

CHAPTER 551

ATTORNEY'S SUMMARY EXECUTIONS

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551.01 ATTORNEY'S SUMMARY EXECUTION OF JUDGMENT DEBTS; WHEN AUTHORIZED.

An attorney for a judgment creditor may execute on a money judgment by levying on indebtedness owed to the judgment debtor by a third party, pursuant to this chapter. The attorney for the judgment creditor must obtain a writ of execution issued under section 550.04 before the attorney can execute pursuant to this chapter. No more than \$10,000 may be recovered by a single notice of execution levy pursuant to this section. No more than one execution may be served on a single third party by a judgment creditor each calendar day under this chapter.

History: 1990 c 606 art 2 s 1; 2000 c 405 s 6

551.02 SCOPE OF GENERAL AND SPECIFIC PROVISIONS.

General provisions and definitions relating to attorney's summary execution, as authorized in this chapter, are set forth in sections 551.03 and 551.04. Specific provisions relating to attorney's summary execution on funds at a financial institution are set forth in section 551.05. Specific provisions relating to attorney's summary execution of earnings are set forth in section 551.06. When an attorney is levying against either funds at a financial institution or earnings, the specific provisions of section 551.05 or 551.06 must be complied with in addition to the general provisions set forth in sections 551.03 and 551.04. Provisions contained in the statutory forms are incorporated in this chapter and have the same force of law as any other provisions in this chapter.

History: 1990 c 606 art 2 s 2

551.03 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Judgment creditor.** "Judgment creditor" means a party who has a judgment for the recovery of money in the civil action whether that party is the plaintiff, defendant, or other party in the civil action and who is serving the execution levy.

Subd. 3. **Judgment debtor.** "Judgment debtor" means a party against whom the judgment creditor has a judgment for the recovery of money in the civil action whether that party is the plaintiff, defendant, or other party in the civil action.

Subd. 4. **Third party.** "Third party" means the person or entity upon whom the execution levy is served.

Subd. 5. **Claim.** "Claim" means the unpaid balance of the creditor's judgment against the judgment debtor, including all lawful interest and costs incurred.

History: 1990 c 606 art 2 s 3

551.04 GENERAL PROVISIONS.

Subdivision 1. **Rules of Civil Procedure.** Unless this chapter specifically provides otherwise, the Minnesota Rules of Civil Procedure for the District Courts shall apply in all proceedings under this chapter.

Subd. 2. **Property attachable.** Subject to the exemptions provided by subdivision 3 and section 550.37, and any other applicable statute, the service of a writ of execution under this chapter attaches:

(a) Except as otherwise provided in paragraph (c), all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the writ of execution. "Payday" means the day upon which the third party pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular paydays, payday means the 15th day and the last day of each month.

(b) All other nonexempt indebtedness or money due or belonging to the judgment debtor and owing by the third party or in the possession or under the control of the third party at the time of service of the writ of execution, whether or not the same, has become payable. The third party shall not be compelled to pay or deliver the same before the time specified by any agreement unless the agreement was fraudulently contracted to defeat an execution levy or other collection remedy.

(c) For an execution on a judgment for child support, all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor within the pay period in which the writ of execution is served and within all subsequent pay periods until the judgment is satisfied if the judgment creditor is a county and the third party is notified by the county when the judgment is satisfied.

Subd. 3. **Property not attachable.** The following property is not subject to attachment by a writ of execution served pursuant to this chapter:

(1) any indebtedness or money due to the judgment debtor, unless at the time of the service of the writ of execution the same is due absolutely or does not depend upon any contingency;

(2) any judgment owing by the third party to the judgment debtor, if the third party or the third party's property is liable on an execution levy upon the judgment;

(3) any debt owing by the third party to the judgment debtor for which any negotiable instrument has been issued or endorsed by the third party;

(4) any indebtedness or money due to the judgment debtor where the judgment debtor is a bank, savings bank, trust company, credit union, savings association, or industrial loan and thrift company with deposit liabilities;

(5) any indebtedness or money due to the judgment debtor with a cumulative value of less than \$10; and

(6) any disposable earnings, indebtedness, or money that is exempt under Minnesota or federal law.

Subd. 4. **Service of third-party levy; notice and disclosure forms.** When levying upon money or earnings owed to the judgment debtor by a third party, the attorney for the judgment creditor shall serve a copy of the writ of execution upon the third party either by registered or certified mail, or by personal service. A third-party levy served by registered or certified mail is effective if served at the third party's regular place of business. Along with a copy of the writ of execution, the attorney shall serve upon the third party a notice of third-party levy and disclosure form that must be substantially in the form set forth below. If the levy is upon earnings, the attorney shall serve upon the third party the notice of third party levy and disclosure form as set forth in section 551.06, subdivision 9.

STATE OF MINNESOTA
COUNTY OF
DISTRICT COURT
.....JUDICIAL DISTRICT
File No.

..... (Judgment Creditor)
against
..... (Judgment Debtor)
and
..... (Third Party)

NOTICE OF THIRD PARTY
LEVY AND DISCLOSURE
(OTHER THAN EARNINGS)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, chapter 551, the undersigned, as attorney for the judgment creditor, hereby makes demand and levies execution upon all money due and owing by you (up to \$10,000) to the judgment debtor for the amount of the judgment specified below. A copy of the writ of execution issued by the court is enclosed. The unpaid judgment balance is \$.....

In responding to this levy, you are to complete the attached disclosure form and mail it to the undersigned attorney for the judgment creditor, together with your check payable to the above-named judgment creditor, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits set forth in chapter 551.

