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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 334

January 26, 2009 Authored by Hilstrom The bill was read for the first time and referred to the Committee on Civil Justice February 16, 2009 Committee Recommendation and Adoption of Report: To Pass as Amended Read Second Time

1.1 A bill for an act
1.2 relating to creditor remedies; modifying garnishment instructions, forms,
1.3 procedures, and exemptions; amending Minnesota Statutes 2008, sections
1.4 550.143; 550.37, subdivision 14; 551.05; 571.71; 571.72, by adding a
1.5 subdivision; 571.913; 571.914; 571.925.

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

1.7 Section 1. Minnesota Statutes 2008, section 550.143, is amended to read:

1.8 550.143 LEVY ON FUNDS AT A FINANCIAL INSTITUTION.

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

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

1.15 STATE OF MINNESOTA DISTRICT COURT
1.16 COUNTY OF JUDICIAL DISTRICT
1.17 (Judgment Creditor)
1.18 against FINANCIAL INSTITUTIONS
1.19 (Judgment Debtor) EXECUTION
1.20 and DISCLOSURE
1.21(Third Party)

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

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

2.1

2.2 (2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim

2.3 which the third party claims against the amount set forth on line (1). State the facts by

2.4 which such setoff, defense, lien, or claim is claimed. (Any indebtedness to a third party

2.5 incurred by the judgment debtor within ten days prior to the receipt of the first execution

2.6 levy on a debt is void as to the judgment creditor.)

2.7

2.8 (3) Exemption. Enter on the line below any amounts or property claimed by the

2.9 judgment debtor to be exempt from execution.

2.10

2.11 (4) Adverse Interest. Enter on the line below any amounts claimed by other persons

2.12 by reason of ownership or interest in the judgment debtor's property.

2.13

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

2.15

2.16 (6) Enter on the line below the difference obtained (never less than zero) when line

2.17 (5) is subtracted from the amount on line (1).

2.18

2.19 (7) Enter on the line below 110 percent of the amount of the judgment creditor's

2.20 claim which remains unpaid.

2.21

2.22 (8) Enter on the line below the lesser of line (6) and line (7). You are hereby

2.23 instructed to remit this amount only if it is \$10 or more.

2.24

2.25 AFFIRMATION

2.26 I, (person signing Affirmation), am the third party or I am authorized

2.27 by the third party to complete this nonearnings disclosure, and have done so truthfully

2.28 and to the best of my knowledge.

2.29 Dated:
 2.30 Signature
 2.31
 2.32 Title
 2.33
 2.34 Telephone Number

3.1 Subd. 3. **Exemption notice.** If the levy is on funds of a judgment debtor who is a
 3.2 natural person and if the funds to be levied are held on deposit at any financial institution,
 3.3 the judgment creditor or its attorney shall provide the sheriff with two copies of an
 3.4 exemption notice, which must be substantially in the form set forth below. The sheriff
 3.5 shall serve both copies of the exemption notice on the financial institution, along with the
 3.6 writ of execution. Failure of the sheriff to serve the exemption notices renders the levy
 3.7 void, and the financial institution shall take no action. However, if this subdivision is
 3.8 being used to execute on funds that have previously been garnished in compliance with
 3.9 section 571.71, the judgment creditor is not required to serve additional exemption notices.
 3.10 In that event, the execution levy shall only be effective as to the funds that were subject
 3.11 to the prior garnishment. Upon receipt of the writ of execution and exemption notices,
 3.12 the financial institution shall retain as much of the amount due under section 550.04 as
 3.13 the financial institution has on deposit owing to the judgment debtor, but not more than
 3.14 110 percent of the amount remaining due on the judgment.

3.15 ~~STATE OF MINNESOTA~~ ~~DISTRICT COURT~~
 3.16 ~~COUNTY OF~~ ~~..... JUDICIAL DISTRICT~~
 3.17 ~~(Judgment~~
 3.18 ~~..... Creditor)~~
 3.19 ~~..... (Judgment Debtor)~~
 3.20 ~~TO: Debtor~~ ~~EXEMPTION NOTICE~~

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

3.24 ~~Your account balance is \$.....~~

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

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

- 3.28 ~~(1) relief based on need. This includes the Minnesota Family Investment Program~~
- 3.29 ~~(MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA),~~
- 3.30 ~~General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General~~
- 3.31 ~~Assistance (EGA), Minnesota Supplemental Aid (MSA), MSA Emergency Assistance~~
- 3.32 ~~(MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;~~
- 3.33 ~~(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);~~
- 3.34 ~~(3) unemployment benefits, workers' compensation, or veterans' benefits;~~
- 3.35 ~~(4) an accident, disability, or retirement pension or annuity;~~
- 3.36 ~~(5) life insurance proceeds;~~
- 3.37 ~~(6) the earnings of your minor child and any child support paid to you; or~~

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

4.3 ~~The following funds are also exempt:~~

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

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

4.7 ~~(10) 75 percent of every debtor's after tax earnings; and~~

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

4.10 ~~TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:~~

4.11 ~~Categories (10) and (11): 20 days~~

4.12 ~~Categories (8) and (9): 60 days~~

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

4.17 ~~TO CLAIM AN EXEMPTION:~~

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

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

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

4.35 ~~IF YOU CLAIM AN EXEMPTION:~~

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

5.1 ~~(2) the financial institution will keep holding the money claimed to be exempt, and~~
 5.2 ~~(3) seven days after receiving your exemption claim, the financial institution will~~
 5.3 ~~release the money to you unless before then it receives an objection to your exemption~~
 5.4 ~~claim.~~

5.5 ~~IF THE JUDGMENT CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:~~
 5.6 ~~the institution will hold the money until a court decides if your exemption claim is~~
 5.7 ~~valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting~~
 5.8 ~~the exemption WITHIN TEN DAYS after the objection is personally served on you, or~~
 5.9 ~~within 13 days from the date the objection is mailed to you. You may wish to consult an~~
 5.10 ~~attorney at once if the creditor objects to your exemption claim.~~

5.11 ~~MOTION TO DETERMINE EXEMPTION:~~

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

5.15 ~~PENALTIES:~~

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

5.19
 5.20
 5.21
 5.22

5.23 Name and address of (Attorney for) Judgment
 5.24 Creditor

5.25 ~~EXEMPTION:~~

5.26 ~~(a) Amount of exemption claim:~~

5.27 ~~//I claim ALL the funds being held are exempt:~~

5.28 ~~//I claim SOME of the funds being held are exempt:~~

5.29 The exempt amount is \$

5.30 ~~(b) Basis for exemption:~~

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

5.34
 5.35
 5.36

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

6.1 ~~case number:~~;

6.2 ~~county:~~)

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

6.7 ~~I have mailed or delivered a copy of the exemption notice to the judgment creditor~~
6.8 ~~or judgment creditor's attorney if represented at the address indicated above.~~

6.9

6.10 ~~DEBTOR~~

6.11 ~~DATED:~~

6.12

6.13

6.14 ~~DEBTOR ADDRESS~~

6.15

6.16 ~~DEBTOR TELEPHONE NUMBER~~

6.17 STATE OF MINNESOTA

DISTRICT COURT

6.18 COUNTY OF

..... JUDICIAL DISTRICT

6.19 (Creditor)

6.20 (Debtor)

6.21 (Financial

6.22 institution)

6.23 **IMPORTANT NOTICE**

6.24 **YOUR FUNDS HAVE BEEN LEVIED**

6.25 The Creditor has frozen money in your account at your financial institution. The
6.26 account is frozen for 14 days from the date of this notice.

6.27 **Some of your money in your account may be protected (the legal word is**
6.28 **exempt). You may be able to get it sooner than 14 days if you act quickly and follow**
6.29 **the instructions on the next page.**

6.30 The attached form lists some different sources of money in your account that are
6.31 protected. If your money is from one or more of these sources, check the box on the
6.32 form next to the sources of your money. If it is from one of these sources, the Creditor
6.33 cannot take it.

6.34 **BUT, you must follow the instructions and return the exemption form and**
6.35 **copies of your bank statements from the last 60 days to have the bank unfreeze your**
6.36 **money. If you do not follow the instructions or your creditor gets an order from the court**
6.37 **or writ of execution, your financial institution will give the money to the Creditor. If that**

7.1 happens and it is protected, you can still get it back from the creditor later, but that is not
7.2 as easy to do as filling in the form now.

7.3 See next pages for instructions and the exemption form.

7.4 Subd. 3a. **Form of instructions.** The instructions must be substantially in the
7.5 following form:

7.6 **INSTRUCTIONS**

7.7 **Note:** The creditor is who you owe the money to. You are the debtor.

7.8 1. Fill out the attached exemption form in this packet.

7.9 **If you check one of the boxes, you should also give proof that shows that some**
7.10 **or all of the money in your account is from one or more of the protected sources.**
7.11 **Creditors may ask for a hearing if they question your exemptions. To avoid a hearing:**

7.12 **Case numbers should be added to the form. Copies of documents should be**
7.13 **sent with the form.**

7.14 **NOTICE: You must send copies of your bank statements for the past 60 days**
7.15 **before the garnishment. If you do not send bank statements with your exemption**
7.16 **claim, the financial institution may release your money to the creditor.**

7.17 2. **Sign** the exemption form. Make three copies. Keep one for yourself.

7.18 3. **Mail or deliver** the other copies of the form by (insert date).

