

CHAPTER 571

GARNISHMENT

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571.01-571.31 [Repealed, 1945 c 424 s 27]

571.41 GARNISHEE SUMMONS; EXCEPTIONS. Subdivision 1. In any action in a court of record for the recovery of money, at any time after a judgment therein, a garnishee summons may be issued against any third person as provided in this chapter. The judgment creditor and judgment debtor shall be so designated and the person against whom the summons issues shall be designated garnishee. Any individual, partnership or corporation within the state having property subject to garnishment may be named as garnishee.

Subd. 2. Notwithstanding anything to the contrary herein contained, a plaintiff in any action in a court of record for the recovery of money may issue a garnishee summons before judgment therein in the following instances only:

(a) Following by at least 40 days service of the summons and complaint upon the debtor in the main action where judgment by default could be entered pursuant to Rule 55.01(1) of the Minnesota Rules of Civil Procedure; or

(b) If the court shall order the issuance of such summons, if a summons and complaint is filed with the appropriate court and either served on the defendant or delivered to a sheriff for service on the defendant not more than 30 days after the order is signed, and if, upon application to the court it shall appear that:

(1) Defendant is about to take property out of the state which might be necessary to satisfy any judgment awarded plaintiff, or

(2) The purpose of the garnishment is to establish quasi in rem jurisdiction and that

(a) defendant is a resident individual having departed from the state with intent to defraud his creditors, or to avoid service; or

(b) defendant is a nonresident individual, or a foreign corporation, partnership or association.

(3) The garnishee and the debtor are parties to a contract of suretyship, guarantee, or insurance, because of which the garnishee may be held to respond to any person for the claim asserted against the debtor in the main action.

(4) The creditor has been unable to serve upon the debtor the summons and complaint in the main action because the debtor has been inaccessible due to residence and employment in buildings where access is restricted.

Subd. 3. In the instances where garnishment is permitted before the entry of judgment the parties for the purposes of Laws 1969, Chapter 1142, will be known as judgment debtor or judgment creditor respectively.

Subd. 4. If the court shall order the issuance of a garnishee summons before entry of judgment, such summons and attendant documents shall designate the parties plaintiff and defendant. To obtain such an order, the creditor shall file an affidavit stating that a cause of action exists, specifying the amount of the claim and the ground thereof, and setting forth in detail the specific facts upon which the creditor bases his claim of entitlement to garnishment before entry of judgment. Such an order shall provide that a hearing shall be held no later than seven days from the date of

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service of the garnishee summons for the purpose of determining whether probable cause exists for the continuation of the garnishment, unless the debtor knowingly waives in writing said hearing. Notice of said hearing shall be given to the debtor by such method as shall be prescribed by the court. At said hearing the burden of proving probable cause shall rest upon the creditor.

Subd. 5. If the garnishee summons is to be used to garnish the earnings of an individual to enforce a judgment, or to garnish earnings prior to entry of judgment pursuant to subdivision 2, clause (a), prior to the first garnishment on any debt, the creditor shall serve upon the debtor, no less than ten days prior to the service of the garnishee summons, a notice that such summons may be issued. Said notice shall be substantially in the form set out in this chapter. Said notice shall be served personally, in the manner of a summons and complaint, or by first class mail to the last known address of the debtor. Said notice shall inform the debtor that a garnishee summons may be served on the debtor's employer in ten days, and that the debtor may, within that time, cause to be served on the creditor a signed statement under penalties of perjury asserting an entitlement to an exemption from garnishment. Said notice shall further inform the debtor of the wage garnishment exemptions contained in section 550.37, subdivision 14. Said notice shall further advise the debtor of the relief set forth in this chapter to which he may be entitled if a creditor in bad faith disregards a valid claim and the fee, costs, and penalty which may be assessed against a debtor who in bad faith falsely claims an exemption or in bad faith takes action to frustrate the garnishment process. If no statement of exemption is received by the creditor within ten days from the service of the notice, he may proceed with the garnishment. Failure of the debtor to serve such a statement shall not constitute a waiver of any right he may have to an exemption. If said statement of exemption is received by the creditor, he may still cause a garnishee summons to be issued; however, if the debtor subsequently asserts his claim of exemption successfully to the court having jurisdiction over the action, and the court finds that the creditor disregarded the claim of exemption in bad faith, the debtor shall be entitled to costs, reasonable attorney fees, actual damages, an amount not to exceed \$100. If in subsequent proceedings which may be brought by the debtor or creditor, the claim is not upheld, and the court finds that it was asserted in bad faith, or if the court finds that the debtor has in bad faith taken action to frustrate the garnishment process, the debtor shall be assessed costs and reasonable attorney fees resulting from said additional proceedings and an amount not to exceed \$100.