If you are a financial institution and the judgment debtor is a natural person, two exemption notices are also enclosed pursuant to Minnesota Statutes, section 551.02. Only natural persons are entitled to exemptions under this statute.

Attorney for the Judgment Creditor
Address

(.....)
Phone number

DISCLOSURE

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

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

.....

(2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the third party claims against the amount set forth on line (1). State the facts by which such setoff, defense, lien, or claim is claimed. (Any indebtedness to you incurred by the judgment debtor within ten days prior to the receipt of the first execution levy on a debt may not be claimed as a setoff, defense, lien, or claim against the amount set forth on line (1).)

.....

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

.....

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

.....

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

.....

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

.....

(7) Enter on the line below 100 percent of the amount of the judgment creditor's claim which remains unpaid.

.....

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

.....

AFFIRMATION

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

Dated:

.....
Signature

.....
Title

.....
 Telephone Number

Subd. 5. **Third-party fees.** If the levy is upon earnings or upon funds at a financial institution, the third party shall be paid a \$15 fee at the time of the service of the writ of execution. Failure to pay the fee renders the levy void, and the third party shall take no action. The \$15 shall not be paid where the funds being levied on are being held pursuant to a garnishment previously served in compliance with chapter 571. This fee may be recovered by the judgment creditor as an allowable disbursement. If a third party is required to appear and submit to oral examination, the third party shall be tendered, in advance of the examination, fees and mileage for attendance at the rate allowed by law to a witness. These fees may be recovered by the judgment creditor as an allowable disbursement. In extraordinary cases, the third party may be allowed additional sums the court considers reasonable for attorney's fees and other necessary expenses. The court shall then determine which party bears the burden of this expense.

Subd. 6. **Third-party disclosure and remittance.** Within 15 days after receipt of the writ of execution, unless governed by section 551.05 or 551.06, the third party shall disclose and remit to the judgment creditor's attorney as much of the amount due under section 550.04, but not more than \$10,000, as the third party's own debt equals to the judgment debtor. The attorney for the judgment creditor shall proceed in all other respects like the sheriff making a similar execution levy. No more than \$10,000 may be recovered by a single execution levy pursuant to this section.

Subd. 7. **Oral disclosure.** Before or after the service of a written disclosure by a third party under subdivision 6, upon a showing by affidavit upon information and belief that an oral examination of the third party would provide a complete disclosure of relevant facts, any party to the execution proceedings may obtain an ex parte order requiring the third party, or a representative of the third party designated by name or by title, to appear for oral examination before the court or a referee appointed by the court. Notice of the examination must be given to all parties.

Subd. 8. **Supplemental complaint.** If a third party holds property, money, earnings, or other indebtedness by a title that is void as to the judgment debtor's creditors, the property may be levied on although the judgment debtor would be barred from maintaining an action to recover the property, money, earnings, or other indebtedness. In this and all other cases where the third party denies liability, the judgment creditor may move the court at any time before the third party is discharged, on notice to both the judgment debtor and the third party for an order making the third party a party to the supplemental action and granting the judgment creditor leave to file a supplemental complaint against the third party and the judgment debtor. The supplemental complaint shall set forth the facts upon which the judgment creditor claims to charge the third party. If probable cause is shown, the motion shall be granted. The supplemental complaint shall be served upon the third party and the judgment debtor and any other parties. The parties served shall answer or respond pursuant to the Minnesota Rules of Civil Procedure for the District Courts, and if they fail to do so, judgment by default may be entered against them.

Subd. 9. **Judgment against third party upon failure to disclose or remit.** Judgment may be entered against a third party who has been served with a writ of execution and fails to disclose or remit the levied funds as required in this chapter. Upon order to show cause served on the third party and notice of motion supported by affidavit of facts and affidavit of service upon both the judgment debtor and third party, the court may render judgment against the third party for an amount not exceeding 100 percent of the amount claimed in the execution or \$10,000, whichever is less. Judgment against the third party pursuant to this section shall not bar the judgment creditor from further remedies under this chapter as a result of any

subsequent defaults by the third party. The court upon good cause shown may remove the default and permit the third party to disclose or remit on just terms.

Subd. 10. **Costs; satisfaction.** Except as provided for in subdivision 5, neither the judgment creditor nor its attorney shall be allowed costs from any party other than the judgment creditor for a levy in accordance with this section. Upon expiration, the attorney making the execution shall endorse on the writ partial satisfaction by amount or the total satisfaction and return the original writ of execution to the court administrator of that court, pursuant to section 550.051, subdivision 2, for filing without charge.

Subd. 11. **Forms.** No judgment creditor shall use a form that contains alterations or changes from the statutory forms that mislead judgment debtors as to their rights and the execution procedure generally. If a court finds that a judgment creditor has used a misleading form, the judgment debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from additional proceedings, and an amount not to exceed \$100. All forms must be clearly legible and printed in not less than the equivalent of 10-point type. A form that uses both sides of a sheet must clearly indicate on the front side that there is additional information on the back side of the sheet.

Forms, including the statutory forms, used in executions upon earnings for the satisfaction of judgments for child support must be changed by the creditor to reflect the fact that the 70-day period of effectiveness does not apply to these executions if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied.