7.19 **BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.**

7.20 One copy of the form goes to:

7.21
7.22 (Insert name of creditor or creditor's attorney)

7.23
7.24 (Insert address of creditor or creditor's attorney)

7.25 One copy goes to:

7.26
7.27 (Insert name of bank)

7.28
7.29 (Insert address of bank)

7.30 **HOW THE PROCESS WORKS**

7.31 **If You Do Not Send in the Exemption Form and Bank Statements:**

7.32 14 days after the date of this letter some or all of your money may be turned over to
7.33 the creditor or to the sheriff pursuant to Minnesota statute.

7.34 **If You Send in the Exemption Form and Bank Statements:**

7.35 Any money that is NOT protected can be turned over to the creditor or the sheriff.

7.36 **If the Creditor Does Not Object:**

8.1 The financial institution will unfreeze your money six business days after the
8.2 institution gets your completed form.

8.3 **If the Creditor Objects:**

8.4 The money you have said is protected on the form will be held by the bank. The
8.5 creditor has six business days to object (disagree) and ask the court to hold a hearing. You
8.6 will receive a Notice of Objection and a Notice of Hearing.

8.7 The financial institution will hold the money until a court decides whether your
8.8 money is protected or not.

8.9 You may want to talk to a lawyer for advice about this process. If you are low
8.10 income you can call Legal Aid.

8.11 **PENALTIES:**

8.12 If you claim that your money is protected and a court decides you made that claim
8.13 in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an
8.14 additional amount of up to \$100. For example, it may be bad faith if you claim you receive
8.15 government benefits that you do not receive.

8.16 If the creditor made a bad faith objection to your claim that your money is protected,
8.17 the court can order them to pay costs, actual damages, attorney fees, and an additional
8.18 amount of up to \$100.

8.19 Subd. 3b. **Format of exemption form.** The exemption form must be substantially
8.20 in the following format:

8.21 **EXEMPTION FORM**

8.22 **A. HOW MUCH MONEY IS PROTECTED**

8.23 I claim ALL or SOME of the money being frozen by the bank is protected.

8.24 The amount I claim is protected is \$.....

8.25 **B. WHY THE MONEY IS PROTECTED**

8.26 My money is protected because I get it from one or more of the following places:
8.27 **(Check all that apply)**

8.28 **Government benefits**

8.29 Government benefits include: **MFIP** - Minnesota family investment program,
8.30 **GA** - general assistance, **EA** - emergency assistance, **MA** - medical assistance,
8.31 **GAMC** - general assistance medical care, **EGA** - emergency general assistance,
8.32 **MSA** - Minnesota supplemental aid, **MSA-EA** - MSA emergency assistance, **SSI**
8.33 - Supplemental Security Income, **MinnesotaCare**, **Medicare part B premium**
8.34 **payments**, **Medicare part D extra help**, **energy assistance.**

8.35 **LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT**

8.36

8.37 **LIST THE CASE NUMBER AND COUNTY**

8.38 Case Number:

8.39 County:

8.40 **Social Security benefits**

9.1 **Unemployment benefits**

9.2 **Workers' compensation**

9.3 **Veterans' benefits**

9.4 **If you receive any of these government benefits, include copies of any**
9.5 **documents you have that show you receive Social Security, unemployment,**
9.6 **workers' compensation, or veterans' benefits.**

9.7 **Other assistance based on need**

9.8 **You may have assistance based on need from another source that is not on the list. If you**
9.9 **do, check this box, and fill in the source of your money on the line below:**

9.10 **Source:.....**

9.11 **Include copies of any documents you have that show the source of this money.**

9.12 **All of your earnings (wages) because:**

9.13 **You get government benefits (see list of government benefits)**

9.14 **You currently receive other assistance based on need**

9.15 **You have received government benefits in the last six months**

9.16 **You were in jail or prison in the last six months**

9.17 **If you check this box, your wages are only protected for 60 days after they are**
9.18 **deposited in your account so you MUST send the creditor a copy of BANK**
9.19 **STATEMENTS that show what was in your account for the 60 days right before**
9.20 **the bank froze your money.**

9.21 **Some of your earnings (wages)**

9.22 **If you did not check the box for all earnings, some of your earnings are still**
9.23 **protected for 20 days after they were deposited in your account. The amount**
9.24 **protected is the larger amount of:**

9.25 **75 percent of your wages (after taxes are taken out); or**

9.26 **(insert the sum of the current federal minimum wage) multiplied by 40.**

9.27 **The money from the following may also be exempt for 20 days after they are**
9.28 **deposited in your account.**

9.29 **An accident, disability, or retirement pension or annuity**

9.30 **Payments to you from a life insurance policy**

9.31 **Earnings of your child who is under 18 years of age**

9.32 **Child support**

9.33 **Money paid to you from a claim for damage or destruction of property.**

9.34 **Property includes household goods, farm tools or machinery, tools for your job,**
9.35 **business equipment, a mobile home, a car, a musical instrument, a pew or burial**
9.36 **lot, clothes, furniture, or appliances.**

9.37 **Death benefits paid to you.**

9.38 **I give permission to any agency that has given me cash benefits to give information**
9.39 **about my benefits to the above-named creditor, or its attorney. The information will ONLY**
9.40 **concern whether I get benefits or not, or whether I have gotten them in the past six months.**

9.41 **If I was an inmate in the last six months, I give my permission to the correctional**
9.42 **institution to tell the above-named creditor that I was an inmate there.**

9.43 **YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S**
9.44 **ATTORNEY AND THE BANK. FILL IN THE BLANKS BELOW AND GO BACK**
9.45 **TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.**

10.1 I have mailed or delivered a copy of this form to:

10.2

10.3 (Insert name of creditor or creditor's attorney)

10.4

10.5 (Insert address of creditor or creditor's attorney)

10.6 I have also mailed or delivered a copy of this exemption form to my bank at the
10.7 address listed in the instructions.

10.8 DATED:

10.9 DEBTOR

10.10

10.11 DEBTOR ADDRESS

10.12

10.13 DEBTOR TELEPHONE NUMBER

10.14 Subd. 4. **Effect of exemption notice.** Within two business days after receipt of
10.15 the writ of execution and exemption notices, the financial institution shall serve upon
10.16 the judgment debtor two copies of the exemption notice. The financial institution shall
10.17 serve the notice by first class mail to the last known address of the judgment debtor. If
10.18 no claim of exemption is received by the financial institution within 14 days after the
10.19 exemption notices are mailed to the judgment debtor, the funds remain subject to the
10.20 execution levy and shall be remitted to the sheriff within ~~seven~~ six business days. If the
10.21 judgment debtor elects to claim an exemption, the judgment debtor shall complete the
10.22 exemption notice, sign it under penalty of perjury, and deliver one copy to the financial
10.23 institution and one copy to the attorney for the judgment creditor within 14 days of the
10.24 date postmarked on the correspondence mailed to the debtor containing the exemption
10.25 notices. The judgment debtor is also required to include copies of bank statements for
10.26 the prior 60 days with the exemption notice. In the event that there is no attorney for the
10.27 judgment creditor, then the notice must be sent directly to the judgment creditor. Failure
10.28 of the judgment debtor to deliver the executed exemption notice or copies of the required
10.29 bank statements for the prior 60 days does not constitute a waiver of any claimed right
10.30 to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be
10.31 exempt by the debtor remain subject to the execution levy. All money claimed to be
10.32 exempt shall be released to the judgment debtor upon the expiration of ~~seven~~ six business
10.33 days after the date postmarked on the envelope containing the executed exemption
10.34 notice mailed to the financial institution, or the date of personal delivery of the executed
10.35 exemption notice to the financial institution, unless within that time the judgment creditor
10.36 interposes an objection to the exemption.

11.1 Subd. 5. **Objection to exemption claim and request for hearing.** An objection
 11.2 shall be interposed, within six business days of receipt by the creditor of an exemption
 11.3 claim from the debtor, by mailing or delivering one copy of the ~~written objection~~ Notice of
 11.4 Objection and Notice of Hearing to the financial institution and one copy of the ~~written~~
 11.5 ~~objection~~ Notice of Objection and Notice of Hearing to the judgment debtor ~~along with a~~
 11.6 copy of the judgment debtor's claimed exemption form. Both copies of an objection to an
 11.7 exemption claim shall be mailed or delivered on the same date. The financial institution
 11.8 may rely on the date of mailing or delivery of a notice to it in computing any time periods
 11.9 in this section. The ~~written objection~~ Notice of Objection and Notice of Hearing must be
 11.10 substantially in the form specified in subdivision 7.

11.11 The court administrator may charge a fee of \$1 for the filing of a Notice of Objection
 11.12 and Notice of Hearing. Upon the filing of a Notice of Objection and Notice of Hearing,
 11.13 the court administrator shall schedule the matter for hearing no sooner than five business
 11.14 days but no later than seven business days from the date of filing. A debtor may request
 11.15 continuance of the hearing by notifying the creditor and the court. The court shall schedule
 11.16 the continued hearing within seven days of the original hearing date.

11.17 An order stating whether the debtor's funds are exempt shall be issued by the court
 11.18 within three days of the date of the hearing.

