

## CHAPTER 550

## EXECUTIONS, REDEMPTION, EXEMPTIONS

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**550.041 SUMMARY EXECUTION OF JUDGMENT DEBTS.**

Subdivision 1. **Coverage.** When a judgment creditor proposes to make execution on a judgment debt from money owed to the judgment debtor by a third party, the execution may be made by the attorney for the judgment creditor or sheriff, or their agents, through a registered or certified letter or by personal service to the third party containing a copy of the execution. Upon receipt, the third party shall remit as much of the amount due under section 550.04, but not more than \$5,000, as his own debt equals to the sheriff or attorney who shall proceed in all other respects like the sheriff making a similar execution. No more than \$5,000 may be recovered in an execution pursuant to this section.

Subd. 2. **Exemption notice.** If this section is used to enforce a judgment against a debtor who is a natural person by executing on funds of the judgment debtor held on deposit at any financial institution, the judgment creditor shall serve two copies of an exemption notice with the copy of the execution. The notice shall be substantially in the form set out in section 571.41, subdivision 7. Failure of the judgment creditor to send the exemption notice renders the execution void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds which have previously been garnished in compliance with section 571.41, the judgment creditor is not required to serve an additional exemption notice. In that event, the execution shall only be effective as to the funds which were subject to the prior garnishment.

Subd. 3. **Duty of financial institution; exemption; objection.** Upon receipt of the execution and exemption notices, the financial institution shall attach and bind as much of the amount due under section 550.04 as his own debt equals. Within two business days after receipt of the judgment creditor's letter, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The exemption notice shall be served by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution prior to the expiration of 14 days after the exemption notices are mailed to the judgment debtor, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff or attorney who shall proceed in all other respects like the sheriff making a similar execution. If the judgment debtor elects to claim an exemption, he shall complete the exemption notice, affix his signature under penalty of perjury, and deliver one copy to the financial institution and one copy to the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to serve the executed exemption notice does not constitute a waiver of any right he may have to an exemption. Upon timely receipt of a claim of exemption, the financial institution shall remit as much of the amount due under section 550.04 as his own debt equals to the sheriff or attorney from funds not claimed to be exempt by the judgment debtor. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the correspondence containing the executed exemption notice mailed to the

judgment creditor or the date of personal delivery of the executed exemption notice to the judgment creditor, unless within that time a timely objection to the exemption is interposed by the judgment creditor. Objection is made by mailing or delivering one copy of a written objection to the claim of exemption to the financial institution and one copy of the objection to the judgment debtor. Upon timely receipt of a written objection from the judgment creditor, the financial institution shall retain the funds claimed to be exempt. Unless the third party receives a notice of motion and motion from the judgment debtor asserting exemption rights within ten days after receipt of the objection, the financial institution shall remit as much of the amount due under section 550.04 as his own debt equals to the sheriff or attorney representing the judgment creditor. Either the judgment creditor or the judgment debtor may bring a motion to determine the validity of an exemption claim by following the procedure set out in section 571.41, subdivision 7. If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided, it shall retain the funds claimed to be exempt until otherwise ordered by a court. However, at any time during the procedure specified in this subdivision, the judgment debtor or the judgment creditor may, by a writing dated subsequent to the service of the execution, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

**Subd. 4. Subsequent proceedings; bad faith claims.** If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to his attorney for fees, the attorney's fee award shall be made directly to the attorney and an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption and may make any order necessary to protect the rights of those interested. No financial institution shall be liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

**Subd. 5. Costs; satisfaction.** The attorney shall be allowed no costs from any party other than the judgment creditor for execution in accordance with this section. The attorney or judgment creditor making the execution shall endorse on it partial satisfaction by amount or the total satisfaction and return the original execution to the clerk of that court, within ten days after the satisfaction, for filing without charge.

**History:** 1983 c 235 s 2

#### **550.14 LEVY ON OTHER PERSONAL PROPERTY.**

**Subdivision 1. Property covered.** Other personal property shall be levied on by leaving a certified copy of the execution, and a notice specifying the property

levied on, with the person holding it; or, if a debt, with the debtor; or, if stock or an interest in stock of a corporation, with the president, secretary, treasurer, cashier, or managing agent of it.