Subd. 6. The ten day notice informing a judgment debtor that a garnishee summons may be used to garnish the wages of an individual to enforce a judgment, shall be substantially in the following form:

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STATE OF MINNESOTA      )
                        ) ss
County of                ) ..... Court
                        ) (Judgment Creditor)
..... (Judgment Debtor)
Garnishment Exemption Notice
The State of Minnesota
To the above named Judgment Debtor:
    
```

Please take notice that a Garnishment Summons may be served upon your employer, without any further court proceedings or notice to you, ten days or more from the date hereof. Your wages may be exempted from garnishment if you are now a recipient of relief based on need, if you have been a recipient of such relief within the last six months, or if you have been an inmate of a correctional institution in the last six months. Relief based on need includes, AFDC, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance. It does not include Social Security, unemployment compensation, food stamps, or workers' compensation.

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

You may wish to contact the attorney for the Judgment Creditor in order to arrange for a settlement of the debt.

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PENALTIES

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

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

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

Dated:
(ATtorney for) Judgment Creditor
Address
Telephone

I hereby claim under penalty of perjury that my wages are exempt from garnishment because:

(1) I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received. There is no limit to the number of times this exemption may be claimed.)

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

(2) I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.) I am aware that I am not permitted by law to use this exemption for more than one six month period every three years, and that I may be penalized if I violate this law.

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

(3) I have been an inmate of a correctional institution within the last six months, and I have not claimed this exemption within the last three years. (Specify the correctional institution and location.)

.....
Correctional Institution Location

I hereby authorize any agency that has distributed relief to me or any correctional institution wherein I was an inmate to disclose to the above-named creditor or his attorney whether or not I was a recipient of relief based on need or an inmate of a correctional institution within the last six months.

.....
Judgment Debtor
Address

[1945 c 424 s 1; 1951 c 197 s 1; 1969 c 1142 s 1; 1976 c 335 s 11-15]

571.42 EFFECT OF SERVICE OF SUMMONS. Subdivision 1. Except as provided in sections 571.43 and 571.50, service of the garnishee summons upon the garnishee shall attach and bind, to respond to final judgment in the action, all personal property of the judgment debtor in his possession or under his control and all indebtedness owing by him to the judgment debtor at the time of such service and all non-exempt disposable earnings earned or to be earned within that one pay period.

Subd. 2. Subject to the provisions of sections 550.37 and 571.55 all moneys, all non-exempt disposable earnings earned or to be earned within that one pay period and other personal property including such property of any kind due from or in the

hands of an executor, administrator, receiver or trustee and all written evidences of indebtedness whether negotiable or not or under or overdue may be attached by garnishment, and money or any other thing due or belonging to the judgment debtor may be attached by this process before it has become payable if its payment or delivery does not depend upon any contingency, but the garnishee shall not be compelled to pay or deliver the same before the time appointed by the contract.

[1945 c 424 s 2; 1969 c 1142 s 2]

571.43 GARNISHMENT PROHIBITED. No person or corporation shall be adjudged a garnishee by reason of:

(1) Any money or other thing due to the judgment debtor, unless at the time of the service of the summons the same is due absolutely, and without depending on any contingency;

(2) Any debt due from such garnishee on a judgment, so long as he is liable to an execution thereon;

(3) Any liability incurred upon any negotiable instrument;