11.19 Subd. 6. **Duties of financial institution if objection is made to exemption claim.**
 11.20 Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing from
 11.21 the ~~judgment~~ creditor or its attorney within the specified ~~seven-day~~ six-day period, the
 11.22 financial institution shall retain the funds claimed to be exempt. ~~Unless the financial~~
 11.23 ~~institution receives a request for hearing and notice of hearing from the judgment debtor~~
 11.24 ~~asserting exemption rights within ten days after receipt of a written objection to the~~
 11.25 ~~exemption, the funds remain subject to the execution levy as if no claim of exemption had~~
 11.26 ~~been made and shall be remitted to the sheriff within seven days. If a request for hearing~~
 11.27 ~~and notice of hearing to determine the validity of a claim of exemption is received by the~~
 11.28 ~~financial institution within the period provided, it~~ The financial institution shall retain the
 11.29 funds claimed to be exempt until otherwise ordered by the court, upon mutual agreement
 11.30 of the parties, or until the garnishment lapses pursuant to section 571.79.

11.31 Subd. 7. **Form of Notice of Objection and Notice of Hearing.** (a) The ~~written~~
 11.32 ~~objection to the judgment debtor's claim of exemption~~ Written Objection and Notice of
 11.33 Hearing must be in substantially the following form:

11.34	STATE OF MINNESOTA	DISTRICT COURT
11.35	COUNTY OF JUDICIAL DISTRICT
11.36	(Judgment	OBJECTION
11.37 Creditor)	TO

13.1

13.2 (Creditor)

13.3 CREDITOR'S NOTICE OF
13.4 OBJECTION AND NOTICE OF
13.5 HEARING ON EXEMPTION
13.6 CLAIM

13.7

13.8 (Debtor)

13.9

13.10 (Financial Institution)

13.11 (DEBTOR)

13.12

13.13 ADDRESS

13.14

13.15

13.16

13.17

13.18

13.19 (CREDITOR OR CREDITOR'S
13.20 ATTORNEY)

13.21

13.22 This Notice of Objection and Notice of
13.23 Hearing is made by the creditor objecting
13.24 to your exemption claim. This hearing is to
13.25 resolve your exemption claim.

13.26 Hearing Date:

13.27 Time:

13.28 Hearing Place:

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

13.31

13.32

13.33

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

13.36 If the creditor receives all documents and materials relevant to the exemption claim
13.37 before the hearing date, the creditor may agree with your exemption claim and you can
13.38 avoid a hearing.

13.39 Because a court hearing will be held on your claim that your funds are protected,
13.40 your financial institution will retain the funds until it receives an order from the court.

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

14.1 ~~STATE OF MINNESOTA~~ ~~DISTRICT COURT~~
 14.2 ~~COUNTY OF~~ ~~..... JUDICIAL DISTRICT~~
 14.3 ~~(Judgment~~
 14.4 ~~..... Creditor)~~ REQUEST FOR HEARING
 14.5 ~~..... (Judgment Debtor)~~ AND
 14.6 ~~..... (Third Party)~~ NOTICE FOR HEARING

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

14.10 I believe the property being held is exempt because

14.11

14.12

14.13 ~~Dated:~~

14.14 ~~(JUDGMENT DEBTOR)~~

14.15

14.16 ~~(ADDRESS)~~

14.17

14.18 ~~(DEBTOR PHONE NUMBER)~~

14.19

14.20 ~~HEARING DATE:~~ ~~TIME:~~

14.21 ~~HEARING PLACE:~~

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

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

14.29 Subd. 10. **Subsequent proceedings; bad faith claims.** If in subsequent proceedings
 14.30 brought by the judgment debtor or the judgment creditor, the claim of exemption is
 14.31 not upheld, and the court finds that it was asserted in bad faith, the judgment creditor
 14.32 shall be awarded actual damages, costs, and reasonable attorney fees resulting from the
 14.33 additional proceedings, and an amount not to exceed \$100. It is not considered bad faith
 14.34 for a judgment creditor to object to an improperly completed or incomplete exemption
 14.35 claim. If the claim of exemption is upheld, and the court finds that the judgment creditor
 14.36 disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded
 14.37 costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The

15.1 underlying judgment must be modified to reflect assessment of damages, costs, and
15.2 attorney fees. However, if the party in whose favor a penalty assessment is made is not
15.3 actually indebted to the party's attorney for fees, the attorney's fee award shall be made
15.4 directly to the attorney and, if not paid, an appropriate judgment in favor of the attorney
15.5 shall be entered. Upon motion of any party in interest, on notice, the court shall determine
15.6 the validity of any claim of exemption, and may make any order necessary to protect the
15.7 rights of those interested. No financial institution is liable for damages for complying with
15.8 this section. Both copies of an exemption claim or an objection to an exemption claim
15.9 must be mailed or delivered on the same date. The financial institution may rely on the
15.10 date of mailing or delivery of a notice to it in computing any time periods in this section.

15.11 Sec. 2. Minnesota Statutes 2008, section 550.37, subdivision 14, is amended to read:

15.12 Subd. 14. **Public assistance.** All relief government assistance based on need,
15.13 and the earnings or salary of a person who is a recipient of relief government assistance
15.14 based on need, shall be exempt from all claims of creditors including any contractual
15.15 setoff or security interest asserted by a financial institution. For the purposes of this
15.16 chapter, relief government assistance based on need includes ~~MFIP, work first, general~~
15.17 ~~assistance medical care, supplemental security income, medical assistance, Minnesota~~
15.18 ~~supplemental assistance, and general assistance~~ but is not limited to Minnesota family
15.19 investment program, general assistance medical care, Supplemental Security Income,
15.20 medical assistance, MinnesotaCare, payment of Medicare part B premiums or receipt of
15.21 part D extra help, diversionary work program, work participation cash benefit, Minnesota
15.22 supplemental assistance, emergency Minnesota supplemental assistance, and general
15.23 assistance, emergency general assistance, emergency assistance or county crisis funds,
15.24 fuel assistance, and food support. The salary or earnings of any debtor who is or has been
15.25 an eligible recipient of relief government assistance based on need, or an inmate of a
15.26 correctional institution shall, upon the debtor's return to private employment or farming
15.27 after having been an eligible recipient of relief government assistance based on need, or an
15.28 inmate of a correctional institution, be exempt from attachment, garnishment, or levy of
15.29 execution for a period of six months after the debtor's return to employment or farming
15.30 and after all public assistance for which eligibility existed has been terminated. The
15.31 exemption provisions contained in this subdivision also apply for 60 days after deposit
15.32 in any financial institution, whether in a single or joint account. In tracing the funds, the
15.33 first-in first-out method of accounting shall be used. The burden of establishing that funds
15.34 are exempt rests upon the debtor. Agencies distributing relief government assistance and
15.35 the correctional institutions shall, at the request of creditors, inform them whether or not

16.1 any debtor has been an eligible recipient of ~~relief~~ government assistance based on need, or
16.2 an inmate of a correctional institution, within the preceding six months.

16.3 Sec. 3. Minnesota Statutes 2008, section 551.05, is amended to read:

16.4 **551.05 ATTORNEY'S SUMMARY EXECUTION UPON FUNDS AT A**
16.5 **FINANCIAL INSTITUTION.**

16.6 Subdivision 1. **Procedure.** When levying upon funds at a financial institution,
16.7 this section must be complied with, in addition to the general provisions specified in
16.8 section 551.04.

16.9 Subd. 1a. **Exemption notice.** If the writ of execution is being used by the attorney
16.10 to levy funds of a judgment debtor who is a natural person and if the funds to be levied are
16.11 held on deposit at any financial institution, the attorney for the judgment creditor shall
16.12 serve with the writ of execution two copies of an exemption notice. The notice must be
16.13 substantially in the form set forth below. Failure of the attorney for the judgment creditor
16.14 to send the exemption notice renders the execution levy void, and the financial institution
16.15 shall take no action. However, if this subdivision is being used to execute on funds that
16.16 have previously been garnished in compliance with section 571.71, the attorney for
16.17 judgment creditor is not required to serve an additional exemption notice. In that event,
16.18 the execution levy shall only be effective as to the funds that were subject to the prior
16.19 garnishment. Upon receipt of the writ of execution and exemption notices, the financial
16.20 institution shall retain as much of the amount due under section 550.04 as the financial
16.21 institution has on deposit owing to the judgment debtor, but not more than 100 percent of
16.22 the amount remaining due on the judgment, or \$10,000, whichever is less.

16.23 The notice informing a judgment debtor that an execution levy has been used
16.24 to attach funds of the judgment debtor to satisfy a claim must be substantially in the
16.25 following form:

16.26 ~~STATE OF MINNESOTA~~ ~~DISTRICT COURT~~
16.27 ~~County of~~ ~~..... JUDICIAL DISTRICT~~
16.28 ~~(Judgment~~
16.29 ~~..... Creditor)~~

16.30 ~~..... (Judgment Debtor)~~
16.31 ~~TO: Judgment Debtor~~ ~~EXEMPTION NOTICE~~
16.32 ~~An order for attachment, garnishment summons, or levy of execution (strike~~
16.33 ~~inapplicable language) has been served on (bank or other financial institution~~
16.34 ~~where you have an account).~~
16.35 ~~Your account balance is \$.....~~
16.36 ~~The amount being held is \$.....~~

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

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

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

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

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

17.11 (5) life insurance proceeds;

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

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

17.15 The following funds are also exempt:

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

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

17.19 (10) 75 percent of every judgment debtor's after tax earnings; or

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

17.22 ~~TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:~~

17.23 ~~Categories (10) and (11): 20 days~~

17.24 ~~Categories (8) and (9): 60 days~~

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

17.29 ~~TO CLAIM AN EXEMPTION:~~

17.30 ~~Fill out, sign, and mail or deliver one copy of the attached exemption claim form to~~
 17.31 ~~the institution which sent you this notice and mail or deliver one copy to the judgment~~
 17.32 ~~creditor's attorney. The address for the judgment creditor's attorney is set forth below.~~

