

While discharging its responsibilities to enforce the support obligations of responsible parents, the department shall respect the right of privacy of recipients of public assistance and of other persons. Any inquiry about sexual activity shall be limited to that necessary to ~~((resolve a genuine dispute about the parentage of a child. When a custodial mother has informed the department that a particular man is the father of her child, the department shall make no further inquiry into her personal life unless the man so identified has denied that he is the father of such child))~~ identify and locate possible fathers and to gather facts needed in the adjudication of parentage.

NEW SECTION. Sec. 3. The department of social and health services shall augment its present paternity establishment services through the hiring of additional assistant attorneys general, or contracting with prosecutors or private attorneys licensed in the state of Washington in those judicial districts experiencing delay or an accumulation of unserved paternity cases. The employment of private attorneys shall be limited in scope to renewable six-month periods in judicial districts where the prosecutor or the attorney general cannot provide adequate, cost-effective service. The department of social and health services shall provide a written report of the circumstances requiring employment of private attorneys to the judiciary committees of the senate and house of representatives and provide copies of such reports to the office of the attorney general and to the Washington association of prosecuting attorneys.

NEW SECTION. Sec. 4. The sum of four hundred sixty-seven thousand seven hundred eighty-seven dollars, or so much thereof as may be necessary, is appropriated from the general fund to the department of social and health services for the office of support enforcement for the biennium ending June 30, 1989, to carry out the required paternity establishment services.

Pursuant to RCW 26.26.060(2), the office of support enforcement within the department of social and health services shall utilize this appropriation for ensuring that full paternity services are provided as mandated by federal and state law.

Passed the House April 26, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor May 18, 1987.

Filed in Office of Secretary of State May 18, 1987.

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## CHAPTER 442

[Engrossed Substitute House Bill No. 927]

### ENFORCEMENT OF JUDGMENTS

AN ACT Relating to the enforcement of judgments; amending RCW 6.12.010, 6.12.020, 6.12.050, 6.12.045, 6.12.120, 6.12.110, 6.12.090, 6.12.100, 6.12.105, 6.12.140, 6.12.150, 6.12.170, 6.12.180, 6.12.190, 6.12.220, 6.12.230, 6.12.250, 6.12.260, 6.12.270, 6.12.280, 6.12.300,

6.12.310, 6.12.320, 6.12.330, 6.16.020, 6.16.030, 6.16.050, 6.16.070, 6.16.080, 6.16.090, 6.04.010, 6.04.070, 6.04.020, 6.04.030, 6.04.140, 6.04.060, 6.04.035, 6.04.040, 6.04.050, 6.04.100, 7.12.130, 6.04.120, 6.04.130, 6.20.010, 6.20.020, 6.20.030, 6.20.050, 6.24.010, 6.24.015, 6.24.020, 6.24.050, 6.24.030, 6.24.060, 6.24.090, 6.24.100, 6.24.220, 6.24.110, 6.24.130, 6.24.140, 6.24.145, 6.24.150, 6.24.160, 6.24.170, 6.24.180, 6.24.190, 6.24.200, 6.24.210, 6.24.230, 7.12.010, 7.12.020, 7.12.030, 7.12.040, 7.12.060, 7.12.070, 7.12.070, 7.12.080, 7.12.090, 7.12.100, 7.12.110, 7.12.120, 7.12.200, 7.12.140, 7.12.270, 7.12.250, 7.12.150, 7.12.160, 7.12.170, 7.12.210, 7.12.220, 7.12.230, 7.12.240, 7.12.310, 7.33.030, 7.33.340, 7.33.010, 7.33.020, 7.33.060, 7.12.180, 7.33.040, 7.33.050, 7.33.090, 7.33.110, 7.33.130, 7.33.140, 7.33.320, 7.33.280, 7.33.160, 7.33.170, 7.33.150, 7.33.190, 7.33.240, 7.33.260, 7.33.290, 7.33.180, 7.33.200, 7.33.210, 7.33.220, 7.33.230, 7.33.330, 7.33.300, 7.33.270, 7.33.350, 7.33.360, 7.33.370, 7.33.380, 3.66.100, 12.04.050, 4.56.190, 4.64.060, 4.64.070, 4.64.030, 4.64.080, 4.64.020, 4.64.100, 4.64.120, 4.64.110, 4.64.090, 6.32.250, 11.52.010, 35A.21.195, 51.24.060, and 51.48.150; adding a new section to chapter 6.32 RCW; adding new chapters to Title 6 RCW; creating new sections; recodifying sections; and repealing RCW 6.12.070, 6.12.080, 6.12.160, 6.12.200, 6.12.210, 6.12.240, 6.16.010, 6.16.040, 6.04.080, 6.04.090, 6.04.095, 6.04.110, 6.04.150, 6.20.040, 6.24.070, 6.24.080, 6.24.120, 7.12.050, 7.12.190, 7.12.260, 7.12.280, 7.12.290, 7.12.300, 7.12.330, 12.24.010, 12.24.020, 12.24.030, 12.24.040, 12.24.050, 12.24.060, 12.24.070, 12.24.080, 12.24.090, 12.24.100, 12.24.110, 12.24.120, 12.24.130, 12.24.135, 12.24.140, 12.24.150, 12.24.160, 12.24.170, 12.24.180, 12.24.190, 12.24.200, 12.24.210, 7.33.070, 7.33.080, 7.33.100, 7.33.120, 7.33.250, 7.33.390, and 4.64.040.

