

4-808A. Notice of right to claim exemptions from execution.

[For use with District, Magistrate, and
Metropolitan Court Rules of Civil Procedure
Rules 1-065.1, 2-801, and 3-801 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 FROM EXECUTION

1. THE JUDGMENT CREDITOR (IS SEIZING) (HAS A RIGHT TO SEIZE)¹ YOUR PROPERTY

A ruling has been made in this case that you owe money to the judgment creditor. The judgment creditor may collect that money from seizure and sale of your property. (Before the judgment creditor has the sheriff seize your property, you may have a right to claim exemptions of certain property.)

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. This property is protected under state law. The property which may not be taken is called "exempt property."

YOU MUST FILE A CLAIM OF EXEMPTION FORM TO CLAIM ANY EXEMPT PROPERTY. YOU MAY WISH TO CONSULT WITH AN ATTORNEY BEFORE COMPLETING AND FILING THE CLAIM OF EXEMPTION FORM.

Here is a list of some exempt money and property. Other kinds of money or property not listed may also be exempt.

3. PARTIAL LIST OF EXEMPTIONS FROM EXECUTION.

Part I. Homestead exemption.

(This exemption may only be used in the district court.)

A judgment debtor who owns, leases, or is purchasing a dwelling occupied by the judgment debtor is entitled to hold as exempt property a homestead in the amount of one hundred fifty thousand dollars (\$150,000) under Section 42-10-9 NMSA 1978.

Part II. Exemption in lieu of homestead exemption.

(Parts II and III are for use in the district court, magistrate court, and metropolitan court.)

Residents of this state who do not claim a homestead exemption are entitled to an exemption of real or personal property in the amount of fifteen thousand dollars (\$15,000) under Section 42-10-10 NMSA 1978. You may not claim this exemption if you claimed a homestead exemption above.

Part III. Personal property exemptions.

In addition to the property claimed as exempt above, judgment debtors are entitled to claim certain personal property exemptions. Most of those exemptions are listed below:

- a. your aggregate interest in household goods and furnishings, not exceeding a value of seventy-five thousand dollars (\$75,000);
- b. your aggregate interest in motor vehicles, not exceeding ten thousand dollars (\$10,000) in value;
- c. your interest in a wedding band and an engagement ring, and your interest in additional jewelry held primarily for your use, the use of your spouse, or any dependent of yours, with an aggregate value not exceeding five thousand dollars (\$5,000) for that additional jewelry;
- d. your aggregate interest in, or the interest of any relative of yours, in any artwork, with an aggregate value not exceeding a value of two thousand five hundred dollars (\$2,500) in the aggregate;
- e. your aggregate interest in tools, equipment, implements, professional books, instruments, inventory, supplies, and materials reasonably necessary for use in your trade, profession, or occupation, or that of your spouse not exceeding fifteen thousand dollars (\$15,000);
- f. pension or retirement funds;
- g. not more than fifty thousand dollars (\$50,000) in benefits from a benevolent association of which the judgment debtor is a member;

- h. veteran's benefits;
- i. building materials not financed by the judgment creditor in this action as provided by Section 48-2-15 NMSA 1978;
- j. worker's compensation benefits subject to the limitations of Section 52-1-52 NMSA 1978;
- k. occupational health benefits as provided by Section 52-3-37 NMSA 1978;
- l. unemployment compensation benefits subject to the limitations of Section 51-1-37 NMSA 1978 for necessities furnished while the debtor was unemployed and child support;
- m. public benefits such as medicaid, medicare, food stamps, or other aid from a government public assistance program;
- n. cash surrender values and benefits of life insurance contracts;
- o. payment from life, accident, and health insurance policies or annuity contracts;
- p. crime victims' reparation fund payments;
- q. fraternal benefit society benefits;
- r. the minimum amount of shares necessary for certain cooperative associations subject to the limitations provided by Section 53-4-28 NMSA 1978;
- s. the debtor's membership interest in the property of a club or association under Section 53-10-2 NMSA 1978;
- t. 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;
- u. allowances to surviving spouse and children from estate of a deceased estate subject to the limitations of Sections 45-2-401 and 45-2-402 NMSA 1978;
- v. a health savings account that would qualify for tax exemptions under 26 U.S.C. Section 223 or any similar health savings account;
- w. an educational savings account that would qualify for tax exemptions under 26 U.S.C. Section 529 or any similar educational savings account;

