPERTY THAT HAS BEEN SEIZED.

EXEMPTION NOTICE

An order of attachment is being served upon you. Some of your property is exempt and cannot be seized. The following is a list of some of the more common exemptions. It is not complete and is subject to section 550.37, and other state and federal laws. If you have questions about an exemption, you should obtain competent legal advice.

1. A homestead or the proceeds from the sale of a homestead.
2. Household furniture, appliances, phonographs, radios, and televisions up to a total current value of \$4,500 at the time of attachment.
3. A manufactured (mobile) home used as your home.
4. One motor vehicle currently worth less than \$2,000 after deducting any security interests.

5. Farm machinery used by someone principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$5,000.

6. Relief based on need. This includes Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Minnesota Supplemental Assistance, and General Assistance.

7. Social Security benefits.

8. Unemployment compensation, workers' compensation, or veterans' benefits.

9. An accident disability or retirement pension or annuity.

10. Life insurance proceeds or the earnings of your minor child and any child support paid to you.

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

History: 1993 c 156 s 13

570.026 ATTACHMENT AFTER NOTICE AND HEARING.

[For text of subd 1, see M.S.1992]

Subd. 2. Service. The claimant's motion to obtain an order of attachment together with the claimant's affidavit and notice of hearing shall be served in the manner prescribed for service of a summons in a civil action in district court unless that service is impracticable or would be ineffective and the court prescribes an alternative method of service calculated to provide actual notice to the respondent. If the respondent has already appeared in the action, the motion shall be served in the manner prescribed for service of pleadings subsequent to the summons. The date of hearing shall be fixed in accordance with Rule 6 of the Minnesota Rules of Civil Procedure, unless a different date is fixed by order of the court.

The notice of hearing served upon the respondent shall be signed by the claimant or the attorney for the claimant and shall provide, at a minimum, the following information in substantially the following language:

NOTICE OF HEARING

TO: (the respondent)

A hearing will be held (insert place) on (insert date) at (insert time) to determine whether the sheriff shall seize nonexempt property belonging to you to secure a judgment that may be entered against you.

You may attend the court hearing alone or with an attorney. After you have presented your side of the matter, the court will decide what should be done with your property until the lawsuit which has been commenced against you is finally decided.

If the court directs the sheriff to seize and secure the property while the lawsuit is pending, you may still keep the property until the lawsuit is decided if you file a bond in an amount set by the court.

IF YOU DO NOT ATTEND THIS HEARING, THE COURT MAY ORDER YOUR NONEXEMPT PROPERTY TO BE SEIZED.

EXEMPTION NOTICE

Some of your property is exempt and cannot be attached. The following is a list of some of the more common exemptions. It is not complete and is subject to section 550.37, and other state and federal laws. If you have questions about an exemption you should obtain competent legal advice.

1. A homestead or the proceeds from the sale of a homestead.

2. Household furniture, appliances, phonographs, radios, and televisions up to a total current value of \$4,500 at the time of attachment.

3. A manufactured (mobile) home used as your home.

4. One motor vehicle currently worth less than \$2,000 after deducting any security interests.

5. Farm machinery used by someone principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$5,000.

6. Relief based on need. This includes Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Minnesota Supplemental Assistance, and General Assistance.

7. Social Security benefits.

8. Unemployment compensation, workers' compensation, or veterans' benefits.

9. An accident disability or retirement pension or annuity.

10. Life insurance proceeds or the earnings of your minor child and any child support paid to you.

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

[For text of subds 3 to 5, see M.S.1992]

History: 1993 c 156 s 14