**Subd. 2. Exemption notice.** If this section is used to enforce a judgment against a judgment debtor who is a natural person by executing on funds of the judgment debtor held on deposit at any financial institution, the judgment creditor shall cause to be served with the execution two copies of an exemption notice. The notice shall be substantially in the form set out in section 571.41, subdivision 7. If the judgment creditor fails to supply the exemption notice to the sheriff, the sheriff shall take no action. Failure of the sheriff to serve the exemption notice shall render the execution void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds which have previously been garnished in compliance with section 571.41, the judgment creditor shall not be required to serve an additional exemption notice. In that event, the execution shall only be effective as to the funds which were subject to the prior garnishment.

**Subd. 3. Duty of financial institution; exemption; objection.** Upon receipt of the execution and exemption notices, the financial institution shall attach and bind as much of the amount due under section 550.04 as his own debt equals. Within two business days after receipt of the judgment creditor's execution of the execution and exemption notices, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The exemption notice shall be served by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the judgment debtor, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff. If the judgment debtor elects to claim an exemption, he shall complete the exemption notice, affix his signature under penalty of perjury, and deliver one copy to the financial institution and one copy to the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to serve the executed exemption notice does not constitute a waiver of any right he may have to an exemption. Upon timely receipt of a claim of exemption, the financial institution shall remit as much of the amount due under section 550.04 as his own debt equals to the sheriff from funds not claimed to be exempt by the judgment debtor. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the correspondence containing the executed exemption notice mailed to the judgment creditor, or the date of personal delivery of the executed exemption notice to the judgment creditor, unless within that time a written objection to the claim of exemption is interposed by the judgment creditor. Objection is made by mailing or delivering one copy of the objection to the financial institution, and one copy to the judgment debtor. Upon timely receipt of a written objection from the judgment creditor, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a notice of motion and motion from the judgment debtor asserting an exemption within ten days after receipt of the objection, the financial institution shall remit as much of the amount due under section 550.04 as its own debt equals to the sheriff. Either the judgment creditor or the judgment debtor may bring a motion to determine the validity of an exemption claim by following the procedure set out in section 571.41, subdivision 7. If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided, the

financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court. However, at any time during the procedure specified in this subdivision, the judgment debtor or the judgment creditor may, by a writing dated subsequent to the service of the execution, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

**Subd. 4. Subsequent proceedings.** If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to his attorney for fees, the attorney's fee award shall be made directly to the attorney and an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption and may make any order necessary to protect the rights of those interested. No financial institution shall be liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

**History:** 1983 c 235 s 3

#### 550.141 LEVY OF EARNINGS; INDEBTEDNESS.

*[For text of subs 1 and 2, see M.S.1982]*

**Subd. 3. Service of execution.** If the execution has not been served within one year after service of the notice, the judgment creditor shall serve another notice upon the judgment debtor prior to serving the execution on his employer. If more than one year has passed since the most recent execution, the judgment creditor shall serve another notice upon the judgment debtor no less than ten days prior to service of a subsequent execution on his employer.

**History:** 1983 c 235 s 4

#### 550.17 LEVY ON GROWING CROPS.

A levy may be made upon any unharvested crops, but no sale shall be made until they are ripe or fit to be harvested. Any levy under an execution issued by a court shall be continued beyond its return day if necessary and its execution may be completed at any time within 30 days after the crops are ripe or fit to be harvested.

**History:** 1983 c 359 s 78

#### 550.37 PROPERTY EXEMPT.

*[For text of subs 1 to 3, see M.S.1982]*

**Subd. 4. Personal goods.** (a) All wearing apparel, one watch, utensils, and foodstuffs of the debtor and his family; and (b) household furniture, household

appliances, phonographs, radio and television receivers of the debtor and his family, not exceeding \$4,500 in value. The exemption provided by this subdivision may not be waived except with regard to purchase money security interests. Except for a pawnbroker's possessory lien, a nonpurchase money security interest in the property exempt under this subdivision is void.