(4) Any money or other thing due to the judgment debtor where the judgment debtor is a bank, savings bank, trust company, credit union, or savings and loan association.

[1945 c 424 s 3; 1957 c 184 s 1; 1967 c 337 s 1; 1969 c 1142 s 3]

571.44 AGENT TO ACCEPT SERVICE. In addition to the officers designated by law for the service of process, a domestic corporation may designate an agent upon whom the garnishee summons may be served. Service upon any agent of a foreign corporation doing business in this state is service upon such corporation.

[1945 c 424 s 4]

571.45 SALARY OF PUBLIC SERVANTS. The salary or wages of any official or employee of a county, town, city, or school district, or any department thereof, is subject to garnishment. In the case of such officer, the garnishee summons shall be served upon the auditor, treasurer, or clerk of such body, or department thereof of which he is an officer; and in other cases, shall be served upon the officer in whose office, or the head of the department in which, or the presiding officer of the body by which, such person is employed; and the disclosure shall be made by the officer or person so served, or by some person designated by him having knowledge of the facts. If payment is made by such county, town, city, or school district, or any department thereof pursuant to a judgment against it as garnishee, a certified copy of the judgment with a certificate of satisfaction to the extent of such payment endorsed thereon shall be delivered to the treasurer as his voucher for such payment.

[1945 c 424 s 5; 1973 c 123 art 5 s 7]

571.46 MONEY DUE FROM STATE DEPARTMENTS. Money due or owing to any corporation or person by the state on account of any employment, work, or contract with any state department or agency is liable to garnishment. The garnishee summons may be served upon the head of the department or agency by certified mail; and the disclosure shall be made by the head of the department or agency, or by some person designated by him having knowledge of the facts. If payment is made pursuant to judgment against the state as garnishee a certified copy of the judgment, with a certificate of satisfaction to the extent of such payment endorsed thereon; shall be delivered to the head of the department or agency as his voucher for such payment.

[1945 c 424 s 6; 1974 c 562 s 2; 1978 c 674 s 60]

571.47 [Repealed, 1976 c 335 s 24]

571.471 COURT OF RECORD. Subdivision 1. **Procedure.** To enforce a judgment arising from an action in a court of record, or, before entry of judgment in those instances permitted, a garnishee summons may be issued by a judgment creditor or his attorney and shall be served upon the garnishee in the same manner as other summons in that court of record except that service must be personal. The judgment creditor shall serve with the garnishee summons a garnishment disclosure form, which shall be substantially in the form set out in this chapter. The judgment creditor may also serve written interrogatories with the garnishee summons. The garnishee summons shall state that the garnishee shall serve upon the judgment creditor or his attorney within 20 days after service of the garnishee summons, a written disclosure,

under oath, of his indebtedness to the judgment debtor and answers to all written interrogatories which are served with the garnishee summons. The judgment creditor shall not require disclosure of an indebtedness to him or property of judgment debtor in the garnishee's possession or under the garnishee's control in excess of 110 percent of the amount of the judgment which remains unpaid. The garnishee summons shall include the full name of the judgment debtor and his place of residence, the amount of the judgment which remains unpaid. The garnishee summons shall also state that the garnishee shall retain property or money in his possession pursuant to this chapter until the judgment creditor causes a writ of execution to be served upon the garnishee or until the judgment debtor authorizes release to the judgment creditor, and shall state that after the expiration of the period of time specified in section 571.69 from the date of service of the garnishee summons, the garnishee shall release all such retained property and money to the judgment debtor and shall be discharged and relieved of all liability thereon. The garnishee summons shall also state that no employer may discharge any employee because the employee's earnings have been subject to garnishment. The garnishee summons shall further state that any assignment of wages made by the debtor or indebtedness to the garnishee incurred by the debtor within 10 days prior to the receipt of the first garnishment on a debt is void. The garnishee summons shall further state the date of the entry of judgment against the judgment debtor, or in those instances in which there is garnishment before judgment, the garnishee summons shall include for service a copy of the court order permitting said garnishment. A copy of the garnishee summons and copies of all other papers served on the garnishee shall be served by mail upon the judgment debtor not later than five days after service is made upon the garnishee. A single garnishee summons may be addressed to two or more garnishees but shall state whether each is summoned separately or jointly.