17.33 ~~**Both copies must be mailed or delivered on the same day.**~~

17.34 ~~**NOTE: You may help resolve your claim faster if you send to the creditor's**~~
 17.35 ~~**attorney written proof or documents that show why your money is exempt. If**~~
 17.36 ~~**you have questions regarding the documents to send as proof of an exemption,**~~

18.1 ~~call the creditor's attorney. If you do not send written proof and the creditor's~~
 18.2 ~~attorney has questions about your exemption claim, the creditor's attorney~~
 18.3 ~~may object to your claim which may result in a further delay in releasing your~~
 18.4 ~~exempt funds.~~

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

18.9 ~~IF YOU CLAIM AN EXEMPTION:~~

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

18.15 ~~IF THE JUDGMENT CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:~~

18.16 ~~the institution will hold the money until a court decides if your exemption claim is~~
 18.17 ~~valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting the~~
 18.18 ~~exemption WITHIN TEN DAYS after the objection is personally served on you, or within~~
 18.19 ~~13 days from the date the objection is mailed to you. You may wish to consult an attorney~~
 18.20 ~~at once if the judgment creditor objects to your exemption claim.~~

18.21 ~~MOTION TO DETERMINE EXEMPTION:~~

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

18.25 ~~PENALTIES:~~

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

18.29
 18.30
 18.31
 18.32

18.33 ~~Name and address of (Attorney for)~~
 18.34 ~~Judgment Creditor~~

18.35 ~~EXEMPTION:~~

- 18.36 ~~(a) Amount of exemption claim.~~
- 18.37 ~~//I claim ALL the funds being held are exempt.~~

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

19.2 ~~The exempt amount is \$.....~~

19.3 ~~(b) Basis for exemption:~~

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

19.7 ~~.....~~

19.8 ~~.....~~

19.9 ~~.....~~

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

19.11 ~~case number:;~~

19.12 ~~county:)~~

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

19.17 ~~I have mailed or delivered a copy of the exemption notice to the judgment creditor's~~
19.18 ~~attorney at the address indicated above.~~

19.19 ~~.....~~

19.20 ~~DEBTOR~~

19.21 ~~DATED:~~

19.22 ~~.....~~

19.23 ~~.....~~

19.24 ~~DEBTOR ADDRESS~~

19.25 ~~.....~~

19.26 ~~DEBTOR TELEPHONE NUMBER~~

19.27 STATE OF MINNESOTA

DISTRICT COURT

19.28 COUNTY OF

..... JUDICIAL DISTRICT

19.29 (Creditor)

19.30 (Debtor)

19.31 (Financial

19.32 institution)

19.33 **IMPORTANT NOTICE**

19.34 **YOUR FUNDS HAVE BEEN LEVIED**

19.35 The Creditor has frozen money in your account at your financial institution. The
19.36 account is frozen for 14 days from the date of this notice.

20.1 Some of your money in your account may be protected (the legal word is
 20.2 exempt). You may be able to get it sooner than 14 days if you act quickly and follow
 20.3 the instructions on the next page.

20.4 The attached form lists some different sources of money in your account that are
 20.5 protected. If your money is from one or more of these sources, check the box on the
 20.6 form next to the sources of your money. If it is from one of these sources, the Creditor
 20.7 cannot take it.

20.8 BUT, you must follow the instructions and return the exemption form and
 20.9 copies of your bank statements from the last 60 days to have the bank unfreeze your
 20.10 money. If you do not follow the instructions or your creditor gets an order from the court
 20.11 or writ of execution, your financial institution will give the money to the Creditor. If that
 20.12 happens and it is protected, you can still get it back from the creditor later, but that is not
 20.13 as easy to do as filling in the form now.

20.14 See next pages for instructions and the exemption form.

20.15 Subd. 1a. Form of instructions. The instructions must be substantially in the
 20.16 following form:

20.17 **INSTRUCTIONS**

20.18 **Note:** The creditor is who you owe the money to. You are the debtor.

20.19 1. Fill out the attached exemption form in this packet.

20.20 **If you check one of the boxes, you should also give proof that shows that some**
 20.21 **or all of the money in your account is from one or more of the protected sources.**

20.22 **Creditors may ask for a hearing if they question your exemptions. To avoid a hearing:**

20.23 **Case numbers should be added to the form. Copies of documents should be**
 20.24 **sent with the form.**

20.25 **NOTICE: You must send copies of your bank statements for the past 60 days**
 20.26 **before the garnishment. If you do not send bank statements with your exemption**
 20.27 **claim, the financial institution may release your money to the creditor.**

20.28 2. **Sign** the exemption form. Make three copies. Keep one for yourself.

20.29 3. **Mail or deliver** the other copies of the form by (insert date).

20.30 **BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.**

20.31 One copy of the form goes to:

20.32
 20.33 (Insert name of creditor or creditor's attorney)

20.34
 20.35 (Insert address of creditor or creditor's attorney)

20.36 One copy goes to:

21.1
21.2 (Insert name of bank)

21.3
21.4 (Insert address of bank)

21.5 **HOW THE PROCESS WORKS**

21.6 **If You Do Not Send in the Exemption Form and Bank Statements:**

21.7 14 days after the date of this letter some or all of your money may be turned over to
21.8 the creditor or to the sheriff pursuant to Minnesota statute.

21.9 **If You Send in the Exemption Form and Bank Statements:**

21.10 Any money that is NOT protected can be turned over to the creditor or the sheriff.

21.11 **If the Creditor Does Not Object:**

21.12 The financial institution will unfreeze your money six business days after they
21.13 get your completed form.

21.14 **If the Creditor Objects:**

21.15 The money you have said is protected on the form will be held by the bank. The
21.16 creditor has six business days to object (disagree) and ask the court to hold a hearing. You
21.17 will receive a Notice of Objection and a Notice of Hearing.

21.18 The financial institution will hold the money until a court decides whether your
21.19 money is protected or not.

21.20 You may want to talk to a lawyer for advice about this process. If you are low
21.21 income you can call Legal Aid.

21.22 **PENALTIES:**

21.23 If you claim that your money is protected and a court decides you made that claim
21.24 in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an
21.25 additional amount of up to \$100. For example, it may be bad faith if you claim you receive
21.26 government benefits that you do not receive.

21.27 If the creditor made a bad faith objection to your claim that your money is protected,
21.28 the court can order them to pay costs, actual damages, attorney fees, and an additional
21.29 amount of up to \$100.

21.30 Subd. 1b. **Format of exemption form.** The exemption form must be substantially
21.31 in the following format:

21.32 **EXEMPTION FORM**

21.33 **A. HOW MUCH MONEY IS PROTECTED**

21.34 I claim ALL or SOME of the money being frozen by the bank is protected.

21.35 The amount I claim is protected is \$.....

21.36 **B. WHY THE MONEY IS PROTECTED**

22.1 My money is protected because I get it from one or more of the following places:
22.2 (Check all that apply)

22.3 **Government benefits**

22.4 Government benefits include: MFIP - Minnesota family investment program,
22.5 GA - general assistance, EA - emergency assistance, MA - medical assistance,
22.6 GAMC - general assistance medical care, EGA - emergency general assistance,
22.7 MSA - Minnesota supplemental aid, MSA-EA - MSA emergency assistance, SSI
22.8 - Supplemental Security Income, MinnesotaCare, Medicare part B premium
22.9 payments, Medicare part D extra help, energy assistance.

22.10 **LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT**

22.11

22.12 **LIST THE CASE NUMBER AND COUNTY**

22.13 Case Number:

22.14 County:

22.15 **Social Security benefits**

22.16 **Unemployment benefits**

22.17 **Workers' compensation**

22.18 **Veterans' benefits**

22.19 **If you receive any of these government benefits, include copies of any**
22.20 **documents you have that show you receive Social Security, unemployment,**
22.21 **workers' compensation, or veterans' benefits.**

22.22 **Other assistance based on need**

22.23 You may have assistance based on need from another source that is not on the list. If you
22.24 do, check this box, and fill in the source of your money on the line below:

22.25 Source:.....

22.26 **Include copies of any documents you have that show the source of this money.**

22.27 **All of your earnings (wages) because:**

22.28 You get government benefits (see list of government benefits)

22.29 You currently receive other assistance based on need

22.30 You have received government benefits in the last six months

22.31 You were in jail or prison in the last six months

22.32 **If you check this box, your wages are only protected for 60 days after they are**
22.33 **deposited in your account so you MUST send the creditor a copy of BANK**
22.34 **STATEMENTS that show what was in your account for the 60 days right before**
22.35 **the bank froze your money.**

22.36 **Some of your earnings (wages)**

22.37 If you did not check the box for all earnings, some of your earnings are still
22.38 protected for 20 days after they were deposited in your account. The amount
22.39 protected is the larger amount of:

22.40 75 percent of your wages (after taxes are taken out); or

22.41 (insert the sum of the current federal minimum wage) multiplied by 40.

22.42 The money from the following may also be exempt for 20 days after they are
22.43 deposited in your account.

22.44 **An accident, disability, or retirement pension or annuity**

22.45 **Payments to you from a life insurance policy**

22.46 **Earnings of your child who is under 18 years of age**

22.47 **Child support**

23.1 **Money paid to you from a claim for damage or destruction of property.**
 23.2 Property includes household goods, farm tools or machinery, tools for your job,
 23.3 business equipment, a mobile home, a car, a musical instrument, a pew or burial
 23.4 lot, clothes, furniture, or appliances.