Subd. 12. **Third-party good faith requirement.** The third party is not liable to the judgment debtor, judgment creditor, or other person for wrongful retention if the third party retains or remits disposable earnings, indebtedness, or money of the judgment debtor or any other person, pending the third party's disclosure or consistent with the disclosure the third party makes, if the third party has a good faith belief that the property retained or remitted is subject to the execution. In addition, the third party may, at any time before or after disclosure, proceed under Rule 67 of the Minnesota Rules of Civil Procedure for the District Courts to make deposit into court. No third party is liable for damages if the third party complies with the provisions of this chapter.

Subd. 13. **Bad faith claim.** If, in a proceeding brought under section 551.05, subdivision 8, or a similar proceeding under this chapter to determine a claim of exemption, 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, 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 actual damages, costs, reasonable attorney fees resulting from the additional proceedings, 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 that party's attorney for fees, the attorney fee award shall be made directly to the attorney, and if not paid, an appropriate judgment in favor of the attorney shall be entered. Any action by a judgment creditor made in bad faith and in violation of this chapter renders the execution levy void and the judgment creditor liable to the judgment debtor named in the execution levy in the amount of \$100, actual damages, and reasonable attorney fees and costs.

Subd. 14. **Discharge of a third party.** Subject to subdivisions 6 and 15, the third party, after disclosure, shall be discharged of any further obligation to the judgment creditor when one of the following conditions is met:

(a) The third party discloses that the third party is not indebted to the judgment debtor or does not possess any earnings, property, money, or indebtedness belonging to the judgment debtor that is attachable as defined in subdivision 2. The disclosure is conclusive against the judgment creditor and discharges the third party from any further obligation to the judgment creditor other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor which was disclosed.

(b) The third party discloses that the third party is indebted to the judgment debtor as indicated on the execution disclosure form. The disclosure is conclusive against the judgment creditor and discharges the third party from any further obligation to the judgment creditor other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor that was disclosed.

(c) The court may, upon motion of an interested person, discharge the third party as to any disposable earnings, money, property, or indebtedness in excess of the amount that may be required to satisfy the judgment creditor's claim.

Subd. 15. **Exceptions to discharge of third party.** The third party is not discharged if:

(a) Within 20 days of the service of the third party's disclosure, an interested person serves a motion relating to the execution levy. The hearing on the motion must be scheduled to be heard within 30 days of the service of the motion.

(b) The judgment creditor moves the court for leave to file a supplemental complaint against the third party, as provided for in subdivision 8, and the court upon proper showing vacates the discharge of the third party.

Subd. 16. **Joinder and intervention by persons in interest.** If it appears that a person, who is not a party to the action, has or claims an interest in any of the disposable earnings, other indebtedness, or money, the court shall permit that person to intervene or join in the execution proceeding under this chapter. If that person does not appear, the court may summon that person to appear or order the claim barred. The person so appearing or summoned shall be joined as a party and be bound by the judgment.

Subd. 17. **Appeal.** A party to an execution proceeding aggrieved by an order or final judgment may appeal as in other civil cases.

History: 1990 c 606 art 2 s 4; 1993 c 13 art 1 s 47; 1993 c 156 s 7,8; 1995 c 202 art 1 s 25; 1998 c 254 art 1 s 107; 2000 c 405 s 7-9

551.041 ATTORNEY'S SUMMARY EXECUTION OF FUNDS BEING HELD PURSUANT TO GARNISHMENT SUMMONS.

Pursuant to this section, an attorney for a judgment creditor may execute on funds retained by a garnishee under a garnishment summons served pursuant to chapter 571. No more than \$10,000 may be recovered by a single execution levy pursuant to this section. When levying upon money or earnings being retained by a garnishee pursuant to a garnishment summons, the attorney shall serve a copy of the writ of execution upon the garnishee by registered or certified mail, or by personal service. Along with a copy of the writ of execution, the attorney shall serve upon the garnishee a notice of levy on garnishee that must be substantially in the form set forth below. If the judgment creditor paid the garnishee the fee required by chapter 571, no

additional fee must be paid to the garnishee for the levy. The notice of levy on garnishee may not be served until the judgment debtor's right to claim an exemption has expired under chapter 571.

STATE OF MINNESOTA DISTRICT COURT
 COUNTY OFJUDICIAL DISTRICT
File No.
 (Judgment Creditor)
 against
 (Judgment Debtor) NOTICE OF LEVY
 and ON GARNISHEE
 (Garnishee)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, chapter 551, the undersigned as attorney for the judgment creditor, hereby makes demand and levies execution upon all money or earnings being retained by you (up to \$10,000) pursuant to the judgment creditor's garnishment summons dated A copy of the writ of execution issued by the court is enclosed. Upon receipt of this levy, you shall remit to the judgment creditor's attorney all funds being held by you pursuant to the garnishment summons. The funds shall be remitted within 15 days after receipt of this levy.

Date: Attorney for the Judgment Creditor
 Address:

 Phone Number:
 Attorney I.D. No.:

History: 2000 c 405 s 10

551.042 MONEY DUE FROM STATE DEPARTMENTS.

Money due or owing to any entity or person by the state on account of any employment, work, contract with, or services provided to any state department or agency is subject to attachment. The notice of third party levy and disclosure may be served upon the head of the department or agency in the same manner as other summons in that court of record, except that service may not be made by publication. Service of the notice may also be made by certified mail, return receipt requested. The disclosure shall be made by the head of the department or agency, or by some person designated by the head of the department or agency having knowledge of the facts. If payment is made pursuant to judgment against the state as a third party, a certificate of satisfaction to the extent of the payment endorsed on it shall be delivered to the head of the department or agency as a voucher for the payment.

