

CHAPTER 571
GARNISHMENT

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571.72 GENERAL GARNISHMENT PROVISIONS.

[For text of subs 1 to 7, see M.S.1998]

Subd. 8. **Exemption notice.** In every garnishment where the debtor is a natural person, the debtor shall be provided with a garnishment exemption notice. If the creditor is garnishing earnings, the earnings exemption notice provided in section 571.924 must be served ten or more days before the service of the first garnishment summons. If the creditor is garnishing funds in a financial institution, the exemption notice provided in section 571.912 must be served with the garnishment summons. In all other cases, the exemption notice must be in the following form and served on the debtor with a copy of the garnishment summons.

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	JUDICIAL DISTRICT
..... (Creditor)	
against	
..... (Debtor)	EXEMPTION NOTICE
and	
..... (Garnishee)	

A Garnishment Summons is being served upon you. Some of your property may be exempt and cannot be garnished. The following is a list of some of the more common exemptions. It is not complete and is subject to section 550.37 of the Minnesota Statutes and other state and federal laws. The dollar amounts contained in this list are subject to the provisions of section 550.37, subdivision 4a, at the time of garnishment. If you have questions about an exemption, you should obtain 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 \$5,850;
- (3) a manufactured (mobile) home used as your home;
- (4) one motor vehicle currently worth less than \$2,600 after deducting any security interest;
- (5) farm machinery used by an individual principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$13,000;
- (6) relief based on need. This includes:
 - (i) Minnesota Family Investment Program (MFIP) and Work First Program;
 - (ii) Medical Assistance (MA);
 - (iii) General Assistance (GA);
 - (iv) General Assistance Medical Care (GAMC);
 - (v) Emergency General Assistance (EGA);
 - (vi) Minnesota Supplemental AID (MSA);
 - (vii) MSA-Emergency Assistance (MSA-EA);
 - (viii) Supplemental Security Income (SSI);
 - (ix) Energy Assistance; and
 - (x) Emergency Assistance (EA);

- (7) social security benefits;
- (8) reemployment compensation, workers' compensation, or veteran's benefits;
- (9) an accident, disability, or retirement pension or annuity;
- (10) life insurance proceeds;
- (11) earnings of your minor child; and
- (12) 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 subd 9, see M.S.1998]

History: 1999 c 107 s 66; 1999 c 159 s 148

571.75 GARNISHEE DISCLOSURE.

[For text of subd 1, see M.S.1998]

Subd. 2. **Contents of disclosure.** The disclosure must state:

- (a) If an earnings garnishment disclosure, the amount of disposable earnings earned by the debtor within the debtor's pay periods as specified in section 571.921.
- (b) If a nonearnings garnishment disclosure, a description of any personal property or any instrument or papers relating to this property belonging to the judgment debtor or in which the debtor is interested or other indebtedness of the garnishee to the debtor.
- (c) If the garnishee asserts any setoff, defense, claim, or lien on disposable earnings, other indebtedness, money, or property, the garnishee shall disclose the amount and the facts concerning the same.
- (d) Whether the debtor asserts any exemption, or any other objection, known to the garnishee against the right of the creditor to garnish the disposable earnings, other indebtedness, money, or property disclosed.
- (e) If other persons assert claims to any disposable earnings, other indebtedness, money, or property disclosed, the garnishee shall disclose the names and addresses of these claimants and, so far as known by the garnishee, the nature of their claims.
- (f) The garnishment disclosure forms and earnings disclosure worksheet must be the same or substantially similar to the following forms. If the garnishment affects earnings of the debtor, the creditor shall use the earnings garnishment disclosure form. If the garnishment affects any indebtedness, money, or 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	DISTRICT COURT
COUNTY OF	JUDICIAL DISTRICT
..... (Creditor)	
..... (Debtor)	GARNISHMENT
..... (Garnishee)	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

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.)

- 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

EARNINGS DISCLOSURE WORKSHEET

.....			
Debtor's Name			
A	B	C	
Payday Date	Gross Earnings	Disposable Earnings	
1.
2.
3.
4.
5.
6.

MINNESOTA STATUTES 1999 SUPPLEMENT

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 \$

*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 DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
..... (Creditor)
..... (Debtor)
..... (Garnishee) 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 reemployment 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 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.

(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. 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 E if there are no claims by you or others that would reduce the amount of earnings owing to the judgment debtor.

(7) COLUMN F. Subtract the amount in column E from the amount in column 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 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

.....
Debtor's Name

MINNESOTA STATUTES 1999 SUPPLEMENT

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

*If you entered any amount in column 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:
Title
Signature
(. . .)
Phone Number

NONEARNINGS DISCLOSURE FORM

STATE OF MINNESOTA
 COUNTY OF
 (Creditor)
 against
 (Debtor)
 and
 (Garnishee)

DISTRICT COURT
 JUDICIAL DISTRICT

NONEARNINGS DISCLOSURE

On the day of,, 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.)

(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 (3), (4), and (5).

(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 (7) and line (8). 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

[For text of subs 3 and 4, see M.S.1998]

History: 1999 c 107 s 66

571.912 FORM OF EXEMPTION NOTICE.

The notice informing a debtor that an order for attachment, garnishment summons, or levy by execution has been used to attach funds of the debtor to satisfy a claim must be substantially in the following form:

STATE OF MINNESOTA
COUNTY OF (Creditor)
..... (Debtor)
TO: Debtor

DISTRICT COURT
JUDICIAL DISTRICT

EXEMPTION NOTICE

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

Your account balance is \$.....