23.5 **Death benefits paid to you.**

23.6 I give permission to any agency that has given me cash benefits to give information
 23.7 about my benefits to the above-named creditor, or its attorney. The information will ONLY
 23.8 concern whether I get benefits or not, or whether I have gotten them in the past six months.

23.9 If I was an inmate in the last six months, I give my permission to the correctional
 23.10 institution to tell the above-named creditor that I was an inmate there.

23.11 **YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S**
 23.12 **ATTORNEY AND THE BANK. FILL IN THE BLANKS BELOW AND GO BACK**
 23.13 **TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.**

23.14 I have mailed or delivered a copy of this form to:

23.15

23.16 (Insert name of creditor or creditor's attorney)

23.17

23.18 (Insert address of creditor or creditor's attorney)

23.19 I have also mailed or delivered a copy of this exemption form to my bank at the
 23.20 address listed in the instructions.

23.21 **DATED:**

23.22 DEBTOR

23.23

23.24 DEBTOR ADDRESS

23.25

23.26 DEBTOR TELEPHONE NUMBER

23.27 Subd. 2. **Effect of exemption notice.** Within two business days after receipt of
 23.28 the execution levy and exemption notices, the financial institution shall serve upon the
 23.29 judgment debtor two copies of the exemption notice. The financial institution shall serve
 23.30 the notice by first class mail to the last known address of the judgment debtor. If no claim
 23.31 of exemption is received by the financial institution within 14 days after the exemption
 23.32 notices are mailed to the judgment debtor, the funds remain subject to the execution levy
 23.33 and shall be remitted to the judgment creditor's attorney within ~~seven~~ six business days. If
 23.34 the judgment debtor elects to claim an exemption, the judgment debtor shall complete the
 23.35 exemption notice, sign it under penalty of perjury, and deliver one copy to the financial
 23.36 institution and one copy to the attorney for the judgment creditor within 14 days of the
 23.37 date postmarked on the correspondence mailed to the judgment debtor containing the
 23.38 exemption notices. The debtor is also required to include copies of bank statements for

24.1 the prior 60 days with the exemption notice. In the event that there is no attorney for the
 24.2 judgment creditor, the notice must be sent directly to the judgment creditor. Failure of the
 24.3 judgment debtor to deliver the executed exemption notice or copies of the required bank
 24.4 statements for the prior 60 days does not constitute a waiver of any claimed right to an
 24.5 exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt
 24.6 by the judgment debtor remain subject to the execution levy. All money claimed to be
 24.7 exempt shall be released to the judgment debtor upon the expiration of ~~seven~~ six business
 24.8 days after the date postmarked on the envelope containing the executed exemption
 24.9 notice mailed to the financial institution, or the date of personal delivery of the executed
 24.10 exemption notice to the financial institution, unless within that time the attorney for the
 24.11 judgment creditor interposes an objection to the exemption.

24.12 Subd. 3. **Objection to exemption claim** **Objections and request for hearing.**
 24.13 An objection shall be interposed, within six business days of receipt by the creditor of
 24.14 an exemption claim from the debtor, by mailing or delivering one copy of the written
 24.15 objection Notice of Objection and Notice of Hearing to the financial institution and one
 24.16 copy of the written objection Notice of Objection and Notice of Hearing to the judgment
 24.17 debtor along with a copy of the judgment debtor's claimed exemption form. Both copies
 24.18 of an objection to an exemption claim shall be mailed or delivered on the same date.
 24.19 The financial institution may rely on the date of mailing or delivery of a notice to it in
 24.20 computing any time periods in this section. The ~~written objection~~ Notice of Objection and
 24.21 Notice of Hearing forms must be substantially in the form ~~specified~~ set out in subdivision 5.

24.22 The court administrator may charge a fee of \$1 for the filing of a Notice of Objection
 24.23 and Notice of Hearing. Upon the filing of a Notice of Objection and Notice of Hearing,
 24.24 the court administrator shall schedule the matter for hearing no sooner than five business
 24.25 days but no later than seven business days from the date of filing. A debtor may request
 24.26 continuance of the hearing by notifying the creditor and the court. The court shall schedule
 24.27 the continued hearing within seven days of the original hearing date.

24.28 An order stating whether the debtor's funds are exempt shall be issued by the court
 24.29 within three days of the date of the hearing.

24.30 Subd. 4. **Duties of financial institution if objection is made to exemption claim.**
 24.31 Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing from the
 24.32 ~~judgment~~ creditor within the specified ~~seven-day~~ six-day period, the financial institution
 24.33 shall retain the funds claimed to be exempt. ~~Unless the financial institution receives a~~
 24.34 ~~request for hearing and notice of hearing from the judgment debtor asserting exemption~~
 24.35 ~~rights within ten days after receipt of a written objection to the exemption, the funds~~
 24.36 ~~remain subject to the execution levy as if no claim of exemption had been made and shall~~

25.1 ~~be remitted to the judgment creditor's attorney within seven days. If a request for hearing~~
 25.2 ~~and notice of hearing to determine the validity of a claim of exemption is received by the~~
 25.3 ~~financial institution within the period provided, it shall retain the funds claimed to be~~
 25.4 ~~exempt until otherwise ordered by the court. The financial institution shall retain the funds~~
 25.5 ~~claimed to be exempt until otherwise ordered by the court, upon mutual agreement of the~~
 25.6 ~~parties, or until the garnishment lapses pursuant to section 571.79.~~

25.7 Subd. 5. **Form of Notice of Objection and Notice of Hearing.** ~~(a) The written~~
 25.8 ~~objection to the judgment debtor's claim of exemption must be in substantially the~~
 25.9 ~~following form:~~

25.10	STATE OF MINNESOTA	DISTRICT COURT
25.11	County of JUDICIAL DISTRICT
25.12 (Judgment	
25.13 Creditor)	OBJECTION TO
25.14 (Judgment Debtor)	EXEMPTION CLAIM
25.15 (Garnishee) (Third	
25.16 Party)	

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

25.19

25.20

25.21

25.22 ~~Because of this objection, your financial institution will retain the funds you claimed~~
 25.23 ~~to be exempt for an additional ten days. If you wish to request a hearing on your exemption~~
 25.24 ~~claim, you need to do so within ten days from the date the objection was personally served~~
 25.25 ~~on you, or within 13 days from the date the objection was mailed to you. You may request~~
 25.26 ~~a hearing by completing the attached form and filing it with the court administrator.~~

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

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

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

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

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

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

26.9
26.10 ~~Attorney for Judgment Creditor~~

26.11 (a) The Written Objection and Notice of Hearing must be in substantially the
26.12 following form:

26.13 STATE OF MINNESOTA DISTRICT COURT
26.14 COUNTY OF JUDICIAL DISTRICT
26.15

26.16 (Creditor)

CREDITOR'S NOTICE OF
OBJECTION AND NOTICE OF
HEARING ON EXEMPTION
CLAIM

26.21

26.22 (Debtor)

26.23

26.24 (Financial Institution)

(DEBTOR)

26.25

26.26 ADDRESS

26.27

26.28

26.29

26.30

26.31

26.32
26.33 (CREDITOR OR CREDITOR'S
26.34 ATTORNEY)

26.35

26.36 This Notice of Objection and Notice of
26.37 Hearing is made by the creditor objecting
26.38 to your exemption claim. This hearing is to
26.39 resolve your exemption claim.

26.40 Hearing Date:

26.41 Time:

26.42 Hearing Place:

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

27.3
27.4
27.5

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

27.8 If the creditor receives all documents and materials relevant to the exemption claim
27.9 before the hearing date, the creditor may agree with your exemption claim and you can
27.10 avoid a hearing.

27.11 Because a court hearing will be held on your claim that your funds are protected,
27.12 your financial institution will retain the funds until it receives an order from the court.

27.13 ~~Subd. 6. Request for hearing and notice for hearing. The request for hearing~~
27.14 ~~accompanying the objection notice must be in substantially the following form:~~

27.15 STATE OF MINNESOTA DISTRICT COURT
27.16 County of JUDICIAL DISTRICT
27.17 (Judgment
27.18 Creditor) REQUEST FOR HEARING
27.19 (Judgment Debtor) AND NOTICE FOR HEARING
27.20 (Garnishee) (Third
27.21 Party)

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

27.25 I believe the property being held is exempt because
27.26
27.27

27.28 ~~Dated:~~
27.29 (JUDGMENT DEBTOR)
27.30
27.31 (ADDRESS)
27.32
27.33 HEARING DATE: TIME:
27.34 HEARING PLACE:

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

28.1 Subd. 7. **Release of funds.** At any time during the procedure specified in this
28.2 section, the judgment debtor or the attorney for the judgment creditor may, by a writing
28.3 dated after the service of the writ of execution, direct the financial institution to release the
28.4 funds in question to the other party. Upon receipt of a release, the financial institution
28.5 shall release the funds as directed.