Be it enacted by the Legislature of the State of Washington:

## PART I GENERAL PROVISIONS

**NEW SECTION.** Sec. 101. Except as otherwise expressly provided, the provisions of this chapter and of chapters 6.04, 6.12, 6.16, 6.20, 6.— (part VI of this act), 7.12, 7.33, 6.— RCW (part IX of this act), as recodified by this act, and chapter 6.32 RCW apply to both the superior courts and district courts of this state. If proceedings are before a district court, acts to be performed by the clerk may be performed by a district court judge if there is no clerk. As used in this title, "sheriff" includes deputies, and "execution docket" refers also to the docket of a district court.

**NEW SECTION.** Sec. 102. For purposes of this title and RCW 4.56.190 and 4.56.210, a judgment of a superior court is entered when it is delivered to the clerk's office for filing. A judgment of a district court of this state is entered on the date of the entry of the judgment in the docket of the court. A judgment of a small claims department of a district court of this state is entered on the date of the entry in the docket of that department.

**NEW SECTION.** Sec. 103. If the sheriff is a party or otherwise interested in an action in which a writ of execution, attachment, or replevin is to be served, the writ shall be directed to the coroner of the county, or the officer exercising the powers and performing the duties of coroner if there is no coroner, and the person to whom the writ is thus directed shall perform the duties of the sheriff.

**NEW SECTION.** Sec. 104. (1) When property liable to an execution against several persons is sold on execution, if more than a due proportion of the judgment is levied upon the property of one person, or one of them pays without a sale more than his or her due proportion, that person may

compel contribution from the others. When a judgment against several persons is upon an obligation or contract of one of them as security for another, if the surety pays the full amount or any part of the judgment, either by sale of the surety's property or before sale, the surety may compel repayment from the principal.

(2) In either case covered by subsection (1) of this section, the person or surety so paying shall be entitled to the benefit of the judgment to enforce contribution or repayment, if within thirty days after the payment, notice of the payment and claim to contribution or repayment is filed with the clerk of the court where the judgment was rendered.

(3) Upon filing such notice, the clerk shall make an entry thereof in the docket where the judgment is entered.

## PART II HOMESTEAD EXEMPTION

Sec. 201. Section 1, chapter 64, Laws of 1895 as last amended by section 7, chapter 329, Laws of 1981 and RCW 6.12.010 are each amended to read as follows:

(1) The homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated(;) and by which the same are surrounded, or improved or unimproved land (~~((without improvements purchased))~~) owned with the intention of ~~((building))~~ placing a house or mobile home thereon and residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner. Property included in the homestead must be actually intended or used as the principal home for the owner.

(2) As used in this chapter, the term "owner" includes but is not limited to a purchaser under a deed of trust, mortgage, or real estate contract.

(3) As used in this chapter, the term "net value" means market value less all liens and encumbrances.

Sec. 202. Section 2, chapter 64, Laws of 1895 as last amended by section 8, chapter 329, Laws of 1981 and RCW 6.12.020 are each amended to read as follows:

If the owner is married, the homestead may consist of the community or jointly owned property of the spouses or the separate property of either spouse: PROVIDED, That the same premises may not be claimed separately by the husband and wife with the effect of increasing the net value of the homestead available to the marital community beyond the amount specified in RCW 6.12.050 as now or hereafter amended. When the owner is not married, the homestead may consist of any of his or her property.

