Fifty-ninth Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 4, 2005

SENATE BILL NO. 2378 (Senators Dever, Lyson, Syverson) (Representatives Dosch, L. Meier, Weiler)

AN ACT to amend and reenact section 32-09.1-09 of the North Dakota Century Code, relating to the garnishment disclosure form.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-09.1-09 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-09. Disclosure. Within the time as limited, the garnishee shall serve upon the plaintiff or the plaintiff's attorney written answers, under oath, to the questions in the garnishment disclosure form and to any written interrogatories that are served upon the garnishee. The amount of the garnishee's disclosure need not exceed one hundred ten percent of the amount of the plaintiff's judgment which remains unpaid, after subtracting the total of setoffs, defenses, exemptions, ownerships, or other interests. The written answers may be served personally or by mail. If disclosure is by a corporation or limited liability company, it must be verified by some officer, manager, or agent having knowledge of the facts. Disclosure must state:

- 1. The amount of disposable earnings earned or to be earned within the defendant's pay periods which may be subject to garnishment and all of the garnishee's indebtedness to the defendant.
- Whether the garnishee held, at the time, the title or possession of or any interest in any personal property or any instruments or papers relating to any property belonging to the defendant or in which the defendant is interested. If the garnishee admits any interest or any doubt respecting the interest, the garnishee shall set forth a description of the property and the facts concerning the property and the title, interest, or claim of the defendant in or to the property.
- 3. If the garnishee claims any setoff or defense or claim or lien to disposable earnings, indebtedness, or property, the garnishee shall disclose the amount and the facts.
- 4. Whether the defendant claims any exemption from execution or any other objection, known to the garnishee or the defendant, against the right of the plaintiff to apply upon demand the debt or property disclosed.
- 5. If other persons make claims to any disposable earnings, debt, or property of the defendant, the garnishee shall disclose the names and addresses of the other claimants and, so far as known, the nature of their claims.

A garnishment disclosure form must be served upon the garnishee. The disclosure must be substantially in the following form:

State of North Dakota)) ss.	In	Court
County of)		
	Plaintiff		
VS.			

		Defendant
and		Garnishment Disclosure
		Garnishee
I ar garnishe		of the garnishee and duly authorized to disclose for the
On garnishe	e, ther	,, the time of service of garnishee summons on the e was due and owing the defendant from the garnishee the following:
1.	for per and i does except supporting "Dispt the digarnicomp	ngs. For the purposes of garnishment, "earnings" means compensation payable ersonal service whether called wages, salary, commission, bonus, or otherwise, ncludes periodic payments under a pension or retirement program. "Earnings" not include social security benefits or veterans' disability pension benefits, or when the benefits are subject to garnishment to enforce any order for the ort of a dependent child. "Earnings" includes military retirement pay, osable earnings" means that part of the earnings of an individual remaining after eduction from those earnings of amounts required by law to be withheld. If the shee summons was served upon you at a time when earnings from a prior eleted pay period were owing but not paid, complete the following disclosure for ngs from both the past pay period and the current pay period.
	a.	Enter on the line below the amount of disposable earnings earned or to be carned by the defendant within the defendant's pay periods which may be subject to garnishment.
	b.	Enter on the line below forty times the hourly federal minimum wage times the number of workweeks within the defendant's pay periods which may be subject to garnishment. When pay periods consist of other than a whole number of workweeks, each day of a pay period in excess of the number of completed workweeks must be counted as a fraction of a workweek equal to the number of workdays divided by the number of workdays in the normal workweek.
	e.	Enter on the line below the difference obtained (never less than zero) when line b is subtracted from line a. If the amount is zero, skip lines d through g and enter zero on line h.
	d.	Enter on the line below 25 percent of line a.
	e.	Enter on the line below the lesser of line c and line d.
	f.	Enter on the line below the number of dependent family members living with the defendant (if properly claimed within ten days after receipt of the garnishee summons).