History: 2000 c 405 s 11

551.043 SALARY OF PUBLIC SERVANTS.

The salary or wages of an official or employee of a county, town, city, or school district, or any department of these bodies, is subject to attachment. The notice of third-party levy and disclosure shall be

served upon the auditor, treasurer, or clerk of the body, or head of the department of the body of which that person is an official or employee. The disclosure shall be made by the officer or person so served, or by some person designated by that person having knowledge of the facts. If payment is made by the county, town, city, or school district, or any department of these bodies pursuant to a judgment against it as a third party, a certified copy of the judgment with a certificate of satisfaction to the extent of the payment endorsed on it shall be delivered to the treasurer as a voucher for the payment.

History: 2000 c 405 s 12

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

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

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

Subd. 1b. **Form of notice.** The notice must be a separate form and must be substantially in the following form:

| | |
|-------------------------------|------------------------|
| STATE OF MINNESOTA | DISTRICT COURT |
| COUNTY OF |JUDICIAL DISTRICT |
| (Creditor) | |
| (Debtor) | |
| (Financial institution) | |

IMPORTANT NOTICE

YOUR FUNDS HAVE BEEN LEVIED

The Creditor has frozen money in your account at your financial institution.

Your account balance is \$.....

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

The amount being held will be frozen for 14 days from the date of this notice.

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

The attached exemption form lists some different sources of money in your account that may be protected. If your money is from one or more of these sources, place a check on the line on the form next to the sources of your money. If it is from one of these sources, the Creditor cannot take it.

BUT, you must follow the instructions and return the exemption form and copies of your bank statements from the last 60 days to have the bank unfreeze your money. If you do not follow the instructions, your financial institution will give the money to the Creditor. If that happens and it is protected, you can still get it back from the Creditor later, but that is not as easy to do as filling in the form now.

See next pages for instructions and the exemption form.

Subd. 1c. **Form of instructions.** The instructions required must be in a separate form and must be substantially in the following form:

INSTRUCTIONS

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

1. Fill out both of the attached exemption forms in this packet.

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

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

NOTICE: YOU MUST SEND TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) COPIES OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS BEFORE THE LEVY. Keep a copy of your bank statements in case there are questions about your claim. If you do not send to the creditor's attorney (or to the creditor, if no attorney) bank statements with your exemption claim, the financial institution may release your money to the creditor.

2. **Sign** the exemption forms. **Make one copy to keep for yourself.**

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

BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.

One copy of the form and the copies of your bank statements go to:

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

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

One copy goes to:

.....
(Insert name of bank)

.....
(Insert address of bank)

HOW THE PROCESS WORKS

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

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

If You Send in the Exemption Form and Bank Statements:

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

If the Creditor Does Not Object:

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

If the Creditor Objects:

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

The financial institution will hold the money until a court decides whether your money is protected or not. Some reasons a creditor may object are because you did not send copies of your bank statements or other proof of the benefits you received. Be sure to include these when you send your exemption form.

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

PENALTIES:

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

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

Subd. 1d. **Form of exemption form.** The exemption form required by this subdivision must be a separate form and must be in substantially the following form:

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
.....JUDICIAL DISTRICT

..... (Creditor)
 (Debtor)
 (Financial institution)

EXEMPTION FORM

A. HOW MUCH MONEY IS PROTECTED

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

I claim SOME of the money is protected.
... The amount I claim is protected is \$.....

B. WHY THE MONEY IS PROTECTED

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

... **Government benefits**

Government benefits include, but are not
limited to, the following:

MFIP - Minnesota family investment
program,

**MFIP Diversionary Work Program,
Work participation cash benefit,**

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare Part B premium payments,

Medicare Part D extra help,

Energy or fuel assistance.

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

.....

LIST THE CASE NUMBER AND COUNTY

Case Number:

County:

Government benefits also include:

.... **Social Security benefits**

.... **Unemployment benefits**

.... **Workers' compensation**

.... **Veterans benefits**

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

.... **Other assistance based on need**

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

Source:.....

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

EARNINGS

ALL or SOME of your earnings (wages) may also be protected.

All of your earnings (wages) are protected
.... **if:**

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

.... You currently receive other assistance based on need

.... You have received government benefits in the last six months

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

If you check one of these lines, your wages are only protected for 60 days after they are deposited in your account so you MUST send the creditor a copy of BANK STATEMENTS that show what was in your account for the 60 days right before the bank froze your money.

**Some of your earnings (wages) are
.... protected.**

If all of your earnings are not exempt, then some of your earnings are still protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

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

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

OTHER EXEMPT FUNDS

The money from the following are also completely protected after they are deposited in your account.

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

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

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

.... Child support

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

.... Death benefits paid to you

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

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

YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) AND THE BANK. REMEMBER TO INCLUDE A COPY OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS. FILL IN THE BLANKS BELOW AND GO BACK TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.

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

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

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

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

DATED:

.....
 DEBTOR

.....
 DEBTOR ADDRESS

.....
 DEBTOR
 TELEPHONE
 NUMBER

Subd. 2. Effect of exemption notice. Within two business days after receipt of the execution levy and the notice, instructions, and two copies of the exemption notices, the financial institution shall serve upon the judgment debtor the notice, instructions, and two copies of the exemption notice. The financial institution shall serve the notice by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the judgment debtor, the funds remain subject to the execution levy and shall be remitted to the judgment creditor's attorney within six business days. If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. The debtor is also required to include copies of bank statements for the prior 60 days with the exemption notice. In the event that there is no attorney for the judgment creditor, the notice must be sent directly to the judgment creditor. Failure of the judgment debtor to deliver the executed exemption notice or copies of the required bank statements for the prior 60 days does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the judgment debtor remain subject to the execution levy. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of six business days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the attorney for the judgment creditor interposes an objection to the exemption.