Subd. 2. Forms, summons notice, and affidavit. The garnishee summons and notice to judgment debtor, together with the affidavit of service, shall be substantially in the following form:

STATE OF MINNESOTA)
) ss
County of) Court
..... (Judgment Creditor)
..... (Judgment Debtor)
..... (Garnishee)
Garnishment Summons
The State of Minnesota
To the above named Garnishee:

You are hereby summoned and required to serve upon the judgment creditor or his attorney, within 20 days after service of this summons upon you, written disclosure, under oath, setting forth your indebtedness to the judgment debtor above named, (Give full name and residence of judgment debtor) and any property, money or effects of said judgment debtor which are in your possession. Your disclosure need not exceed 110 percent of the amount of the judgment creditor's judgment which remains unpaid. Judgment was entered against the judgment debtor on, in the amount of \$....., and the amount of said judgment which remains unpaid is \$....., you are further hereby required to retain in your possession such property, money and effects in an amount not exceeding 110 percent of the amount of the judgment which remains unpaid. You may not, however, pursuant to this summons, withhold from the debtor any earnings due to the debtor that are exempt from garnishment pursuant to Minnesota Statutes, Section 571.55.

Failure to disclose and withhold in accordance with this summons may render you liable to the judgment creditor for an amount not exceeding the judgment creditor's judgment against the judgment debtor or 110 percent of the amount claimed in the garnishee summons, whichever is smaller.

You shall retain such property, money and effects in your possession until such time as the judgment creditor causes a writ of execution to be served upon you, until the judgment debtor authorizes release to the judgment creditor, or until the expiration of days from the date of service of this summons upon you, when you shall return such property, money and effects to the judgment debtor.

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Any assignment of wages made by the judgment debtor or indebtedness to you incurred by the judgment debtor within ten days prior to the receipt of the first garnishment on a debt is void and should be disregarded.

You are prohibited by law from discharging said judgment debtor because his earnings have been subjected to garnishment.

.....
Attorney for Judgment Creditor
.....
Address

Dated:, 19..

NOTICE TO JUDGMENT DEBTOR

To: Judgment Debtor:
Sir

Take notice that a garnishee summons, garnishment disclosure form and written interrogatories (strike out if not applicable), which are herewith served upon you, were personally served upon the garnishee named therein, by delivering copies thereof to, the said garnishee, and the said garnishee was paid in advance the sum of \$2 fees.

.....
Attorney for Judgment Creditor
.....
Address

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss
County of)

....., being duly sworn upon oath, says that on the day of, 19., at of in said county ..he served upon the within-named judgment debtor copies of the within garnishee summons, garnishment disclosure form, written interrogatories (strike out if not applicable), and order, together with a notice to said judgment debtor, of which the foregoing is a copy, stating that the above-described documents were personally served upon said garnishee, signed by, Said service was made by depositing in the United States mail at said City of, said documents properly enveloped, with postage prepaid, and addressed to:

.....
Subscribed and sworn to before me
This day of, 19..
.....
Notary Public
....., County, Minnesota.

- [1976 c 335 s 16]
571.48 [Repealed, 1976 c 335 s 24]
571.49 [Repealed, 1976 c 335 s 24]

