

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 NMSA 1978, Section 51-1-37 [~~NMSA 1978~~];
- g. veterans’ benefits;
- h. pensions and retirement funds;

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

29
30 **4. EXEMPTION FROM GARNISHMENT OF JUDGMENT FOR MEDICAL DEBT:**
31 If the underlying judgment in this case was a cause of action to recover a judgment for medical debt
32 under the Patients' Debt Collection Protection Act, NMSA 1978, Sections 57-32-1 to 57-32-10,
33 Section 57-32-4(A) bars collection actions, including writs of garnishment, against patients who
34 are indigent at the time the collection action is brought.
35

36 **[4.] 5. HOW TO PROTECT EXEMPT PROPERTY:**

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

44 If the judgment creditor disputes a claimed exemption, the clerk or the judge will notify you of the
45 date and time for a court hearing on your claim. If you dispute the amount of garnishment by the
46 garnishee, you must file with the clerk a Notice of Dispute and Request for Hearing form. You

1 must go to that hearing and explain why your money or property is exempt. You must bring to the
2 hearing any proof that your money or property is exempt.
3 If you do not complete and file the claim of exemptions (*garnishment*) form within ten (10) days
4 and attend the hearing, your money or property may be turned over to the judgment creditor.
5

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

10
11 USE NOTES
12

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

15 2. Use this form only for actions filed on or after July 1, 2023.
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17 [As amended, effective July 1, 1992; January 1, 1996; December 3, 2001; as amended by Supreme
18 Court Order No. S-1-RCR-2024-00107, effective for all cases pending or filed on or after
19 December 31, 2024; as amended by Supreme Court Order No. S-1-RCR-2025-00174, effective
20 for all cases pending or filed on or after December 31, 2025.]