28.6 Subd. 8. **Subsequent proceedings; bad faith claims.** If in subsequent proceedings
28.7 brought by the judgment debtor or the judgment creditor, the claim of exemption is not
28.8 upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be
28.9 awarded actual damages, costs, and reasonable attorney fees resulting from the additional
28.10 proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and
28.11 the court finds that the judgment creditor disregarded the claim of exemption in bad faith,
28.12 the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and
28.13 an amount not to exceed \$100. It is not considered bad faith for a judgment creditor
28.14 to object to an improperly completed or incomplete exemption claim. The underlying
28.15 judgment must be modified to reflect assessment of damages, costs, and attorney fees.
28.16 However, if the party in whose favor a penalty assessment is made is not actually indebted
28.17 to the party's attorney for fees, the attorney's fee award shall be made directly to the
28.18 attorney and if not paid, an appropriate judgment in favor of the attorney shall be entered.
28.19 Upon motion of any party in interest, on notice, the court shall determine the validity of
28.20 any claim of exemption, and may make any order necessary to protect the rights of those
28.21 interested. No financial institution is liable for damages for complying with this section.
28.22 Both copies of an exemption claim or an objection to an exemption claim must be mailed
28.23 or delivered on the same date. The financial institution may rely on the date of mailing or
28.24 delivery of a notice to it in computing any time periods in this section.

28.25 Sec. 4. Minnesota Statutes 2008, section 571.71, is amended to read:

28.26 **571.71 GARNISHMENT; WHEN AUTHORIZED.**

28.27 As an ancillary proceeding to a civil action for the recovery of money, a creditor
28.28 may issue a garnishment summons as provided in this chapter against any third party in
28.29 the following instances:

28.30 (1) at the time the civil action is commenced or at any time after the commencement
28.31 of the civil action, but before the entry of a judgment, if the court orders the issuance of
28.32 the garnishment summons pursuant to section 571.93;

28.33 (2) at any time ~~40~~ 45 days or more after service of the summons and complaint
28.34 upon the debtor in the civil action when a judgment by default could have, but has not,
28.35 been entered pursuant to rule 55.01(a) of the Minnesota Rules of Civil Procedure for

29.1 the District Courts. Garnishment under this clause is effective only after the Notice of
 29.2 Intent to Garnish form and the Exemption form is served on the debtor at any time 20 or
 29.3 more days after the service of the Summons and Complaint and, in addition, the creditor
 29.4 does not receive an answer from the debtor within 25 days after service of the Notice of
 29.5 Intent to Garnish. The Notice of Intent to Garnish form and the Exemption form must be
 29.6 substantially in the form set forth in section 571.72, subdivision 10. If a creditor sends a
 29.7 Notice of Intent to Garnish form to a debtor under this clause, the creditor cannot obtain a
 29.8 default judgment against the debtor under rule 55.01(a) of the Minnesota Rules of Civil
 29.9 Procedure for the District Court until 25 days after the service of the Notice of Intent to
 29.10 Garnish form. No filing of a pleading or other documents by the creditor is required to
 29.11 issue a garnishment summons under this clause; however, the creditor must comply with
 29.12 the service requirement of section 571.72, subdivision 4; or
 29.13 (3) at any time after entry of a money judgment in the civil action.

29.14 Sec. 5. Minnesota Statutes 2008, section 571.72, is amended by adding a subdivision
 29.15 to read:

29.16 **Subd. 10. Exemption notice for prejudgment garnishment.**

29.17 **EXEMPTION NOTICE**

29.18 **IMPORTANT NOTICE: A garnishment summons may be served on your**
 29.19 **employer, bank, or other third parties without any further court proceeding or notice**
 29.20 **to you. See the attached Notice of Intent to Garnish for more information.**

29.21 **The following money and wages may be protected (the legal word is exempt)**
 29.22 **from garnishment:**

29.23 **1. Financial institutions/bank**

29.24 Some of the money in your account may be protected because you receive
 29.25 government benefits from one or more of the following places:

29.26 MFIP- Minnesota family investment program

29.27 GA- general assistance

29.28 EA- emergency assistance

29.29 MA- medical assistance

29.30 GAMC- general assistance medical care

29.31 EGA- emergency general assistance

29.32 MSA- Minnesota supplemental aid

29.33 MSA-EA – MSA emergency assistance

29.34 SSI- Supplemental Security Income

29.35 MinnesotaCare

30.1 Medicare part B premium payments

30.2 Medicare part D extra help

30.3 Energy assistance

30.4 Social Security benefits

30.5 Unemployment benefits

30.6 Workers' compensation

30.7 Veterans' benefits

30.8 **Sending the undersigned creditor a copy of BANK STATEMENTS that**

30.9 **show what was in your account for the past 60 days may give the creditor enough**

30.10 **information about your exemption claim to avoid a garnishment.**

30.11 **2. Earnings**

30.12 Your earnings are completely protected from garnishment because:

30.13 **All of your earnings (wages) because:**

30.14 You get government benefits (see list of government benefits)

30.15 You currently receive other assistance based on need

30.16 You have received government benefits in the last six months

30.17 You were in jail or prison in the last six months

30.18 Your wages are only protected for 60 days after they are deposited in your account

30.19 **so it would be helpful if you immediately send the undersigned creditor a copy of**

30.20 **BANK STATEMENTS that show what was in your account for the past 60 days.**

30.21 **Some of your earnings (wages)**

30.22 If you did not check the box for all earnings, some of your earnings are still

30.23 protected for 20 days after they were deposited in your account. The amount protected

30.24 is the larger amount of:

30.25 75 percent of your wages (after taxes are taken out); or

30.26 (insert the sum of the current federal minimum wage) multiplied by 40.

30.27 **The money from the following may also be exempt for 20 days after they are**

30.28 **deposited in your account.**

30.29 **An accident, disability, or retirement pension or annuity**

30.30 **Payments to you from a life insurance policy**

30.31 **Earnings of your child who is under 18 years of age**

30.32 **Child support**

30.33 **Money paid to you from a claim for damage or destruction of property.**

30.34 Property includes household goods, farm tools or machinery, tools for your job, business

30.35 equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes,

30.36 furniture, or appliances.

31.1 **Death benefits paid to you.**

31.2 **YOU WILL BE ABLE TO CLAIM THESE EXEMPTIONS WHEN YOU**
31.3 **RECEIVE NOTICE OF THE GARNISHMENT (OR TEN DAYS PRIOR TO A**
31.4 **WAGE GARNISHMENT.) BUT IF YOU BELIEVE THE MONEY IN YOUR BANK**
31.5 **ACCOUNT IS EXEMPT OR YOUR WAGES ARE EXEMPT YOU SHOULD**
31.6 **IMMEDIATELY CONTACT THE PERSON BELOW TO DISCUSS YOUR**
31.7 **EXEMPTION AND POSSIBLY AVOID GARNISHMENT.**

31.8 Creditor
31.9 Creditor address
31.10 Creditor telephone number

31.11 **IMPORTANT! READ THIS CAREFULLY!**

31.12 **NOTICE OF INTENT TO GARNISH**

31.13 against
31.14 Plaintiff/Creditor Defendant/Debtor

31.15 **Your money, property, or earnings are in danger of being garnished because**
31.16 **you did not send a written "Answer" to the Summons and Complaint served on you**
31.17 **over 20 days ago.**

31.18 There is no case filed in court, but because you did not send a written "Answer" the
31.19 creditor may serve a garnishment summons on your employer, bank or other third parties.
31.20 This means that your money or wages can be garnished (held or taken). Under Minnesota
31.21 law, this can happen anytime 20 days after the date you receive this notice.

31.22 There will be **NO COURT HEARING** or any further notice to you prior to a
31.23 garnishment if you do nothing. There may not be a file open at the Clerk of the Court's
31.24 office. **There are things you can do to avoid a garnishment, but you must act quickly.**

31.25 Please read these instructions carefully. **You have 20 days** to do one of the following:

31.26 **1. Send an Answer.** If you do not think you owe the money or if you have a legal
31.27 reason that you did not pay, send a written "Answer" to the Summons and Complaint.
31.28 Your "Answer" should tell the creditor why you think you do not owe some or all of
31.29 the money. Contact a lawyer if you do not know what to do, need help, or have any
31.30 questions about the debt.

31.31 **2. Claim an Exemption.** Even if you do not have a defense to the complaint, some
31.32 of your money may be protected (the legal word is exempt) from garnishment. This
31.33 means it is protected and cannot be taken. Prior to garnishment, the creditor will send
31.34 you a form to claim these exemptions but you can possibly avoid the garnishment action
31.35 by contacting the person below **immediately** to claim your exemption. Attached to this
31.36 notice is a list of exemptions you may be able to claim.

32.1 3. If you do not have a defense and your money is not exempt you can call the
 32.2 person below before the 20 days are up and try to set up a payment plan that works for
 32.3 both you and your creditor. You can contact the person below at any time to try to work
 32.4 out a payment plan, but if you wait too long or cannot agree about a payment plan, they
 32.5 may garnish or levy your money or wages.

32.6 If you do not do any of these things, your money can be garnished. The creditor
 32.7 can garnish your wages, bank accounts, or other assets. They do not have to go to court to
 32.8 let you know when they start taking your money.