571.495 DISCLOSURE. Subdivision 1. Garnishee to disclose. Within the time herein limited, the garnishee shall serve upon the judgment creditor or his attorney written answers, under oath, to the questions in the garnishment disclosure form and to any written interrogatories which are served upon the garnishee. The amount of the garnishee's disclosure need not exceed 110 percent of the amount of the judgment creditor's judgment which remains unpaid, after subtracting the total of set-offs, defenses, exemptions, ownerships, or other interest. The garnishment disclosure form and all written interrogatories may be served personally or by mail. If such disclosure is by a corporation, it shall be verified by some officer or agent having knowledge of the facts.

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Subd. 2. Contents of disclosure. Such disclosure shall state:

(1) The amount of disposable earnings earned or to be earned within the judgment debtor's pay periods which may be subject to garnishment and all of the garnishee's indebtedness to the judgment debtor.

(2) Whether the judgment creditor held at the time aforesaid the title or possession of or any interest in any personal property or any instruments or papers relating to any such property belonging to the judgment debtor or in which he is interested. If he admits any such interest or any doubt respecting the same, he shall set forth a description of such property and the facts concerning the same, and the title, interest or claim of the judgment debtor in or to the same.

(3) If the garnishee claims any set-off or defense or claim or lien to such disposable earnings, indebtedness or property, he shall disclose the amount and the facts.

(4) Whether the judgment debtor claims any exemption from execution, or any other objection, known to the garnishee or the judgment debtor, against the right of the judgment creditor to apply upon his demand the debt or property disclosed.

(5) If other persons make claims to any disposable earnings, debt or property of the judgment debtor, the garnishee shall disclose the names and addresses of such other claimants and, so far as known, the nature of their claims.

Subd. 3. Form of disclosure. A garnishment disclosure form must be served upon the garnishee. The disclosure shall be substantially in the following form:

STATE OF MINNESOTA)
) ss
County of.....) Court
.....
Judgment Creditor
vs.
.....
Judgment Debtor
and
.....
Garnishee

I am the of the garnishee herein, and duly authorized to disclose for said garnishee.

On the day of, 19.., the time of service of garnishee summons herein on said garnishee, there was due and owing the judgment debtor above named from said garnishee the following:

(1) Earnings. For the purposes of garnishment, "earnings" means compensation paid or payable for personal service whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. If the garnishee summons was served upon you at a time when earnings from a prior completed pay period were owing but not paid, complete the following disclosure for earnings from both that past pay period and the current pay period.

(a) Enter on the line below the amount of disposable earnings earned or to be earned by the judgment debtor within the judgment debtor's pay periods which may be subject to garnishment.

.....

(b) Enter on the line below 40 times the hourly federal minimum wage times the number of work weeks within the judgment debtor's pay periods which may be subject to garnishment. When such pay periods consists of other than a whole number of work weeks, each day of a pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of work days divided by the number of work days in the normal work week.

.....

(c) Enter on the line below the difference obtained (never less than zero) when line (b) is subtracted from line (a).

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.....

(d) Enter on the line below 25 percent of line (a).

.....

(e) Enter on the line below the lesser of line (c) and line (d).

.....

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

.....

(3) Property. Describe on the line below any personal property, instruments or papers belonging to the judgment debtor and in the possession of the garnishee.

.....

(4) Set-off. Enter on the line below the amount of any set-off, defense, lien or claim which the garnishee claims against the amount set forth on lines (1)(e), (2) and (3) above. Allege the facts by which such set-off, defense, lien or claim is claimed. (Any indebtedness to a garnishee-employer incurred by the judgment debtor within 10 days prior to the receipt of the first garnishment on a debt is void and should be disregarded.)