Subd. 3. Objections and request for hearing. An objection shall be interposed, within six business days of receipt by the creditor of an exemption claim from the debtor, by mailing or delivering one copy of the Notice of Objection and Notice of Hearing to the financial institution and one copy of the Notice of Objection and Notice of Hearing to the debtor. The financial institution may rely on the date of mailing or

delivery of a notice to it in computing any time periods in this section. The Notice of Objection and Notice of Hearing form must be substantially in the form set out in subdivision 5.

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

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

Subd. 4. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a Notice of Objection and Notice of Hearing from the creditor within the specified six-day period, the financial institution shall retain the funds claimed to be exempt. The financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court, upon mutual agreement of the parties, or until the garnishment lapses pursuant to subdivision 7.

Subd. 5. **Form of Notice of Objection and Notice of Hearing.** (a) The Written Objection and Notice of Hearing must be in substantially the following form:

| | |
|--------------------|-------------------------|
| STATE OF MINNESOTA | DISTRICT COURT |
| COUNTY OF | JUDICIAL DISTRICT |
| | |

(Creditor)

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

.....
(Debtor)

.....
(Financial Institution)

(DEBTOR)

.....
ADDRESS
.....
.....

.....
.....
.....
(CREDITOR OR CREDITOR'S ATTORNEY)

NOTICE OF HEARING

The creditor objects to your exemption claim. This hearing is to resolve your exemption claim.

Hearing Date:
Time:
Hearing Place:

The creditor objects to your claim of exemption from levy of execution for the following reason(s):

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

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

If the creditor receives all documents and materials supporting your exemption claim before the hearing date, the creditor may agree with your exemption claim and you might be able to avoid a hearing.

Because a court hearing will be held on your claim that your funds are protected, your financial institution will retain the funds until it receives an order from the court or upon mutual agreement between you and the creditor.

Subd. 6. [Repealed by amendment, 2009 c 31 s 3]

Subd. 7. **Release of funds.** At any time during the procedure specified in this section, the judgment debtor or the attorney for the judgment creditor may, by a writing dated after the service of the writ of 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. 8. **Subsequent proceedings; bad faith claims.** If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

History: 1990 c 606 art 2 s 5; 1991 c 199 art 1 s 81; 1992 c 464 art 1 s 56; 1993 c 156 s 9; 1994 c 488 s 8; 1999 c 107 s 66; 1999 c 159 s 144; 2000 c 343 s 4; 2000 c 405 s 13,14; 2009 c 31 s 3

551.06 ATTORNEY'S SUMMARY EXECUTION UPON EARNINGS.

Subdivision 1. **Procedure.** When earnings are levied upon, this section must be complied with, in addition to the general provisions specified in section 551.04.

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "earnings" means:

(i) compensation paid or payable to an employee for personal service whether denominated as wages, salary, commissions, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program; or

(ii) compensation paid or payable to the producer for the sale of agricultural products; livestock or livestock products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2;

(2) "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;

(3) "employee" means an individual who performs services subject to the right of the employer to control both what is done and how it is done; and

(4) "employer" means a person for whom an individual performs services as an employee.

Subd. 3. **Limitation on levy on earnings.** (a) Unless the judgment is for child support, the maximum part of the aggregate disposable earnings of an individual for any pay period subjected to an execution levy may not exceed the lesser of:

(1) 25 percent of the judgment debtor's disposable earnings; or

(2) the amount by which the judgment debtor's disposable earnings exceed the following product: 40 times the federal minimum hourly wages prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable, times the number of work weeks in the 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 workdays divided by the number of days in the normal work week.

(b) If the judgment is for child support, the levy may not exceed:

(1) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(2) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(3) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received); or

(4) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received).

Execution levies under this section on judgments for child support are effective until the judgments are satisfied if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied.

(c) No court may make, execute, or enforce an order or any process in violation of this section.

Subd. 4. Multiple levies on earnings. Except as otherwise provided in this chapter or section 518A.53, the priority of multiple earnings execution levies is determined by the order in which the execution levies were served on the employer. If the employer is served with two or more writs of execution at the same time on the same day, the writ of execution issued pursuant to the first judgment entered has priority. If two or more execution levies are served on the same day and are based on judgments entered on the same day, then the employer shall select the priority of the earnings levies. However, in all cases except earnings execution levies on judgments for child support if the judgment creditor is a county and the employer is notified by the county when the judgment is satisfied, the execution levies shall be effective no longer than 70 days from the date of the service of the writ of execution.

Subd. 5. Earnings attachable. (a) Subject to the exemptions provided by subdivision 3 and section 550.37, and any other applicable statute, and except as otherwise provided in paragraph (b), the service of a writ of execution under this chapter attaches all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the date of service of the writ of execution. "Paydays" means the days upon which the third party pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular paydays, paydays means the 15th day and the last day of each month. If the levy attaches less than \$10, the third party shall not retain and remit the sum.

(b) The service of a writ of execution on a judgment for child support attaches to all unpaid nonexempt disposable earnings owing or to be owed by the third party and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods until the judgment is satisfied if the judgment creditor is a county and the third party is notified by the county when the judgment is satisfied.

