

4-808. Notice of right to claim exemptions (*garnishment*).

[For use with Rules 1-065.2, 2-802, and 3-802 NMRA]

STATE OF NEW MEXICO

COUNTY OF _____

[IN THE [DISTRICT] [MAGISTRATE] [METROPOLITAN] COURT]

[_____ JUDICIAL DISTRICT]

_____, Plaintiff

v. _____ No. _____

_____, Defendant

NOTICE OF RIGHT TO CLAIM EXEMPTIONS (GARNISHMENT)

1. THE JUDGMENT CREDITOR IS GARNISHING YOUR PROPERTY, WHICH MAY INCLUDE YOUR BANK ACCOUNT:

A ruling has been made in this case that you owe money to the judgment creditor. The judgment creditor has started to collect that money from your property, which may include your bank account.

2. PURPOSE OF THIS NOTICE:

This notice is to tell you that some kinds of property or money may NOT be taken from you even after the court has ruled that you owe the judgment creditor money. These funds or property are protected under federal or state law. Money or property that may not be taken is called “exempt” property. You may claim an exemption by filing with the court a claim of exemption (*garnishment*) form. There are limits on how much of your wages may be taken. You do not need to file a claim of exemption form to protect your exempt wages.

Here is a list of some exempt money and property. Other kinds of money or property not listed may also be exempt. YOU MAY WISH TO CONSULT AN ATTORNEY BEFORE COMPLETING AND FILING THIS FORM.

3. PARTIAL LIST OF EXEMPTIONS:

- a. social security benefits (OASDI, SSI);
- b. public assistance benefits such as medicaid, medicare, food stamps, or other aid from a government public assistance program;
- c. life, accident, or health insurance proceeds;
- d. workers’ compensation awards (*part may be garnished for child or spousal support*);
- e. occupational health benefits;
- f. unemployment compensation benefits subject to the limitations of Section 51-1-37 NMSA 1978;
- g. veterans’ benefits;
- h. pensions and retirement funds;

- i. crime victims' reparation fund payments;
- j. a family allowance to a decedent's surviving spouse and children, subject to the limitations of Sections 45-2-401 and 45-2-402 NMSA 1978;
- k. the minimum amount of shares necessary for certain cooperative associations as provided by Section 53-4-28 NMSA 1978;
- l. fraternal benefit society payments;
- m. oil and gas equipment not financed by the judgment creditor to be used for purposes for which it was purchased as provided by Section 70-4-12 NMSA 1978;
- n. the aggregate of two thousand four hundred dollars (\$2,400) held in a depository or investment account;
- o. a health savings account that would qualify for tax exemptions under 26 U.S.C. Section 223 or any similar health savings account;
- p. an educational savings account that would qualify for tax exemptions under 26 U.S.C. Section 529 or any similar educational savings account;
- q. any refundable tax credit payments from the Internal Revenue Service (IRS) or the New Mexico Taxation and Revenue Department;
- r. alimony, family, or domestic support or separate maintenance to the extent reasonably necessary for the support of the person or any dependent of the person;
- s. payment under a stock bonus, pension, profit-sharing individual retirement account, annuity, or similar plan or contract on account of illness, disability, death, or length of service, to the extent reasonably necessary for the support of the person or any dependent of the person, unless such plan or contract does not qualify under Section 401(a), 403(a), 403(b), or 408 of the Internal Revenue Code of 1986;
- t. exempt wages as defined by Section 35-12-7 NMSA 1978;
- u. any stimulus payment held by or payable to the person or the person's dependents in any form;
- v. an interest in or proceeds from a pension, individual retirement account, annuity, profit-sharing plan, and any other retirement account.

4. HOW TO PROTECT EXEMPT PROPERTY:

A "claim of exemption (*garnishment*)" form is attached for you to complete and file with the court. YOU MUST COMPLETE AND RETURN THE ATTACHED CLAIM OF EXEMPTIONS (*GARNISHMENT*) FORM TO THE CLERK OF THE COURT WITHIN TEN (10) DAYS AFTER SERVICE OF THIS NOTICE ON YOU. YOU MUST ALSO SERVE A COPY OF THE COMPLETED AND SIGNED CLAIM OF EXEMPTIONS (*GARNISHMENT*) FORM ON THE JUDGMENT CREDITOR AND ON THE GARNISHEE.

If the judgment creditor disputes a claimed exemption, the clerk or the judge will notify you of the date and time for a court hearing on your claim. If you dispute the amount of garnishment by the garnishee, you must file with the clerk a Notice of Dispute and Request for Hearing form. You must go to that hearing and explain why your money or property is exempt. You must bring to the hearing any proof that your money or property is exempt.

If you do not complete and file the claim of exemptions (*garnishment*) form within ten (10) days and attend the hearing, your money or property may be turned over to the

judgment creditor.

YOU SHOULD COMPLETE AND RETURN THE CLAIM OF EXEMPTION FORM TO THE CLERK OF THE COURT WITHIN TEN (10) DAYS AFTER SERVICE OF THIS FORM ON YOU. MAKE A COPY OF THE COMPLETED FORM FOR YOUR RECORDS AND SERVE A COPY ON THE JUDGMENT CREDITOR AND ON THE GARNISHEE.

USE NOTES

1. If you dispute the amount of garnishment by the garnishee, you must file with the clerk a Notice of Dispute and Request for Hearing form.
2. Use this form only for actions filed on or after July 1, 2023.

[As amended, effective July 1, 1992; January 1, 1996; December 3, 2001; as amended by Supreme Court Order No. S-1-RCR-2024-00107, effective for all cases pending or filed on or after December 31, 2024.]