

1 **4-808. Notice of right to claim exemptions (*garnishment*).**

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

4  
5 STATE OF NEW MEXICO  
6 COUNTY OF \_\_\_\_\_  
7 [IN THE [DISTRICT] [MAGISTRATE] [METROPOLITAN] COURT]  
8 [\_\_\_\_\_ JUDICIAL DISTRICT]

9  
10 \_\_\_\_\_, Plaintiff

11  
12 v. No. \_\_\_\_\_

13  
14 \_\_\_\_\_, Defendant

15  
16 **NOTICE OF RIGHT TO CLAIM EXEMPTIONS (GARNISHMENT)**

17  
18 **1. THE JUDGMENT CREDITOR IS GARNISHING YOUR PROPERTY, WHICH**  
19 **MAY INCLUDE YOUR BANK ACCOUNT:**

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

23  
24 **2. PURPOSE OF THIS NOTICE:**

25 This notice is to tell you that some kinds of property or money may NOT be taken from you even  
26 after the court has ruled that you owe the judgment creditor money. These funds or property are  
27 protected under federal or state law. Money or property that may not be taken is called “exempt”  
28 property. You may claim an exemption by filing with the court a claim of  
29 exemption (*garnishment*) form. There are limits on how much of your wages may be taken. You  
30 do not need to file a claim of exemption form to protect your exempt wages.  
31 Here is a list of some exempt money and property. Other kinds of money or property not listed  
32 may also be exempt. YOU MAY WISH TO CONSULT AN ATTORNEY BEFORE  
33 COMPLETING AND FILING THIS FORM.

34  
35 **3. PARTIAL LIST OF EXEMPTIONS:**

- 36  
37 a. social security benefits (OASDI, SSI);  
38 b. public assistance benefits [~~(AFDC, welfare, GA)~~] such as medicaid, medicare, food  
39 stamps, or other aid from a government public assistance program;  
40 c. life, accident, or health insurance proceeds;  
41 d. workers’ compensation [~~benefits~~] awards (*part may be garnished for child or*  
42 *spousal support*);  
43 e. occupational health benefits;  
44 f. unemployment compensation benefits subject to the limitations of Section 51-1-  
45 37 NMSA 1978;  
46 g. veterans’ benefits;

- 1 h. pensions ~~[or]~~ and retirement funds;  
2 ~~[i.] a partner's interest in specific partnership property subject to the limitations of~~  
3 ~~Section 54-1-25 NMSA 1978 [repealed];]~~  
4 ~~[j.] i.~~ crime victims' reparation fund payments;  
5 ~~[k.] j.~~ a family allowance to a decedent's surviving spouse and children, subject to the  
6 limitations of Sections 45-2-401 and 45-2-402 NMSA 1978;  
7 ~~[l.] k.~~ the minimum amount of shares necessary for certain cooperative associations as  
8 provided by Section 53-4-28 NMSA 1978;  
9 ~~[m.] l.~~ fraternal benefit society payments;  
10 ~~[n.] m.~~ oil and gas equipment not financed by the judgment creditor to be used for purposes  
11 for which it was purchased as provided by Section 70-4-12 NMSA 1978~~[-]~~;  
12 n. the aggregate of two thousand four hundred dollars (\$2,400) held in a depository or  
13 investment account;  
14 o. a health savings account that would qualify for tax exemptions under 26 U.S.C.  
15 Section 223 or any similar health savings account;  
16 p. an educational savings account that would qualify for tax exemptions under 26  
17 U.S.C. Section 529 or any similar educational savings account;  
18 q. any refundable tax credit payments from the Internal Revenue Service (IRS) or the  
19 New Mexico Taxation and Revenue Department;  
20 r. alimony, family, or domestic support or separate maintenance to the extent  
21 reasonably necessary for the support of the person or any dependent of the person;  
22 s. payment under a stock bonus, pension, profit-sharing individual retirement account,  
23 annuity, or similar plan or contract on account of illness, disability, death, or length of service, to  
24 the extent reasonably necessary for the support of the person or any dependent of the person, unless  
25 such plan or contract does not qualify under Section 401(a), 403(a), 403(b), or 408 of the Internal  
26 Revenue Code of 1986;  
27 t. exempt wages as defined by Section 35-12-7 NMSA 1978;  
28 u. any stimulus payment held by or payable to the person or the person's dependents  
29 in any form;  
30 v. an interest in or proceeds from a pension, individual retirement account, annuity,  
31 profit-sharing plan, and any other retirement account.  
32

#### 33 4. HOW TO PROTECT EXEMPT PROPERTY:

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

41 If the judgment creditor disputes a claimed exemption, the clerk or the judge will notify you of the  
42 date and time for a court hearing on your claim. If you dispute the amount of garnishment by the  
43 garnishee, you must file with the clerk a Notice of Dispute and Request for Hearing form. You  
44 must go to that hearing and explain why your money or property is exempt. You must bring to the  
45 hearing any proof that your money or property is exempt.  
46 If you do not complete and file the claim of exemptions (*garnishment*) form within ten (10) days

1 and attend the hearing, your money or property may be turned over to the judgment creditor.  
2 [~~DO NOT FILE THE CLAIM OF EXEMPTION FORM TO PROTECT ONLY WAGES.~~]

3  
4 **YOU SHOULD COMPLETE AND RETURN THE CLAIM OF EXEMPTION FORM TO**  
5 **THE CLERK OF THE COURT WITHIN TEN (10) DAYS AFTER SERVICE OF THIS**  
6 **FORM ~~[UPON]~~ ON YOU. MAKE A COPY OF THE COMPLETED FORM FOR YOUR**  
7 **RECORDS AND SERVE A COPY ON THE JUDGMENT CREDITOR AND ON THE**  
8 **GARNISHEE.**

9  
10 USE NOTES

11  
12 1. If you dispute the amount of garnishment by the garnishee, you must file with the  
13 clerk a Notice of Dispute and Request for Hearing form.

14 2. Use this form only for actions filed on or after July 1, 2023.

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