.....

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

.....

(6) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property. (Any assignment of wages made by the judgment debtor within 10 days prior to the receipt of the first garnishment on a debt is void and should be disregarded. State the names and addresses of such persons and the nature of their claim, if known.)

.....

(7) Enter on the line below the total of lines (4), (5) and (6).

.....

(8) Enter on the line below the difference obtained (never less than zero) when line (7) is subtracted from the sum of lines (1)(e), (2) and (3).

.....

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

.....

(10) Enter on the line below the lesser of line (8) and line (9). As garnishee, you are hereby instructed to retain this amount only if it is \$10 or more.

.....

.....
Authorized Representative of Garnishee

.....
Title

Subscribed and sworn to before me
This day of, 19...

.....
Notary Public ,

..... County, Minnesota.

[1976 c 335 s 17]

571.50 EFFECT OF DISCLOSURE. Subject to the provisions of sections 571.51 and 571.52, the disclosure shall be conclusive against judgment creditor as to all property of judgment debtor. If the garnishee denies that he is indebted to judgment debtor or has any property of judgment debtor in his possession the filing in court of a copy thereof shall operate as a full discharge of the garnishee at the end of 20 days from date of service of such disclosure, in the absence of further proceedings as provided for in sections 571.51 and 571.52. The filing of objections to the disclosure or

the filing of any motion or other proceedings shall operate as a stay of such discharge. The court may, upon proper showing, relieve the judgment creditor from the operation of such discharge after the expiration of 20 days. The garnishee may be discharged where the value of the property of judgment debtor held or indebtedness owing to judgment debtor does not exceed \$25, if the action is in district court, or where the value of the property of judgment debtor held or indebtedness owing to judgment debtor does not exceed \$10, if the action is in justice court, and the garnishee may apply to the court to be discharged as to any property or indebtedness in excess of the amount which may be required to satisfy judgment creditor's judgment.

[1945 c 424 s 10; 1969 c 1142 s 7]

571.51 ORAL DISCLOSURE; SUPPLEMENTAL COMPLAINT. Either before or after such written disclosure any party to the garnishment proceedings may obtain an ex parte order requiring oral disclosure. Such order may be obtained upon affidavit showing upon information and belief facts justifying the said order, and the court shall require the garnishee to appear for oral examination before the court. If the garnishee hold the garnished property by a title that is void as to judgment debtor's creditors, he may be charged therefor although the judgment debtor could not have maintained an action against him therefor; but in this, and in all other cases where the garnishee denies liability, the judgment creditor may move the court at any time before the garnishee is discharged, on notice to both the judgment debtor and the garnishee, for leave to file a supplemental complaint making the latter a party to the action, and setting forth the facts upon which he claims to charge him; and, if probable cause is shown, such motion shall be granted. The supplemental complaint shall be served upon both judgment debtor and garnishee, either or both of whom may answer, and the judgment creditor may reply. Such issues shall be brought to trial and tried as in other actions.

[1945 c 424 s 11; 1969 c 1142 s 8]

571.52 THIRD PARTY MAY INTERVENE. If it appears that any person not a party to the action has or claims an interest in any of the garnished property antedating the garnishment, the court may permit such person to appear and maintain his rights; and if he does not so appear, may direct that he be notified to appear or be barred of his claim. The notice in such case may be served in such manner as the court directs, and the person so appearing or notified shall be joined as a party and be bound by judgment against the garnishee.

[1945 c 424 s 12]

571.53 DEFAULT. If any garnishee who is duly summoned fails to serve his disclosure as required in this chapter, upon proof by affidavit of such facts, the court may render judgment against him for an amount not exceeding judgment creditor's judgment against judgment debtor or 110 percent of the amount claimed in the garnishee summons, whichever is the smaller but the court upon good cause shown may remove such default and permit the garnishee to disclose on such terms as may be just.