- x. an individual retirement account that would qualify for tax exemptions under 26 U.S.C. Section 408 or any similar individual retirement account;
- y. 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;
- z. any refundable tax credit payments from the Internal Revenue Service (IRS) or the New Mexico Taxation and Revenue Department;
- aa. exempt wages as defined by Section 35-12-7 NMSA 1978;
- ab. any stimulus payment held by or payable to the person or the person's dependents in any form;
- ac. the aggregate of not more than two thousand four hundred dollars (\$2,400) held in any bank account by or for your benefit;
- ad. interests in personal property worth up to fifteen thousand dollars (\$15,000), tangible or intangible, not otherwise specified in this subsection, including any deposits in financial or investments accounts or personal property that exceeds the monetary limits set forth in this section.

You may not claim an exemption for personal property which is subject to a security interest under the Uniform Commercial Code given to the judgment creditor.

4. HOW TO PROTECT EXEMPT PROPERTY.

The sheriff may not seize your personal clothing, furniture, and books or any jewelry unless the total value of each category exceeds the values specified above or in state law. For other property, you must claim an exemption or it may be seized and sold. A claim of exemptions on execution form is attached for you to complete and file with the court.

YOU MUST COMPLETE AND RETURN THE ATTACHED CLAIM OF EXEMPTIONS ON EXECUTION 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 ON EXECUTION FORM ON THE JUDGMENT CREDITOR.

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. 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 on execution form within ten (10) days and attend the hearing, your property may be seized and sold by the sheriff.

FAILURE TO COMPLETE AND FILE A CLAIM OF EXEMPTIONS ON EXECUTION FORM WITHIN TEN (10) DAYS AND SERVE A COPY ON THE JUDGMENT CREDITOR WILL RESULT IN THE LOSS OF YOUR RIGHT TO CLAIM AN EXEMPTION.

(The following proof of service may be used ONLY if the judgment debtor has entered an appearance in the case.)

AFFIDAVIT OF SERVICE

I declare, under penalty of perjury, that this notice, a claim of exemptions on execution form and a copy of the judgment in the above cause of action were mailed on the _____ day of _____, _____ from _____ (street address or post office branch) in _____, New Mexico.

Signature

Date of signature

(If the judgment debtor has not entered an appearance, personal service of this notice must be made on the judgment debtor and the following Return of Service must be completed and filed with the court.)

RETURN

STATE OF NEW MEXICO)

) ss

COUNTY OF _____)

(check one box and fill in appropriate blanks)

[] I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served the notice of right to claim exemptions (executions) and a claim of exemptions on execution form (*in said county*) (*in* _____ County) on the _____ day of _____, _____,

by delivering a copy thereof, with copy of the judgment attached, in the following manner:

(check only if service by sheriff or deputy)

☐ I certify that I served the Notice of Right to Claims Exemptions (*Execution*) *(in said county)* (in _____ County) on the _____ day of _____, _____, by delivering a copy thereof, with copy of judgment attached in the following manner:

(check one box and fill in appropriate blanks)

☐ to defendant _____

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, who at the time of such service was absent therefrom. Abode located at _____.

☐ by posting a copy of the Notice of Right to Claim Exemptions in the most public part of the premises of defendant _____ (*used if no person found at dwelling house or usual place of abode*). Abode located at _____.

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, (*parent*) (*guardian*) of defendant _____ (*used when defendant is a minor or an incompetent person*).

☐ after due diligence I was unable to serve this notice.

Fees: _____

Signature of person making service

Title (*if any*)

Subscribed and sworn² to
before me this _____
day of _____, _____

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTES

1. Strike out the inapplicable alternative.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy need not be notarized.
3. Use this form only for actions filed on or after July 1, 2023.

[As amended, effective January 1, 1993; May 1, 1994; January 1, 1996; as amended by Supreme Court Order No. 09-8300-030, effective October 12, 2009; 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.]