g.	times twenty dollars times the number of workweeks used to compute line b.
h.	Enter on the line below the difference (never less than zero) when line g is subtracted from line e.
	ey. Enter on the line below any amounts due and owing defendant, exceptings, from the garnishee.
Proposition Propos	erty. Describe on the line below any personal property, instruments, or papers ging to the defendant and in the possession of the garnishee.
and (enter garni by w garni	f. If the amount set forth on lines 1(h), 2, and 3 is zero, skip lines 5 through 8 go to line 9. If the amount set forth on lines 1(h), 2, and 3 is more than zero, on the line below the amount of any setoff, defense, lien, or claim which the shee claims against the amount set forth on lines 1(h), 2, and 3. Allege the facts hich the setoff, defense, lien, or claim is claimed. (Any indebtedness to a shee-employer incurred by the judgment debtor within ten days before the of the first garnishment on a debt is void and should be disregarded.)
reason name of we	rse Interest. Enter on the line below any amounts claimed by other persons by on of ownership or interest in the defendant's property. State each person's and address and the nature of that person's claim, if known. (Any assignment ages made by the defendant within ten days before the receipt of the first shment on a debt is void and should be disregarded.)
Enter	on the line below the total of lines 4 and 5.
	on the line below the difference obtained (never less than zero) when line 6 is acted from the sum of lines 1(h), 2, and 3.
	on the line below 110 percent of the amount of the judgment creditor's judgment remains unpaid.
the a	amount set forth on lines 1(h), 2, and 3 is zero, enter zero on the line below. If mount set forth on lines 1(h), 2, and 3 is more than zero, enter on the line below esser of line 7 and line 8. As garnishee, you are hereby instructed to retain this int only if it is \$10.00 or more.

10. If this form was completed for the plaintiff for the immediately preceding pay period and the amount on line 9 was less than \$10.00, the answers to disclosure for the immediately preceding pay period remain in effect and the garnishee is not required to answer the questions in the garnishment disclosure for subsequent pay periods until the amount on line 9 is \$10.00 or more. Adverse interest and setoff. Any setoff, defense, lien, or claim by the garnishee or other persons by reason of ownership or interest in the defendant's property. You must state the name and address and the nature of that person's claim if known. (Any assignment of wages made by the defendant or any indebtedness to a garnishee within ten days before the receipt of the first garnishment on a debt is void and should be disregarded.) Dependent. Any family member of the defendant who is residing in the defendant's 3. residence. (If properly claimed within ten days after receipt of the garnishee summons.) Worksheet: 4. Total earnings in pay period <u>a.</u> Federal tax b. C. State tax FICA (social security/medicare) <u>d.</u> Total deductions (lines b+c+d) <u>e.</u> <u>f.</u> Disposable earnings (line a less line e) Twenty-five percent of line f g. <u>h.</u> Minimum wage exemption (minimum wage times forty hours times number of weeks in pay period) Line f less line h i. Line g or line i (whichever is less) j. Dependent exemption (twenty dollars <u>k.</u> per dependent per week, if claimed) <u>l.</u> Adverse interest or setoff Total of lines k and l m. n. Line i less line m Line n is the amount subject to garnishment (not to exceed 110 percent of the amount of the judgment which remains unpaid). Signature

Garnishee or Authorized Representative

of Garnishee

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	Title	
Subscribed and sworn to before me on	,	
Notary Public		

	President of the Senate Secretary of the Senate				Speaker of the House Chief Clerk of the House		
This certifies Dakota and i	s that the with is known on	hin bill o the reco	riginated ir rds of that	n the Se body as	enate of the F s Senate Bill	Fifty-ninth Leg No. 2378.	islative Assembly of N
Senate Vote	: Yeas	44	Nays	0	Absent	3	
House Vote:	Yeas	85	Nays	0	Absent	9	
					Secre	etary of the Se	enate
Received by	the Governo	or at	M.	on			, 2005.
							, 2005.
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Filed in this	office this		day of	f			, 2005,
at	o'clock	M.					
						etary of State	