[1945 c 424 s 13; 1969 c 1142 s 9]

571.54 JUDGMENT AGAINST GARNISHEE. Judgment against a garnishee shall be rendered, if at all, for the amount due the judgment debtor, or so much thereof as may be necessary to satisfy the judgment creditor's judgment against such judgment debtor, with costs taxed and allowed in the proceeding against the garnishee but not to exceed 110 percent of the amount claimed in the garnishee summons. Such judgment shall acquit and discharge the garnishee from all claims of all the parties named in the process in and to the property or money paid, delivered, or accounted for by such garnishee by force of such judgment.

When any person is charged as garnishee by reason of any property in his possession other than an indebtedness payable in money, he shall deliver the same, or so much thereof as may be necessary, to the officer holding execution, and such property shall be sold and the proceeds accounted for in the same manner as if it had been taken on execution against the judgment debtor; but the garnishee shall not be compelled to deliver any specific articles at any time or place other than as stipulated in the contract between him and the judgment debtor.

[1945 c 424 s 14; 1969 c 1142 s 10]

571.55 LIMITATION ON GARNISHMENT. Subdivision 1. For the purposes of this section, "earnings" means compensation paid or payable for personal service, whether denominated as wages, salary, commissions, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld.

Subd. 2. The maximum part of the aggregate disposable earnings of an individual for any pay period which may be subjected to garnishment may not exceed the lesser of

(a) 25 percent of his disposable earnings or

(b) the amount by which his disposable earnings exceeds the following product: forty times the federal minimum hourly wage prescribed by Section 6(a) (1) of the Fair Labor Standards Act of 1938, Title 29, United States Code, Section 206(a) (1), in effect at the time the earnings are payable times the number of work weeks in such pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

Subd. 3. No court may make, execute, or enforce an order or process in violation of this section.

[1945 c 424 s 15; 1959 c 535 s 2; 1969 c 1142 s 11; 1976 c 335 s 18,19]

571.56 VALUE. Subdivision 1. **Court may determine.** Upon application of any party in interest, on notice, the court may determine the value of any property of judgment debtor in the hands of the garnishee and may make any order relative to the keeping, delivery or sale thereof, or touching any of the property, that is necessary to protect the rights of those interested, and may require the property to be brought into court or delivered to a receiver by it appointed. If the garnishee refuses or neglects to comply with any order of the court hereunder, he may be punished for contempt, and also shall be liable to the judgment creditor for the value of such property, less the amount of any lien.

Subd. 2. **Lien of garnishee.** If it appears that the garnishee has a lien on the property, or that it is in any way liable for the payment of a debt due to him, the judgment creditor, on motion, may be permitted to pay the amount thereof, and the amount so paid shall be repaid to judgment creditor, with interest, out of the proceeds of the sale of such property. The garnishee may sell the property to satisfy the lien, if a sale be authorized by his contract, at any time before such payment or tender.

Subd. 3. **Property destroyed.** If any garnished property be destroyed without negligence of the garnishee, the garnishee shall be discharged for all liability to the judgment creditor for the non-delivery thereof.

[1945 c 424 s 16; 1969 c 1142 s 12]

571.57 GARNISHEE FEES. A garnishee shall be paid \$2 fees at the time of service of garnishee summons and if required to appear and submit to oral examination shall be tendered his fees and mileage for attendance at the rate allowed by law to a witness, and in extraordinary cases, may be allowed such further sum as the court shall deem reasonable for his counsel fees and other necessary expenses. If he be charged as a garnishee, the amount of such fees and allowances may be recovered by judgment creditor out of the property in his hands. If charged as garnishee on account of specific articles of personal property, the garnishee shall not be required to deliver the same to an officer until payment of his reasonable charges for storage.