If a debtor has property of the type which would qualify for the exemption under clause (b) of this subdivision, of a value in excess of \$4,500 an itemized list of the exempt property, together with the value of each item listed, shall be attached to the security agreement at the time a security interest is taken, and a creditor may take a nonpurchase money security interest in the excess over \$4,500 by requiring the debtor to select his exemption in writing at the time the loan is made.

Subd. 4a. **Adjustment of dollar amounts.** (a) The dollar amounts in subdivision 4 shall change periodically as provided in this subdivision to the extent of changes in the implicit price deflator for the gross national product, 1972 = 100, compiled by the United States department of commerce, and hereafter referred to as the index. The index for December, 1982, is the reference base index.

(b) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more. The portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts stated in subdivision 4.

(c) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the department of commerce. If the index is superseded, the index referred to in this section is the one represented by the department of commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(d) The commissioner of banks shall announce and publish:

(1) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (b); and

(2) promptly after the changes occur, changes in the index required by paragraph (c) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if he relies on dollar amounts either determined according to paragraph (b) or appearing in the last publication of the commissioner announcing the then current dollar amounts.

*[For text of subds 5 to 12a, see M.S.1982]*

Subd. 13. **Wages.** All wages not subject to garnishment by the provisions of section 571.55. A subsequent attachment, garnishment or levy of execution shall impound only that pay period's nonexempt disposable earnings not subject to a prior attachment, garnishment or levy of execution, but in no instance shall more than an individual's total nonexempt disposable earnings in that pay period be subject to attachment, garnishment or levy of execution. Garnishments shall

impound the nonexempt disposable earnings in the order of their service upon the employer. The disposable earnings exempt from garnishment are exempt as a matter of right, whether claimed or not by the person to whom due. The exemptions may not be waived. The exempt disposable earnings are payable by the employer when due. The exempt disposable earnings shall also be exempt for 20 days after deposit in any financial institution, whether in a single or joint account. This 20-day exemption also applies to any contractual set-off or security interest asserted by a financial institution in which the earnings are deposited by the individual. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. As used in this section, the term "financial institution" includes credit unions. Nothing in this paragraph shall void or supersede any valid assignment of wages or transfer of funds held on account made prior to the attachment, garnishment, or levy of execution.

**Subd. 14. Public assistance.** All relief based on need, and the wages or salary of a person who is a recipient of relief based on need, shall be exempt from all claims of creditors including any contractual set-off or security interest asserted by a financial institution. For the purposes of this chapter, relief based on need includes AFDC, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance. The salary or wages of any debtor who is or has been a recipient of relief based on need, or an inmate of a correctional institution shall, upon his return to private employment after having been a recipient of relief based on need, or an inmate of a correctional institution, be exempt from attachment, garnishment, or levy of execution for a period of six months after his return to employment and after all public assistance has been terminated. The exemption provisions contained in this subdivision also apply for 60 days after deposit in any financial institution, whether in a single or joint account. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. Agencies distributing relief and the correctional institutions shall, at the request of creditors, inform them whether or not any debtor has been a recipient of relief based on need, or an inmate of a correctional institution, within the preceding six months.

*[For text of subds 15 to 18, see M.S.1982]*

**Subd. 19. Waiver.** The exemption of the property listed in subdivisions 2, 3, and 5 to 12a may not be waived except by a statement in substantially the following form, in bold face type of a minimum size of 12 points, signed and dated by the debtor at the time of the execution of the contract surrendering the exemption, immediately adjacent to the listing of the property: "I understand that some or all of the above property is normally protected by law from the claims of creditors, and I voluntarily give up my right to that protection for the above listed property with respect to claims arising out of this contract."

**Subd. 20. Traceable funds.** The exemption of funds from creditors' claims, provided by subdivisions 9, 10, 11, 15, and 24, shall not be affected by the subsequent deposit of the funds in a bank or any other financial institution, whether in a single or joint account, if the funds are traceable to their exempt source. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. No bank or other financial institution shall be liable for damages for complying

with process duly issued out of any court for the collection of a debt even if the funds affected by the process are subsequently determined to have been exempt.

*[For text of subs 21 to 23, see M.S.1982]*

Subd. 24. **Employee benefits.** The debtor's right to receive a payment, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

**History:** 1983 c 235 s 5-11