

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

Subdivision 1. **Procedure.** When the sheriff is levying upon funds at a financial institution, this section must be complied with, in addition to the general provisions set forth in section 550.135.

Subd. 2. **Disclosure form.** Along with the writ of execution and the exemption notice described in subdivision 3, the sheriff shall serve upon the financial institution an execution disclosure form which must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF .....	JUDICIAL DISTRICT
.....(Judgment Creditor)	
against	FINANCIAL INSTITUTIONS
.....(Judgment Debtor)	EXECUTION
and	DISCLOSURE
..... (Third Party)	

On the ..... day of ....., ....., the time of service of execution herein, there was due and owing the judgment debtor from the third party the following:

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

.....

(2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the third party claims against the amount set forth on line (1). State the facts by which such setoff, defense, lien, or claim is claimed. (Any indebtedness to a third party incurred by the judgment debtor within ten days prior to the receipt of the first execution levy on a debt is void as to the judgment creditor.)

.....

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

.....

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

.....

(5) Enter on the line below the total of lines (2), (3), and (4).

.....

(6) Enter on the line below the difference obtained (never less than zero) when line (5) is subtracted from the amount on line (1).

.....

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

.....

(8) Enter on the line below the lesser of line (6) and line (7). You are hereby instructed to remit this amount only if it is \$10 or more.

.....

AFFIRMATION

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

Dated: .....

.....

Signature

.....

Title

.....

Telephone Number

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 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) unemployment benefits, 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.**

**NOTE: You may help resolve your claim faster if you send to the creditor's attorney written proof or documents that show why your money is exempt. If you have questions regarding the documents to send as proof of an exemption, call the creditor's attorney. If you do not send written proof and the creditor's attorney has questions about your exemption claim, the creditor's attorney may object to your claim which may result in a further delay in releasing your exempt funds.**

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 personally served on you, or within 13 days from the date the objection is mailed 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 at the address indicated above.

DATED: .....

.....  
DEBTOR

.....  
.....

.....  
DEBTOR ADDRESS

.....  
DEBTOR TELEPHONE NUMBER

Subd. 4. **Effect of exemption notice.** Within two business days after receipt of the writ of execution and exemption notices, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The financial institution shall serve the notice by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the judgment debtor, the funds remain subject to the execution levy and shall be remitted to the sheriff within seven days. If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the debtor containing the exemption notices. In the event that there is no attorney for the judgment creditor, then the notice must be sent directly to the judgment creditor. Failure of the judgment debtor to deliver the executed exemption notice does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the debtor remain subject to the execution levy. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption

notice to the financial institution, unless within that time the judgment creditor interposes an objection to the exemption.

Subd. 5. **Objection to exemption claim.** Objection shall be interposed by mailing or delivering one copy of the written objection to the financial institution and one copy of the written objection to the judgment debtor along with a copy of the judgment debtor's claimed exemption form. Both copies of an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section. The written objection must be substantially in the form specified in subdivision 7.

Subd. 6. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a written objection from the judgment creditor or its attorney within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a request for hearing and notice of hearing from the judgment debtor asserting exemption rights within ten days after receipt of a written objection to the exemption, the funds remain subject to the execution levy as if no claim of exemption had been made and shall be remitted to the sheriff within seven days. If a request for hearing and notice of hearing to determine the validity of a claim of exemption is received by the financial institution within the period provided, it shall retain the funds claimed to be exempt until otherwise ordered by the court.

Subd. 7. **Notice of objection.** (a) The written objection to the judgment debtor's claim of exemption must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF .....	..... JUDICIAL DISTRICT
..... (Judgment Creditor)	OBJECTION TO
..... (Judgment Debtor)	EXEMPTION CLAIM
..... (Garnishee) (Third Party)	

The judgment creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s): .....

.....  
.....

Because of this objection, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you need to do so within ten days from the date the objection was personally served on you, or within

13 days of the date the objection was mailed to you. You may request a hearing by completing the attached form and filing it with the court administrator.

1. The court administrator's office shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing.

2. Upon the filing of a Request for Hearing, the court administrator shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time, and place to the adverse party and to the financial institution by first class mail.

3. If it is possible that the financial institution might not receive the request mailed from the court administrator within ten days, then you may want to personally deliver a copy of the request to the financial institution after you have filed your request with the court.

4. An order stating whether your funds are exempt shall be issued by the court within three days of the date of the hearing.

If you do not file a Request for Hearing within ten days of the date the objection was personally served on you, or within 13 days from the date the objection was mailed to you, your financial institution may turn your funds over to your creditor.

If you file a Request for Hearing and your financial institution receives it within ten days of the date it received this objection, your financial institution will retain your funds claimed to be exempt until otherwise ordered by the court.

.....  
Judgment Creditor or Attorney

Subd. 8. **Request for hearing and notice for hearing.** The request for hearing accompanying the objection notice must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF .....	..... JUDICIAL DISTRICT
..... (Judgment Creditor)	REQUEST FOR HEARING
..... (Judgment Debtor)	AND
..... (Third Party)	NOTICE FOR HEARING

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of ..... (Judgment Debtor) at the ..... (Financial Institution).

I believe the property being held is exempt because



.....  
.....

Dated: .....

(JUDGMENT DEBTOR)

.....  
(ADDRESS)

.....  
(DEBTOR PHONE NUMBER)

HEARING DATE: .....

TIME: .....

HEARING PLACE: .....

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim and objection. Failure to do so could delay the court's decision.)

Subd. 9. **Release of funds.** At any time during the procedure specified in this section, the judgment debtor or the judgment creditor may, by a writing dated after the service of the execution, direct the sheriff to release the funds in question to the other party. Upon receipt of a release, the sheriff shall release the funds as directed.

Subd. 10. **Subsequent proceedings; bad faith claims.** If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and, if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

**History:** *1990 c 606 art 1 s 5; 1992 c 464 art 1 s 56; 1993 c 156 s 5; 1994 c 488 s 8; 1998 c 254 art 1 s 107; 1999 c 107 s 66; 1999 c 159 s 142; 2000 c 343 s 4; 2000 c 405 s 3-5*