Subd. 6. Earnings exemption notice. Before the first levy on earnings, the attorney for the judgment creditor shall serve upon the judgment debtor no less than ten days before the service of the writ of execution, a notice that the writ of execution may be served on the judgment debtor's employer. The notice must: (1) be substantially in the form set forth below; (2) be served personally, in the manner of a summons and complaint, or by first class mail to the last known address of the judgment debtor; (3) inform the judgment debtor that an execution levy may be served on the judgment debtor's employer in ten days, and that the judgment debtor may, within that time, cause to be served on the judgment creditor's attorney a signed statement under penalties of perjury asserting an entitlement to an exemption from execution; (4) inform the judgment debtor of the earnings exemptions contained in section 550.37, subdivision 14; and (5) advise the judgment debtor of the relief set forth in this chapter to which the judgment debtor may be entitled if a

judgment creditor in bad faith disregards a valid claim and the fee, costs, and penalty that may be assessed against a judgment debtor who in bad faith falsely claims an exemption or in bad faith takes action to frustrate the execution process. The notice requirement of this subdivision does not apply to a levy on earnings being held by an employer pursuant to a garnishment summons served in compliance with chapter 571.

The ten-day notice informing a judgment debtor that a writ of execution may be used to levy the earnings of an individual must be substantially in the following form:

| | |
|---------------------------|----------------------------|
| STATE OF MINNESOTA | DISTRICT COURT |
| COUNTY OF |JUDICIAL DISTRICT |
| (Judgment Creditor) | |
| against | |
| | EXECUTION EXEMPTION |
| | NOTICE AND NOTICE OF |
| (Judgment Debtor) | INTENT TO LEVY ON EARNINGS |
| and | WITHIN TEN DAYS |
| (Third Party) | |

PLEASE TAKE NOTICE that a levy may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Your earnings are completely exempt from execution levy if you are now a recipient of relief based on need, if you have been a recipient of relief within the last six months, or if you have been an inmate of a correctional institution in the last six months.

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

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

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

PENALTIES

(1) Be advised that even if you claim an exemption, an execution levy may still be served on your employer. If your earnings are levied on after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the judgment 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 judgment 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 execution levy, thus requiring the judgment creditor to petition the court to resolve the problem, you will be liable to the judgment creditor for costs and reasonable attorney's fees plus an amount not to exceed \$100.

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

JUDGMENT DEBTOR'S EXEMPTION CLAIM NOTICE

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

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

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

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

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

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

.....
Correctional Institution Location

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

DATE:
.....
Judgment Debtor
.....
Address

Subd. 7. **Additional notices.** If the execution levy has not been served within one year after service of the exemption notice, the judgment creditor's attorney shall serve another notice upon the judgment debtor

before serving the execution levy on the judgment debtor's employer. If more than one year has passed since the service of the judgment creditor's most recent execution levy, the judgment creditor shall, no less than ten days before service of a subsequent execution levy, serve notice that another execution levy may be served.

Subd. 8. **Proceedings if no exemption statement is received.** If no statement of exemption is received by the attorney for the judgment creditor on an earnings levy within ten days from the service of the notice, the attorney for the judgment creditor may proceed with the execution levy. Failure of the judgment debtor to serve a statement does not constitute a waiver of any right the judgment debtor may have to an exemption. If the statement of exemption is received by the attorney for the judgment creditor, the attorney may still cause a levy to be served subject to sanctions provided in section 551.05, subdivision 8.

Subd. 9. **Notice of levy on earnings, disclosure, and worksheet.** The attorney for the judgment creditor shall serve upon the judgment debtor's employer a notice of levy on earnings and an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA
COUNTY OF
DISTRICT COURT
.....JUDICIAL DISTRICT
FILE NO.....

..... (Judgment Creditor)

against

NOTICE OF LEVY ON
EARNINGS AND DISCLOSURE

..... (Judgment Debtor)

and

..... (Third Party)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, sections 551.04 and 551.06, the undersigned, as attorney for the judgment creditor, hereby makes demand and levies execution upon all earnings due and owing by you (up to \$10,000) to the judgment debtor for the amount of the judgment specified below. A copy of the writ of execution issued by the court is enclosed. The unpaid judgment balance is \$.....

This levy attaches all unpaid nonexempt disposable earnings owing or to be owed by you and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the service of this levy.

In responding to this levy, you are to complete the attached disclosure form and worksheet and mail it to the undersigned attorney for the judgment creditor, together with your check payable to the above-named judgment creditor, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits set forth in the aforementioned statutes.

.....
Attorney for the Judgment Creditor
.....
.....

.....
 Address
 (...)
 Phone Number

DISCLOSURE
 DEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the judgment debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTIONS:

1. Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

Yes No

2. Does the judgment debtor earn more than \$... per week? (This amount is the federal minimum wage per week.)

Yes No

INSTRUCTIONS FOR COMPLETING THE
 EARNINGS DISCLOSURE

A. If your answer to either question 1 or 2 is "No," then you must sign the affirmation on page 2 and return this disclosure to the judgment creditor's attorney within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answers to both questions 1 and 2 are "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 3 through 11 on

page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column I on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this Earnings Disclosure Form and the Earnings Disclosure Worksheet to the judgment creditor's attorney and deliver a copy to the judgment debtor within ten days after the last payday that falls within the 70-day period.

If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 3 through 11, "columns" refers to columns on the Earnings Disclosure Worksheet.