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

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

(1) relief based on need. This includes the Minnesota Family Investment Program (MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;

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

(3) reemployment 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 debtor's after tax earnings below 40 times the federal minimum wage.

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

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

TO CLAIM AN EXEMPTION:

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

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

IF YOU CLAIM AN EXEMPTION:

(1) nonexempt money can be turned over to the creditor or sheriff;

(2) the financial institution will keep holding the money claimed to be exempt; and

(3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

IF THE CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:

The institution will hold the money until a court decides if your exemption claim is valid, **BUT ONLY IF** the institution gets a copy of your court motion papers asserting the exemption **WITHIN TEN DAYS** after the objection is 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 creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100:

.....
.....
.....
.....
Name and address of (Attorney for) Judgment Creditor

EXEMPTION:

(If you claim an exemption complete the following):

(a) Amount of exemption claim.

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

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

The exempt amount is \$

(b) Basis for exemption.

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

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

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

case number:

county:

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

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

DATED:
DEBTOR

DEBTOR ADDRESS

History: 1999 c 107 s 66; 1999 c 159 s 149

571.925 FORM OF NOTICE.

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

STATE OF MINNESOTA
COUNTY OF
..... (Creditor)
against

DISTRICT COURT
..... JUDICIAL DISTRICT

..... (Debtor)
and
..... (Garnishee)

GARNISHMENT EXEMPTION
NOTICE AND NOTICE OF
INTENT TO GARNISH EARNINGS
WITHIN TEN DAYS

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

garnished from your earnings was calculated. You have the right to request a hearing if you claim the garnishment is incorrect.

Your earnings are completely exempt from garnishment if you are now a recipient of relief based on need, if you have been a recipient of 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 the Minnesota Family Investment Program (MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.

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

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

PENALTIES

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

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

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

DATED: (Attorney for) Creditor
.....
Address
.....
Telephone

DEBTOR'S EXEMPTION CLAIM NOTICE

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

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

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

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

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

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

.....
Correctional Institution Location

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above-named creditor or the creditor's attorney only whether or not I am or have been a recipient of relief based on need or an inmate

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

.....
 Date Debtor
 Address

History: 1999 c 159 s 150

571.931 PREJUDGMENT GARNISHMENT BEFORE NOTICE AND HEARING.

[For text of subs 1 to 5, see M.S.1998]

Subd. 6. **Notice.** The debtor shall be served with a copy of the prejudgment garnishment 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 prejudgment garnishment hearing upon which the creditor intends to rely and a notice of hearing. Service must 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 debtor.

The notice of hearing served upon the debtor must be signed by the creditor or the attorney for the creditor and must be accompanied by an exemption notice. The notice of hearing must be accompanied by an exemption notice, and both notices must provide, at a minimum, the following information in substantially the following language:

NOTICE OF HEARING

TO: (the debtor)

The (insert the name of court) Court has ordered the prejudgment garnishment of some of your property in the possession or control of a third party. 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 creditor) that (insert name of creditor) is entitled to a court order for garnishment of your property to secure your payment of any money judgment that (insert name of creditor) may later be obtained against you and that immediate action was necessary.

You have the legal right to challenge (insert name of creditor) 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 GARNISHMENT OF YOUR PROPERTY.

EXEMPTION NOTICE

Some of your property may be exempt and cannot be garnished. 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 \$10,000.

(6) Relief based on need. This includes the Minnesota Family Investment Program (MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.

(7) Social Security benefits.

(8) Reemployment compensation, workers' compensation, or veterans' benefits.

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

(10) Life insurance proceeds.

(11) The earnings of your minor child.

(12) 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: 1999 c 107 s 66; 1999 c 159 s 151

571.932 PREJUDGMENT GARNISHMENT AFTER NOTICE AND HEARING.

[For text of subd .1, see M.S.1998]

Subd. 2. **Service.** The creditor's motion to obtain an order of garnishment together with the creditor's affidavit and notice of hearing must 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 debtor. If the debtor has already appeared in the action, the motion must be served in the manner prescribed for service of pleadings subsequent to the summons. The date of the hearing must be fixed in accordance with Rule 6 of the Minnesota Rules of Civil Procedure for the District Courts, unless a different date is fixed by order of the court.

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

NOTICE OF HEARING

TO: (the debtor)

A hearing will be held (insert place) on (insert date) at (insert time) to determine whether nonexempt property belonging to you will be garnished 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 whether your property should be garnished until the lawsuit which has been commenced against you is finally decided.

If the court directs the issuance of a garnishment summons 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 GARNISHED.

EXEMPTION NOTICE

Some of your property may be exempt and cannot be garnished. 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. The dollar amounts contained in this list are subject to the provisions of section 550.37, subdivision 4a, at the time of the garnishment. 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 \$5,850.

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

(4) One motor vehicle currently worth less than \$2,600 after deducting any security interests.

(5) Farm machinery, used by an individual principally engaged in farming, or tools, machines, or office furniture used in your business or trade. This exemption is limited to \$13,000.

(6) Relief based on need. This includes the Minnesota Family Investment Program (MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.

(7) Social Security benefits.

(8) Reemployment compensation, workers' compensation, or veterans' benefits.

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

(10) Life insurance proceeds.

(11) The earnings of your minor child.

(12) 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 subs 3 to 7, see M.S.1998]

History: 1999 c 107 s 66; 1999 c 159 s 152