

SENATE BILL NO. 2274

Introduced by

Senators Wardner, Lyson

Representatives Dosch, Kretschmar, Porter

1 A BILL for an Act to amend and reenact sections 32-09.1-07 and 32-09.1-09 of the North
2 Dakota Century Code, relating to the garnishment summons, notice, and disclosure.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 32-09.1-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **32-09.1-07. Form of summons and notice.** The garnishee summons must state that
7 the garnishee shall serve upon the plaintiff or the plaintiff's attorney within twenty days after
8 service of the garnishee summons a written disclosure, under oath, of indebtedness to the
9 defendant and answers to all written interrogatories that are served with the garnishee
10 summons. The plaintiff may not require disclosure of indebtedness or property of the defendant
11 in the garnishee's possession or under the garnishee's control to the extent that the
12 indebtedness or property exceeds one hundred ten percent of the amount of the judgment
13 which remains unpaid plus an additional one hundred fifty dollars. The garnishee summons
14 must include the full name of the defendant and place of residence and the amount of the
15 judgment which remains unpaid. The garnishee summons must also state that the garnishee
16 shall retain property or money in the garnishee's possession pursuant to this chapter until the
17 plaintiff causes a writ of execution to be served upon the garnishee or until the defendant
18 authorizes release to the plaintiff and must state that after the expiration of the period of time
19 specified in section 32-09.1-20, the garnishee shall release all retained property and money to
20 the defendant and is discharged and relieved of all liability on the garnishee summons. The
21 garnishee summons must state that no employer may discharge any employee because the
22 employee's earnings are subject to garnishment. The garnishee summons must state that any
23 assignment of wages made by the defendant or indebtedness to the garnishee incurred within
24 ten days before the receipt of notice of the first garnishment on the underlying debt is void. The

Sixtieth
Legislative Assembly

1 garnishee summons must state the date of the entry of judgment against the defendant. The
2 garnishee summons must state that the defendant shall provide to the garnishee within ten
3 days after receipt of the garnishee summons a verified list of the dependent family members
4 who reside with the defendant and their social security numbers, if any, to have the maximum
5 amount subject to garnishment reduced under subsection 2 of section 32-09.1-03. The
6 garnishee summons must state that failure of the defendant to provide a verified list to the
7 garnishee within ten days after receipt of the garnishee summons is conclusive with respect to
8 whether the defendant claims no family members.

9 The garnishee summons and notice to defendant must be substantially in the following
10 form:

11 State of North Dakota) In _____ Court
12) ss.
13 County of _____) _____
14 _____
15 Plaintiff
16 against Garnishee Summons and
17 _____ Notice to Defendant
18 Defendant
19 and
20 _____
21 Garnishee

22 The State of North Dakota to the above-named Garnishee:

23 You shall serve upon the plaintiff or the plaintiff's attorney, within twenty days after
24 service of this summons upon you, a written disclosure, under oath, setting forth the
25 amount of any debt you may owe to the defendant, _____ (give full
26 name and residence of defendant) and a description of any property, money, or effects
27 owned by the defendant which are in your possession. Your disclosure need not
28 exceed \$_____. (Enter 110 percent of the plaintiff's judgment which remains
29 unpaid plus an additional \$150.) The date of entry of the judgment against the
30 defendant was _____ (enter date of entry of plaintiff's judgment) and the amount of
31 the judgment that remains unpaid is \$_____.

1 (Address)

2
3 _____
(Telephone)

4 **SECTION 2. AMENDMENT.** Section 32-09.1-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **32-09.1-09. Disclosure.** Within the time as limited, the garnishee shall serve upon the
7 plaintiff or the plaintiff's attorney written answers, under oath, to the questions in the
8 garnishment disclosure form and to any written interrogatories that are served upon the
9 garnishee. The amount of the garnishee's disclosure need not exceed one hundred ten percent
10 of the amount of the plaintiff's judgment which remains unpaid plus an additional one hundred
11 fifty dollars, after subtracting the total of setoffs, defenses, exemptions, ownerships, or other
12 interests. The written answers may be served personally or by mail. If disclosure is by a
13 corporation or limited liability company, it must be verified by some officer, manager, or agent
14 having knowledge of the facts. Disclosure must state:

- 15 1. The amount of disposable earnings earned or to be earned within the defendant's
16 pay periods which may be subject to garnishment and all of the garnishee's
17 indebtedness to the defendant.
- 18 2. Whether the garnishee held, at the time, the title or possession of or any interest in
19 any personal property or any instruments or papers relating to any property
20 belonging to the defendant or in which the defendant is interested. If the garnishee
21 admits any interest or any doubt respecting the interest, the garnishee shall set
22 forth a description of the property and the facts concerning the property and the
23 title, interest, or claim of the defendant in or to the property.
- 24 3. If the garnishee claims any setoff or defense or claim or lien to disposable
25 earnings, indebtedness, or property, the garnishee shall disclose the amount and
26 the facts.
- 27 4. Whether the defendant claims any exemption from execution or any other
28 objection, known to the garnishee or the defendant, against the right of the plaintiff
29 to apply upon demand the debt or property disclosed.

- 1 disclosure for earnings from both the past pay period and the current pay
2 period.
- 3 2. Adverse interest and setoff. Any setoff, defense, lien, or claim by the
4 garnishee or other persons by reason of ownership or interest in the
5 defendant's property. You must state the name and address and the nature
6 of that person's claim if known. (Any assignment of wages made by the
7 defendant or any indebtedness to a garnishee within ten days before the
8 receipt of the first garnishment on a debt is void and should be disregarded.)
- 9 3. Dependent. Any family member of the defendant who is residing in the
10 defendant's residence. (If properly claimed within ten days after receipt of the
11 garnishee summons.)
- 12 4. Worksheet:
- 13 a. Total earnings in pay period _____
- 14 b. Federal tax _____
- 15 c. State tax _____
- 16 d. FICA (social security/medicare) _____
- 17 e. Total deductions (lines b+c+d) _____
- 18 f. Disposable earnings (line a less line e) _____
- 19 g. Twenty-five percent of line f _____
- 20 h. Minimum wage exemption
21 (minimum wage times forty hours times
22 number of weeks in pay period) _____
- 23 i. Line f less line h _____
- 24 j. Line g or line i (whichever is less) _____
- 25 k. Dependent exemption (twenty dollars
26 per dependent per week, if claimed) _____
- 27 l. Adverse interest or setoff _____
- 28 m. Total of lines k and l _____
- 29 n. Line j less line m _____