3. COLUMN A. Enter the date of judgment debtor's payday.
4. COLUMN B. Enter judgment debtor's gross earnings for each payday.
5. COLUMN C. Enter judgment debtor's disposable earnings for each payday.
6. COLUMN D. Enter 25 percent of disposable earnings. (Multiply Column C by .25.)
7. COLUMN E. Enter here 40 times the hourly federal minimum wage (\$.....) times the number of work weeks included in each payday. (Note: If a pay period includes days in excess of whole work weeks, the additional days should be counted as a fraction of a work week equal to the number of workdays in excess of a whole work week divided by the number of workdays in a normal work week.)
8. COLUMN F. Subtract the amount in Column E from the amount in Column C, and enter here.
9. COLUMN G. Enter here the lesser of the amount in Column D and the amount in Column F.
10. COLUMN H. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest which would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you incurred within ten days prior to your receipt of the first execution levy on a debt may not be set off against the earnings otherwise subject to this levy. Any wage assignment made by the judgment debtor within ten days prior to your receipt of the first execution levy on a debt is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

Enter zero in Column H if there are no claims by you or others which would reduce the amount of earnings owing to the judgment debtor.

11. COLUMN I.

Subtract the amount in Column H from the amount in Column G and enter here. This is the amount of earnings that you must retain for the payday for which the calculations were made. The total of all amounts entered in Column I is the amount to be remitted to the attorney for the judgment creditor.

AFFIRMATION

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

Dated:

.....

Signature

.....

Title

.....

Telephone Number

EARNINGS DISCLOSURE WORKSHEET

.....

Judgment Debtor's Name

A

B

C

Payday Date

Gross Earnings

Disposable Earnings

1.

\$.....

\$.....

2.

.....

.....

3.

.....

.....

4.

.....

.....

5.

.....

.....

6.

.....

.....

7.

.....

.....

8.

.....

.....

9.

.....

.....

10.

.....

.....

| D 25% of Column C | E 40 X Min. Wage | F Column C minus Column E |
|-------------------------|---------------------|---------------------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |

| G Lesser of Column D and Column F | H Setoff, Lien, Adverse Interest, or Other Claims | I Column G minus Column H |
|--|--|---------------------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |

TOTAL OF COLUMN I \$

*If you entered any amount in Column H for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of these persons, and the nature of their claim, if known.

.....
.....

AFFIRMATION

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

Dated: Signature Title Phone Number (...)

Subd. 10. Notice of levy on earnings, disclosure, and worksheet for child support judgment. The attorney for the judgment creditor shall serve upon the judgment debtor's employer a notice of levy on earnings and an execution earnings disclosure form and an earnings disclosure worksheet with the writ of execution, that must be substantially in the form set forth below.

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
FILE NO.

..... (Judgment Creditor)
against NOTICE OF LEVY ON
EARNINGS AND DISCLOSURE
..... (Judgment Debtor)
and
..... (Third Party)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, sections 551.04 and 551.06, the undersigned, as attorney for the judgment creditor, hereby makes demand and levies execution upon all earnings due and owing by you (up to \$10,000) to the judgment debtor for the amount of the judgment specified below. A copy of the writ of execution issued by the court is enclosed. The unpaid judgment balance is \$.....

This levy attaches all unpaid nonexempt disposable earnings owing or to be owed by you and earned or to be earned by the judgment debtor before and within the pay period in which the writ of execution is served and within all subsequent pay periods whose paydays occur within the 70 days after the service of this levy.

In responding to this levy, you are to complete the attached disclosure form and worksheet and mail it to the undersigned attorney for the judgment creditor, together with your check payable to the above-named judgment creditor, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits set forth in the aforementioned statutes.

.....
Attorney for the Judgment Creditor

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

Address

(...)

Phone Number

DISCLOSURE
DEFINITIONS

"EARNINGS": For the purpose of execution, "earnings" means compensation paid or payable to an employee for personal services or compensation paid or payable to the producer for the sale of agricultural products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement, workers' compensation, or unemployment benefits.

"DISPOSABLE EARNINGS": Means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. (Amounts required by law to be withheld do not include items such as health insurance, charitable contributions, or other voluntary wage deductions.)

"PAYDAY": For the purpose of execution, "payday(s)" means the date(s) upon which the employer pays earnings to the debtor in the ordinary course of business. If the judgment debtor has no regular payday, payday(s) means the 15th and the last day of each month.

THE THIRD PARTY/EMPLOYER MUST ANSWER THE FOLLOWING QUESTION:

(1) Do you now owe, or within 70 days from the date the execution levy was served on you, will you or may you owe money to the judgment debtor for earnings?

Yes No

INSTRUCTIONS FOR COMPLETING THE
EARNINGS DISCLOSURE

A. If your answer to question 1 is "No," then you must sign the affirmation below and return this disclosure to the judgment creditor's attorney within 20 days after it was served on you, and you do not need to answer the remaining questions.

B. If your answer to question 1 is "Yes," you must complete this form and the Earnings Disclosure Worksheet as follows:

For each payday that falls within 70 days from the date the execution levy was served on you, YOU MUST calculate the amount of earnings to be retained by completing steps 2 through 8 on page 2, and enter the amounts on the Earnings Disclosure Worksheet. UPON REQUEST, THE

EMPLOYER MUST PROVIDE THE DEBTOR WITH INFORMATION AS TO HOW THE CALCULATIONS REQUIRED BY THIS DISCLOSURE WERE MADE.

Each payday, you must retain the amount of earnings listed in column G on the Earnings Disclosure Worksheet.

You must pay the attached earnings and return this earnings disclosure form and the Earnings Disclosure Worksheet to the judgment creditor's attorney and deliver a copy of the disclosure and worksheet to the judgment debtor within ten days after the last payday that falls within the 70-day period. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the expiration of the 70-day period, your disclosure and remittance should be made within ten days after the last payday for which earnings were attached.

