

## GARNISHMENT

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### CHAPTER 131.

[H. B. No. 355—Kneeland]

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#### GARNISHMENT PROCEEDINGS.

AN ACT to Amend Section 8405 of the Revised Codes of 1905, Relating to Garnishment Proceedings in Justice Courts.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 8405 of the revised codes of 1905 of the state of North Dakota is hereby amended to read as follows:

§ 8405. WHEN COURT MAY RENDER JUDGMENT.] If any garnishee having been duly summoned, unless he shall have demanded his witness fees and the same shall not have been tendered, shall fail to appear and answer or to file his affidavit as required by the garnishee summons, the court may render judgment against him as provided in section 6977; provided, however, that a plaintiff electing to take issue upon the affidavit of the garnishee must at the time fixed for appearance and answer, file with the justice a written notice to that effect, whereupon said justice shall, unless the parties to said issue agree to at once go to trial thereon, adjourn said garnishee action for not less than three nor more than ten days, and issue a notice to said garnishee of the time and place to which said action is adjourned, and that said issue will then and there be tried, which said notice shall be served upon said garnishee in the same manner as required for service of summons in justice court, at which adjourned time proceeding may be as provided in section 6979. If a defendant desire to defend the garnishment proceedings upon the ground that the indebtedness or property involved is exempt from execution, or any other ground contemplated in section 6981, such defense may be interposed at the time fixed for the garnishee's appearance; provided, that if said defense is on the ground that such property or indebtedness is exempt from execution, said defendant shall, within three days after the service of the garnishment summons upon him, have filed in the justice court in which said action is pending a schedule of his personal property made and sworn to as provided in section 7119. The justice may also order an inter-pleader as provided in section 6983, and adjourn said action for hearing thereof to a date not less than three, nor more than ten days after the date fixed for appearance and answer in said

garnishee action and issue notice to the claimant described in said section 6983, of the time and place of said adjournment, and that he shall then and there defend his claim, if any, to the money or property held in garnishment, which said notice shall be served upon said claimant in the same manner as required for the service of summons in justice court.

Approved March 12, 1909.

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## CHAPTER 132.

[H. B. No. 100—Chatfield]

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### GARNISHMENT SUMMONS.

AN ACT to Amend Section 8403 of the 1905 Revised Codes of North Dakota, Relating to Service of Garnishment Summons.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 8403 of the 1905 revised codes of North Dakota is amended to read as follows:

§ 8403. HOW SUMMONS SHALL BE SERVED.] The garnishment summons and annexed affidavit shall be served as provided in sections 6971 and 6972, except that the service upon the garnishee must be made not less than seven nor more than fifteen days before the time specified in the garnishment summons for his appearance before the justice, and the service upon the defendant or his attorney must be made within four days after service upon the garnishee; provided, that when a second summons is issued and served by publication, or personally outside of the state, it shall not be necessary to serve the garnishment summons or affidavit upon the defendant or his attorney. It shall not be necessary for the plaintiff to serve upon the garnishee any copy of the complaint in the action. When the garnishment summons is served upon the garnishee he may demand his travelling fees and fee for one day's attendance, and if the same be not paid or tendered to him he shall not be obliged to appear and answer or file any affidavit or be otherwise liable as a garnishee in the action. Such fees shall be the same as witness' fees in justice's court.

Approved March 11, 1909.