32.9		<u>LAW FIRM</u>
32.10	<u>Dated:</u>	<u>By:</u>
32.11		<u>Attorney, #</u>
32.12		<u>Attorneys for Plaintiff</u>
32.13		<u>Address</u>
32.14		<u>Telephone</u>

32.15 Sec. 6. Minnesota Statutes 2008, section 571.913, is amended to read:

32.16 **571.913 EFFECT OF EXEMPTION NOTICE.**

32.17 Within two business days after receipt of the garnishment summons and exemption
 32.18 notices, the financial institution shall serve upon the debtor two copies of the exemption
 32.19 notice. The financial institution shall serve the notice by first class mail to the last known
 32.20 address of the debtor. If no claim of exemption is received by the financial institution
 32.21 within 14 days after the exemption notices are mailed to the debtor, the funds remain
 32.22 subject to the garnishment summons. If the debtor elects to claim an exemption, the debtor
 32.23 shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy
 32.24 to the financial institution and one copy to the attorney for the creditor within 14 days of
 32.25 the date postmarked on the correspondence mailed to the debtor containing the exemption
 32.26 notices. The debtor is also required to include copies of bank statements for the prior 60
 32.27 days with the exemption notice. In the event that there is no attorney for the creditor,
 32.28 then the notice must be sent directly to the creditor. Failure of the debtor to deliver the
 32.29 executed exemption notice or copies of the required bank statements for the prior 60 days
 32.30 does not constitute a waiver of a claimed right to an exemption. Upon timely receipt of a
 32.31 claim of exemption, funds not claimed to be exempt by the debtor remain subject to the
 32.32 garnishment summons. All money claimed to be exempt shall be released to the debtor
 32.33 upon the expiration of ~~seven~~ six business days after the date postmarked on the envelope
 32.34 containing the executed exemption notice mailed to the financial institution, or the date
 32.35 of personal delivery of the executed exemption notice to the financial institution, unless
 32.36 within that time the creditor interposes an objection to the exemption.

33.1 Sec. 7. Minnesota Statutes 2008, section 571.914, is amended to read:

33.2 **571.914 OBJECTION TO EXEMPTION CLAIM.**

33.3 Subdivision 1. **Objections and request for hearing.** An objection shall be
33.4 interposed, within six business days of receipt by the creditor of an exemption claim from
33.5 the debtor, by mailing or delivering one copy of the ~~written objection~~ Notice of Objection
33.6 and Notice of Hearing to the financial institution and one copy of the ~~written objection~~
33.7 Notice of Objection and Notice of Hearing to the debtor. ~~A Request for Hearing and~~
33.8 Notice of Hearing form must accompany each copy of the ~~written objection.~~

33.9 ~~Both copies of an objection to an exemption claim must be mailed or delivered on~~
33.10 ~~the same date.~~ The financial institution may rely on the date of mailing or delivery of a
33.11 notice to it in computing any time periods in this section.

33.12 The ~~written objection, and Request for Hearing~~ Notice of Objection and Notice of
33.13 Hearing; forms must be substantially in the ~~forms~~ form set out in ~~subdivisions~~ subdivision
33.14 2 and 3.

33.15 ~~The court shall provide clerical assistance to help with the writing and filing of a~~
33.16 ~~Request for Hearing by any person not represented by counsel.~~ The court administrator
33.17 may charge a fee of \$1 for the filing of a ~~Request for~~ Notice of Objection and Notice of
33.18 Hearing. Upon the filing of a ~~Request for~~ Notice of Objection and Notice of Hearing, the
33.19 court administrator shall schedule the matter for hearing no sooner than five business days
33.20 but no later than five seven business days from the date of filing. ~~The court administrator~~
33.21 ~~shall immediately send a completed copy of the request, including the hearing date, time,~~
33.22 ~~and place to the adverse party and to the financial institution by first class mail. A debtor~~
33.23 may request continuance of the hearing by notifying the creditor and the court. The court
33.24 shall schedule the continued hearing within seven days of the original hearing date.

33.25 An order stating whether the debtor's funds are exempt shall be issued by the court
33.26 within three days of the date of the hearing.

33.27 Subd. 2. **Form of Notice of Objection and Notice of Hearing.** (a) The ~~written~~
33.28 ~~objection to the debtor~~ Written Objection and Notice of Hearing must be in substantially
33.29 the following form:

33.30 STATE OF MINNESOTA DISTRICT COURT
33.31 COUNTY OF JUDICIAL DISTRICT
33.32 (Creditor)
33.33 CREDITOR'S NOTICE OF
33.34 OBJECTION AND NOTICE
33.35 (Debtor) OF HEARING
33.36 (Garnishee) ~~TO~~ ON EXEMPTION CLAIM
33.37 (DEBTOR)

34.1
34.2 (ADDRESS)

34.3

34.4

34.5

34.6

34.7 (CREDITOR OR CREDITOR'S
34.8 ATTORNEY)

34.9

34.10 This Notice of Objection and Notice of
34.11 Hearing is made by the creditor objecting
34.12 to your exemption claim. This hearing is
34.13 to resolve your exemption claim.

34.14 Hearing Date:

34.15 Time:

34.16 Hearing Place:

34.17 The creditor objects to your claim ~~for~~ of exemption from garnishment, levy of
34.18 execution, order for attachment (strike inapplicable language) for the following reason(s):
34.19
34.20
34.21

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

34.24 If the creditor receives all documents and materials relevant to the exemption claim
34.25 before the hearing date, the creditor may agree with your exemption claim and you can
34.26 avoid a hearing.

34.27 ~~Because of this objection~~ a court hearing will be held on your claim that your funds
34.28 are protected, your financial institution will retain the funds you claimed to be exempt
34.29 ~~for an additional ten days. If you wish to request a hearing on your exemption claim,~~
34.30 ~~you need to do so within ten days from the date the objection was personally served on~~
34.31 ~~you, or within 13 days of the date the objection was mailed to you. You may request a~~
34.32 ~~hearing by completing the attached form and filing it with the court administrator~~ until it
34.33 receives an order from the court.

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

34.37 ~~2. Upon the filing of a Request for Hearing, the clerk shall schedule the matter for a~~
34.38 ~~hearing no later than five business days from the date of filing. The court administrator~~

35.1 ~~shall forthwith send a completed copy of the request, including the hearing date, time, and~~
35.2 ~~place to the adverse party and to the financial institution by first class mail.~~

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

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

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

35.12 ~~If you file a Request for Hearing and your financial institution receives it within ten~~
35.13 ~~days of the date it received this objection, your financial institution will retain your funds~~
35.14 ~~claimed to be exempt until otherwise ordered by the court, or until the garnishment lapses~~
35.15 ~~pursuant to Minnesota Statutes, section 571.79.~~

35.16
35.17 ~~(CREDITOR OR CREDITOR'S ATTORNEY.)~~

35.18 ~~Subd. 3. Request for hearing and notice for hearing.~~ The request for hearing
35.19 ~~accompanying the objection notice must be in substantially the following form:~~

35.20 ~~STATE OF MINNESOTA~~ ~~DISTRICT COURT~~
35.21 ~~COUNTY OF~~ ~~..... JUDICIAL DISTRICT~~
35.22 ~~..... (Creditor)~~
35.23 ~~..... (Debtor)~~ ~~REQUEST FOR HEARING AND~~
35.24 ~~..... (Garnishee)~~ ~~NOTICE FOR HEARING~~
35.25

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

35.29 ~~I believe the property being held is exempt because~~
35.30 ~~.....~~
35.31 ~~.....~~

35.32 ~~Dated:~~
35.33 ~~(DEBTOR)~~
35.34 ~~.....~~
35.35 ~~(ADDRESS)~~
35.36 ~~.....~~

35.37 ~~HEARING DATE: TIME:~~
35.38 ~~HEARING PLACE:~~

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

36.3 Subd. 4. **Duties of financial institution if objection is made to exemption claim.**

36.4 Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing from the
36.5 creditor within the specified seven-day period, the financial institution shall retain the
36.6 funds claimed to be exempt. ~~Unless the financial institution receives a request for hearing~~
36.7 ~~from the debtor asserting exemption rights within ten days after receipt of the written~~
36.8 ~~objection to the exemption, the funds remain subject to the garnishment summons as if~~
36.9 ~~no claim of exemption had been made. If a notice of motion and motion to determine~~
36.10 ~~the validity of a claim of exemption is received by the financial institution within the~~
36.11 ~~period provided;~~ The financial institution shall retain the funds claimed to be exempt
36.12 until otherwise ordered by the court, upon mutual agreement of the parties, or until the
36.13 garnishment lapses pursuant to section 571.79.

36.14 Sec. 8. Minnesota Statutes 2008, section 571.925, is amended to read:

36.15 **571.925 FORM OF NOTICE.**

36.16 Subdivision 1. Exemption notice. The ten-day notice informing a debtor that a
36.17 garnishment summons may be used to garnish the earnings of an individual must be
36.18 substantially in the following form:

36.19 ~~STATE OF MINNESOTA~~ ~~DISTRICT COURT~~
36.20 ~~COUNTY OF~~ ~~..... JUDICIAL DISTRICT~~
36.21 ~~..... (Creditor)~~
36.22 ~~against~~
36.23 ~~GARNISHMENT EXEMPTION~~
36.24 ~~..... (Debtor)~~ ~~NOTICE AND NOTICE OF~~
36.25 ~~and~~ ~~INTENT TO GARNISH EARNINGS~~
36.26 ~~..... (Garnishee)~~

36.27 ~~PLEASE TAKE NOTICE that a garnishment summons or levy may be served upon~~
36.28 ~~your employer or other third parties, without any further court proceedings or notice to~~
36.29 ~~you, ten days or more from the date hereof. Some or all of your earnings are exempt~~
36.30 ~~from garnishment. If your earnings are garnished, your employer must show you how~~
36.31 ~~the amount that is garnished from your earnings was calculated. You have the right to~~
36.32 ~~request a hearing if you claim the garnishment is incorrect.~~

36.33 ~~Your earnings are completely exempt from garnishment if you are now a recipient of~~
36.34 ~~relief based on need, if you have been a recipient of relief within the last six months, or if~~
36.35 ~~you have been an inmate of a correctional institution in the last six months.~~

