

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 40

*An Act to amend and reenact §§ 8.01-512.3 and 8.01-512.4 of the Code of Virginia, relating to garnishments.*

[H 247]

Approved March 7, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-512.3 and 8.01-512.4 of the Code of Virginia are amended and reenacted as follows:**

§ 8.01-512.3. Form of garnishment summons.

Any garnishment issued pursuant to § 8.01-511 shall be in the following form:

(a) Front side of summons:

GARNISHMENT SUMMONS

(Court Name)

(Name ~~and~~ , address and telephone number of judgment creditor)

(Name, address and telephone number of judgment creditor's attorney)

(Name, street address and social security number of judgment debtor)

(Name and street address of garnishee)

..... Hearing Date and Time

MAXIMUM PORTION OF

STATEMENT

DISPOSABLE EARNINGS SUBJECT

Judgment Principal \$...

TO GARNISHMENT

Credits \$...

Interest \$...

[ ] Support

Judgment Costs \$...

[ ] 50% [ ] 55% [ ] 60% [ ] 65%

Attorney's Fees \$...

(if not specified, then 50%)

Garnishment Costs \$...

[ ] state taxes, 100%

If none of the above are

TOTAL BALANCE DUE \$...

checked, then § 34-29 (a)

The garnishee shall  
rely on this amount.

(printed on the reverse side  
of this summons) applies.

.....

Date of Judgment

TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to

(1) File a written answer with this court, or

(2) Deliver payment to this court, or

(3) Appear before this court on the return date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations:

(1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons.

(2) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.

If a garnishment summons is served on an employer having 1,000 or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commissions or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

.....  
Date of Issuance of Summons

.....  
Clerk

.....  
Date of delivery of writ of fieri facias to sheriff if different from date of issuance of this summons.

(b) A verbatim copy of § 34-29 shall be printed on the reverse side of the summons.

§ 8.01-512.4. Notice of exemptions from garnishment.

No summons in garnishment shall be issued or served unless a notice of exemptions and claim for exemption form are attached. The notice shall contain the following statement:

**NOTICE TO JUDGMENT DEBTOR**

**HOW TO CLAIM EXEMPTIONS FROM GARNISHMENT**

The attached Summons in Garnishment has been issued on request of a creditor who holds a judgment against you. The Summons may cause your property or wages to be held or taken to pay the judgment.

The law provides that certain property and wages cannot be taken in garnishment. Such property is said to be exempted. A summary of some of the major exemptions is set forth in the request for hearing form. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should (i) fill out the claim for exemption form and (ii) deliver or mail the form to the clerk's office of this court. You have a right to a hearing within seven business days from the date you file your claim with the court. If the creditor is asking that your wages be withheld, the method of computing the amount of wages which are exempt from garnishment by law is indicated on the Summons in Garnishment attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld you may file a claim for exemption.

On the day of the hearing you should come to court ready to explain why your property is exempted, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

**REQUEST FOR HEARING-GARNISHMENT EXEMPTION CLAIM**

I claim that the exemption(s) from garnishment which are checked below apply in this case:

**MAJOR EXEMPTIONS UNDER FEDERAL AND STATE LAW**

- .... 1. Social Security benefits and Supplemental Security Income (SSI) (42 U.S.C. § 407).
- .... 2. Veterans' benefits (38 U.S.C. § 3101).
- .... 3. Federal civil service retirement benefits (5 U.S.C. § 8346).
- .... 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- .... 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- .... 6. Black lung benefits.

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

.... 7. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C. § 1109).

.... 8. Unemployment compensation benefits (§ 60.2-600, Code of Virginia).

This exemption may not be applicable in child support cases (§ 60.2-608, Code of Virginia).

.... 9. Portions or amounts of wages subject to garnishment (§ 34-29, Code of Virginia).

.... 10. Public assistance payments (§ 63.1-88, Code of Virginia).

.... 11. Homestead exemption of \$5,000 in cash (§ 34-4, Code of Virginia). This exemption may not be available in certain cases, such as payment of rent or services of a laborer or mechanic (§ 34-5, Code of Virginia).

.... 12. Property of disabled veterans - additional \$2,000 cash (§ 34-4.1, Code of Virginia).

.... 13. Workers' Compensation benefits (§ 65.2-531, Code of Virginia).

.... 14. Growing crops (§ 8.01-489, Code of Virginia).

.... 15. Benefits from group life insurance policies (§ 38.2-3339, Code of Virginia).

.... 16. Proceeds from industrial sick benefits insurance (§ 38.2-3549, Code of Virginia).

.... 17. Assignments of certain salary and wages (§ 55-165, Code of Virginia).

.... 18. Benefits for victims of crime (§ 19.2-368.12, Code of Virginia).

.... 19. Preneed funeral trusts (§ 54.1-2823, Code of Virginia).

.... 20. *Certain retirement benefits* (§ 34-34, Code of Virginia).

.... 21. Other (describe exemption): \$.....

I request a court hearing to decide the validity of my claim. Notice of the hearing should be given me at:

.....  
(address)

.....  
(telephone no.)

The statements made in this request are true to the best of my knowledge and belief.

.....  
(date)

.....  
(signature of judgment debtor)