For steps 2 through 8, "columns" refers to columns on the Earnings Disclosure Worksheet.

(2) COLUMN A. Enter the date of judgment debtor's payday.

(3) COLUMN B. Enter judgment debtor's gross earnings for each payday.

(4) COLUMN C. Enter judgment debtor's disposable earnings for each payday.

(5) COLUMN D. Enter either 50, 55, 60, or 65 percent of disposable earnings, based on which of the following descriptions fits the child support judgment debtor:

(a) 50 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(b) 55 percent of the judgment debtor's disposable income, if the judgment debtor is supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received);

(c) 60 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child and the judgment is 12 weeks old or less (12 weeks to be calculated to the beginning of the work week in which the execution levy is received); or

(d) 65 percent of the judgment debtor's disposable income, if the judgment debtor is not supporting a spouse or dependent child, and the judgment is over 12 weeks old (12 weeks to be calculated to the beginning of the work week in which the execution levy is received). (Multiply column C by .50, .55, .60, or .65, as appropriate.)

(6) COLUMN E. Enter here any amount claimed by you as a setoff, defense, lien, or claim, or any amount claimed by any other person as an exemption or adverse interest that would reduce the amount of earnings owing to the judgment debtor. (Note: Any indebtedness to you incurred within ten days prior to your receipt of the first execution levy on a debt may not be set off against the earnings otherwise subject to this levy. Any wage assignment made by the judgment debtor within ten days prior to your receipt of the first execution levy on a debt is void.)

You must also describe your claim(s) and the claims of others, if known, in the space provided below the worksheet and state the name(s) and address(es) of these persons.

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

(7) COLUMN F. Subtract the amount in column E from the amount in column D and enter here. This is the amount of earnings that you must remit for the payday for which the calculations were made.

AFFIRMATION

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

DATED:

Signature

Title

Telephone Number

EARNINGS DISCLOSURE WORKSHEET

Debtor's Name

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

| | | | |
|-----|-------|-------|-------|
| 1. | ..... | ..... | ..... |
| 2. | ..... | ..... | ..... |
| 3. | ..... | ..... | ..... |
| 4. | ..... | ..... | ..... |
| 5. | ..... | ..... | ..... |
| 6. | ..... | ..... | ..... |
| 7. | ..... | ..... | ..... |
| 8. | ..... | ..... | ..... |
| 9. | ..... | ..... | ..... |
| 10. | ..... | ..... | ..... |

TOTAL OF COLUMN F \$

*If you entered any amount in column E for any payday(s), you must describe below either your claims, or the claims of others. For amounts claimed by others, you must both state the names and addresses of such persons, and the nature of their claim, if known.

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

AFFIRMATION

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

.....
Signature

Dated: (...)
Title Phone Number

Subd. 11. **Postexecution notice to judgment debtor.** The attorney for the judgment creditor shall serve by mail upon the judgment debtor not later than five days after service is made on the judgment debtor's employer, a copy of the writ of execution and copies of all other papers served on the judgment debtor's employer.

Subd. 12. **Third-party disclosure and remittance obligation.** If there are no attachable earnings, the third party shall serve the execution earnings disclosure form upon the attorney for the judgment creditor within 20 days after service of the writ of execution. However, if the judgment debtor has attachable earnings, the third party shall serve the execution earnings disclosure form upon both the attorney for the judgment creditor and the judgment debtor and remit to the attorney for the judgment creditor the attached earnings within ten days of the last payday to occur within the 70 days after the date of the service of the writ of execution. If the judgment is wholly satisfied or if the judgment debtor's employment ends before the

expiration of the 70-day period, the disclosure and remittance should be made within ten days after the last payday for which earnings were attached. The amount of the third party's execution earnings disclosure form and remittance need not exceed 100 percent of the amount of the judgment creditor's judgment that remains unpaid, after subtracting the total of setoffs, defenses, exemption, or other adverse interests. If the disclosure is by a corporation, it shall be made by an officer or an authorized agent having knowledge of the facts.

Subd. 13. Penalty for retaliation for execution. (a) An employer shall not discharge or otherwise discipline an employee as a result of an earnings levy authorized by this chapter.

(b) If an employer violates this section, a court may order the reinstatement of an aggrieved party who demonstrates a violation of this section, and other relief the court considers appropriate. The aggrieved party may bring a civil action within 90 days of the date of the prohibited action. If an employer-employee relationship existed before the violation of this section, the employee shall recover twice the wages lost as a result of this violation.

(c) The rights guaranteed by this section are not subject to abridgment and may not be altered by employment contract.

Subd. 14. Public employees, levy on earnings. The salary or earnings of any public employee or officer may be levied upon pursuant to this chapter. Where the person is an officer, the writ shall be served upon the auditor, treasurer, or clerk of the subdivision or department of which the person is an officer. Where the person is an employee other than an officer, the writ must be served upon the person in charge of the office or department in which the employee works.

When payment has been made pursuant to levy, a copy of the execution with certificate of satisfaction shall be delivered to the treasurer as a voucher for such payment.

History: 1990 c 606 art 2 s 6; 1991 c 156 s 17,18; 1993 c 156 s 10-12; 1994 c 488 s 8; 1997 c 203 art 6 s 92; 1999 c 107 s 66; 1999 c 159 s 145; 2000 c 343 s 4; 2000 c 405 s 15,16; 2005 c 164 s 29; 1Sp2005 c 7 s 28