[1945 c 424 s 17; 1967 c 429 s 3; 1969 c 1142 s 13]

571.58 MINIMUM JUDGMENT. No judgment shall be rendered against a garnishee in a justice court where the judgment against the judgment debtor is less than \$10, exclusive of costs, or in the district court where the judgment against the judgment debtor is less than \$25, exclusive of costs, and, in all such cases, the garnishee shall be discharged.

[1945 c 424 s 18; 1969 c 1142 s 14]

571.59 DISCHARGE NOT A BAR. If any person summoned as a garnishee is discharged, the judgment shall be no bar to an action brought against him by the

judgment debtor or other claimants for the same demand.

[1945 c 424 s 19; 1969 c 1142 s 15]

571.60 GARNISHMENT BY DEFENDANT. If the defendant recovers judgment against the plaintiff he may institute and prosecute garnishment under this chapter as if he were judgment creditor. For the purposes of such proceedings he is to be considered as judgment debtor, and his answer is deemed a complaint.

[1945 c 424 s 20; 1969 c 1142 s 16]

571.61 NO DISCHARGE FROM EMPLOYMENT FOR GARNISHMENT OR EXECUTION. Subdivision 1. **Prohibition.** No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment or execution.

Subd. 2. **Remedy.** If an employer discharges an employee in violation of this section, the employee may within 90 days of such discharge bring a civil action for recovery of twice his wages lost as a result of the violation and for an order requiring his reinstatement.

[1945 c 424 s 21; 1967 c 9 s 1; 1969 c 1142 s 17; 1976 c 335 s 20]

571.62 TRANSFER TO ANOTHER COURT. In case any original action pending in a court not of record is transferred under the provisions of law to any other court, except by appeal, any garnishee proceeding is transferred therewith and written notice of such transfer, specifying the court to which the same is made shall be served by the judgment creditor on the garnishee. Such transfer shall carry with it all proceedings already had and any disclosure made therein.

[1945 c 424 s 22; 1969 c 1142 s 18]

571.63 CHANGE OF VENUE. In case of a change of venue in an action in the district court, whether before or after full disclosure, the garnishee proceedings shall be changed to the county to which the action is transferred.

[1945 c 424 s 23]

571.64 APPEAL. Any party to a garnishment proceeding deeming himself aggrieved by any order or final judgment therein may remove the same from the justice court to the district court, or from the district court to the supreme court, by appeal, in like case, manner, and effect, as in a civil action.

[1945 c 424 s 24]

571.65 IMPLIED REPEALS. The purpose of this chapter is to provide a uniform system of garnishment disclosure in all districts, municipal and justice courts, and all statutes or parts thereof inconsistent herewith are hereby amended to conform to this chapter.

[1945 c 424 s 25]

571.66 Subdivision 1. [Renumbered 181.063]

Subd. 2. [Repealed, 1953 c 110 s 4]

Subd. 3. [Repealed, 1953 c 110 s 4]

571.67 PENALTY IN CERTAIN GARNISHMENT PROCEEDINGS. A party who serves or causes to be served a garnishment summons prior to judgment in the main action, except where garnishment prior to entry of judgment is permitted, is liable to the debtor named in the garnishment proceedings in the amount of \$100 plus reasonable attorneys fees and costs.

[1959 c 535 s 1; 1967 c 689 s 5; 1969 c 1142 s 19; 1976 c 335 s 21]

571.68 GARNISHMENTS; MINIMAL AMOUNT; DISCLOSURE. If the amount required to be retained by the garnishee is less than \$10, the garnishee shall not retain said sum but shall make the disclosures otherwise required.

[1976 c 335 s 22]

571.69 TERMINATION OF GARNISHMENT. Subdivision 1. A garnishee summons shall lapse and the garnishee thereof shall be discharged and relieved of any liability thereon upon the expiration of the following periods of time after service of the summons, or such longer period of time either agreed to in writing by both the judgment creditor and the judgment debtor or ordered by a court:

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(1) In the instance of a garnishee summons served before entry of judgment, 270 days;

(2) In the instance of a garnishee summons served after entry of judgment, 180 days.

Subd. 2. Immediately upon the lapse of the garnishee summons, all earnings, money, property, and effects which the garnishee has been retaining pursuant to the garnishment shall be returned to the judgment debtor.

[1976 c 335 s 23]