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

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

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

37.10 **PENALTIES**

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

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

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

37.25 ~~Dated:~~ ~~.....~~
 37.26 ~~(Attorney for) Creditor~~
 37.27 ~~.....~~
 37.28 ~~Address~~
 37.29 ~~.....~~
 37.30 ~~Telephone~~

37.31 **DEBTOR'S EXEMPTION CLAIM NOTICE**

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

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

37.35 ~~.....~~
 37.36 ~~.....~~ **Case Number (if** ~~.....~~
 37.37 **Program** ~~.....~~ **known)** **County**

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

38.4
 38.5 Case Number (if
 38.6 Program known) County

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

38.9
 38.10 Correctional Institution Location

38.11 ~~I hereby authorize any agency that has distributed relief to me or any correctional~~
 38.12 ~~institution in which I was an inmate to disclose to the above-named creditor or the~~
 38.13 ~~creditor's attorney only whether or not I am or have been a recipient of relief based on~~
 38.14 ~~need or an inmate of a correctional institution within the last six months. I have mailed or~~
 38.15 ~~delivered a copy of this form to the creditor or creditor's attorney.~~

38.16
 38.17 Date Debtor
 38.18
 38.19 Address
 38.20
 38.21 Debtor Telephone Number

38.22 STATE OF MINNESOTA DISTRICT COURT
 38.23 COUNTY OF JUDICIAL DISTRICT
 38.24 (Creditor)
 38.25 (Debtor)
 38.26 (Financial
 38.27 institution)

IMPORTANT NOTICE

YOUR FUNDS HAVE BEEN LEVIED

38.30 The Creditor has frozen money in your account at your financial institution. The
 38.31 account is frozen for 14 days from the date of this notice.

38.32 **Some of your money in your account may be protected (the legal word is**
 38.33 **exempt). You may be able to get it sooner than 14 days if you act quickly and follow**
 38.34 **the instructions on the next page.**

38.35 The attached form lists some different sources of money in your account that are
 38.36 protected. If your money is from one or more of these sources, check the box on the
 38.37 form next to the sources of your money. If it is from one of these sources, the Creditor
 38.38 cannot take it.

39.1 BUT, you must follow the instructions and return the exemption form and
 39.2 copies of your bank statements from the last 60 days to have the bank unfreeze your
 39.3 money. If you do not follow the instructions or your creditor gets an order from the court
 39.4 or writ of execution, your financial institution will give the money to the Creditor. If that
 39.5 happens and it is protected, you can still get it back from the creditor later, but that is not
 39.6 as easy to do as filling in the form now.

39.7 See next pages for instructions and the exemption form.

39.8 Subd. 2. Form of instructions. The instructions must be substantially in the
 39.9 following form:

39.10 **INSTRUCTIONS**

39.11 **Note:** The creditor is who you owe the money to. You are the debtor.

39.12 1. Fill out the attached exemption form in this packet.

39.13 **If you check one of the boxes, you should also give proof that shows that some**
 39.14 **or all of the money in your account is from one or more of the protected sources.**

39.15 **Creditors may ask for a hearing if they question your exemptions. To avoid a hearing:**

39.16 **Case numbers should be added to the form. Copies of documents should be**
 39.17 **sent with the form.**

39.18 **NOTICE: You must send copies of your bank statements for the past 60 days**
 39.19 **before the garnishment. If you do not send bank statements with your exemption**
 39.20 **claim, the financial institution may release your money to the creditor.**

39.21 2. **Sign** the exemption form. Make three copies. Keep one for yourself.

39.22 3. **Mail or deliver** the other copies of the form by (insert date).

39.23 **BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.**

39.24 One copy of the form goes to:

39.25
 39.26 (Insert name of creditor or creditor's attorney)

39.27
 39.28 (Insert address of creditor or creditor's attorney)

39.29 One copy goes to:

39.30
 39.31 (Insert name of bank)

39.32
 39.33 (Insert address of bank)

39.34 **HOW THE PROCESS WORKS**

39.35 **If You Do Not Send in the Exemption Form and Bank Statements:**

39.36 14 days after the date of this letter some or all of your money may be turned over to
 39.37 the creditor or to the sheriff pursuant to Minnesota statute.

40.1 **If You Send in the Exemption Form and Bank Statements:**

40.2 Any money that is NOT protected can be turned over to the creditor or the sheriff.

40.3 **If the Creditor Does Not Object:**

40.4 The financial institution will unfreeze your money six business days after they
40.5 get your completed form.

40.6 **If the Creditor Objects:**

40.7 The money you have said is protected on the form will be held by the bank. The
40.8 creditor has six business days to object (disagree) and ask the court to hold a hearing. You
40.9 will receive a Notice of Objection and a Notice of Hearing.

40.10 The financial institution will hold the money until a court decides whether your
40.11 money is protected or not.

40.12 You may want to talk to a lawyer for advice about this process. If you are low
40.13 income you can call Legal Aid.

40.14 **PENALTIES:**

40.15 If you claim that your money is protected and a court decides you made that claim
40.16 in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an
40.17 additional amount of up to \$100. For example, it may be bad faith if you claim you receive
40.18 government benefits that you do not receive.

40.19 If the creditor made a bad faith objection to your claim that your money is protected,
40.20 the court can order them to pay costs, actual damages, attorney fees, and an additional
40.21 amount of up to \$100.

40.22 Subd. 3. **Format of exemption form.** The exemption form must be substantially
40.23 in the following format:

40.24 **EXEMPTION FORM**

40.25 **A. HOW MUCH MONEY IS PROTECTED**

40.26 I claim ALL or SOME of the money being frozen by the bank is protected.

40.27 The amount I claim is protected is \$.....

40.28 **B. WHY THE MONEY IS PROTECTED**

40.29 My money is protected because I get it from one or more of the following places:
40.30 **(Check all that apply)**

40.31 **..... Government benefits**

40.32 Government benefits include: **MFIP** - Minnesota family investment program,
40.33 **GA** - general assistance, **EA** - emergency assistance, **MA** - medical assistance,
40.34 **GAMC** - general assistance medical care, **EGA** - emergency general assistance,
40.35 **MSA** - Minnesota supplemental aid, **MSA-EA** - MSA emergency assistance, **SSI**
40.36 - Supplemental Security Income, **MinnesotaCare**, **Medicare part B premium**
40.37 **payments**, **Medicare part D extra help**, **energy assistance.**

40.38 **LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT**

40.39

40.40 **LIST THE CASE NUMBER AND COUNTY**

41.1 Case Number:

41.2 County:

41.3 Social Security benefits

41.4 Unemployment benefits

41.5 Workers' compensation

41.6 Veterans' benefits

41.7 **If you receive any of these government benefits, include copies of any**
41.8 **documents you have that show you receive Social Security, unemployment,**
41.9 **workers' compensation, or veterans' benefits.**

41.10 Other assistance based on need

41.11 You may have assistance based on need from another source that is not on the list. If you
41.12 do, check this box, and fill in the source of your money on the line below:

41.13 Source:.....

41.14 **Include copies of any documents you have that show the source of this money.**

41.15 All of your earnings (wages) because:

41.16 You get government benefits (see list of government benefits)

41.17 You currently receive other assistance based on need

41.18 You have received government benefits in the last six months

41.19 You were in jail or prison in the last six months

41.20 **If you check this box, your wages are only protected for 60 days after they are**
41.21 **deposited in your account so you MUST send the creditor a copy of BANK**
41.22 **STATEMENTS that show what was in your account for the 60 days right before**
41.23 **the bank froze your money.**

41.24 Some of your earnings (wages)

41.25 If you did not check the box for all earnings, some of your earnings are still
41.26 protected for 20 days after they were deposited in your account. The amount
41.27 protected is the larger amount of:

41.28 75 percent of your wages (after taxes are taken out); or

41.29 (insert the sum of the current federal minimum wage) multiplied by 40.

41.30 The money from the following may also be exempt for 20 days after they are
41.31 deposited in your account.

41.32 An accident, disability, or retirement pension or annuity

41.33 Payments to you from a life insurance policy

41.34 Earnings of your child who is under 18 years of age

41.35 Child support

41.36 Money paid to you from a claim for damage or destruction of property.

41.37 Property includes household goods, farm tools or machinery, tools for your job,
41.38 business equipment, a mobile home, a car, a musical instrument, a pew or burial
41.39 lot, clothes, furniture, or appliances.

41.40 Death benefits paid to you.

41.41 I give permission to any agency that has given me cash benefits to give information
41.42 about my benefits to the above-named creditor, or its attorney. The information will **ONLY**
41.43 concern whether I get benefits or not, or whether I have gotten them in the past six months.

41.44 If I was an inmate in the last six months, I give my permission to the correctional
41.45 institution to tell the above-named creditor that I was an inmate there.

42.1 **YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S**
 42.2 **ATTORNEY AND THE BANK. FILL IN THE BLANKS BELOW AND GO BACK**
 42.3 **TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.**

42.4 I have mailed or delivered a copy of this form to:

42.5

42.6 (Insert name of creditor or creditor's attorney)

42.7

42.8 (Insert address of creditor or creditor's attorney)

42.9 I have also mailed or delivered a copy of this exemption form to my bank at the
 42.10 address listed in the instructions.

42.11 DATED:

42.12 DEBTOR

42.13

42.14 DEBTOR ADDRESS

42.15

42.16 DEBTOR TELEPHONE NUMBER