Sec. 203. Section 24, chapter 64, Laws of 1895 as last amended by section 4, chapter 45, Laws of 1983 1st ex. sess. and RCW 6.12.050 are each amended to read as follows:

A homestead((s)) may consist of lands ((and tenements with the improvements thereon)), as ((defined)) described in RCW 6.12.010, regardless of area, but ((not exceeding in)) the homestead exemption amount shall not exceed the lesser of (i) the total net value((-)) of ((both)) the lands ((and)), mobile home, and improvements as described in RCW 6.12.010, or (ii) the sum of ((twenty-five)) thirty thousand dollars. ((The premises thus included in the homestead must be actually intended or used as a home for the owner, and shall not be devoted exclusively to any other purpose.))

Sec. 204. Section 9, chapter 329, Laws of 1981 and RCW 6.12.045 are each amended to read as follows:

(1) ((The homestead exemption described in RCW 6.12.050 applies automatically to the homestead as defined in RCW 6.12.010 if the occupancy requirement of RCW 6.12.050 is met. However, the homestead exemption does not apply to those judgments defined in RCW 6.12.100)) Property described in RCW 6.12.010 constitutes a homestead and is automatically protected by the exemption described in RCW 6.12.090 from and after the time the property is occupied as a principal residence by the owner or, if the homestead is unimproved or improved land that is not yet occupied as a homestead, from and after the declaration or declarations required by the following subsections are filed for record or, if the homestead is a mobile home not yet occupied as a homestead and located on land not owned by the owner of the mobile home, from and after delivery of a declaration as prescribed in RCW 6.16.090(3)(c).

(2) ((If)) An owner ((elects to)) who selects ((the)) a homestead from unimproved or improved land ((purchased with the intention of residing thereon, the owner)) that is not yet occupied as a homestead must execute a declaration of homestead and file the same for record in the office of the recording officer in the county in which the land is located. However, if the owner also owns another parcel of property on which the owner presently resides or in which the owner claims a homestead, the owner must also execute a declaration of abandonment of homestead on ((the)) that other property ((on which the owner presently resides,)) and file the same for record with the recording officer in the county in which the land is located.

(3) The declaration of homestead must contain:

(a) A statement that the person making it is residing on the premises or ((has purchased the same for a homestead and)) intends to reside thereon and claims them as a homestead;

(b) A legal description of the premises; and

(c) An estimate of their actual cash value.

(4) The declaration of abandonment must contain:

(a) A statement that premises occupied as a residence or claimed as a homestead no longer constitute the owner's homestead;

(b) A legal description of the premises; and

(c) A statement of the date of abandonment.

(5) The declaration of homestead and declaration of abandonment of homestead must be acknowledged in the same manner as a grant of real property is acknowledged.

Sec. 205. Section 7, chapter 64, Laws of 1895 as amended by section 14, chapter 329, Laws of 1981 and RCW 6.12.120 are each amended to read as follows:

A homestead is presumed abandoned if the owner vacates the property for a continuous period of at least six months. However, if an owner is going to be absent from the homestead for more than six months but does not intend to abandon the homestead, and has no other ((permanent)) principal residence, the owner may execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of nonabandonment of homestead and file the declaration for record in the office of the recording officer of the county in which the property is situated.

The declaration of nonabandonment of homestead must contain:

(1) A statement that the owner claims the property as a homestead, that the owner intends to occupy the property in the future, and that the owner claims no other property as a homestead;

(2) A statement of where the owner will be residing while absent from the ((premises)) homestead property, the estimated duration of the owner's absence, and the reason for the absence; and

(3) A legal description of the ((premises)) homestead property.

Sec. 206. Section 6, chapter 64, Laws of 1895 as amended by section 1, chapter 251, Laws of 1983 and RCW 6.12.110 are each amended to read as follows:

The homestead of a married person cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and acknowledged by both husband and wife, except that a husband or a wife or both jointly may make and execute powers of attorney for the conveyance or encumbrance of the homestead.

Sec. 207. Section 4, chapter 64, Laws of 1895 as last amended by section 13, chapter 329, Laws of 1981 and RCW 6.12.090 are each amended to read as follows:

(1) Except as provided in RCW 6.12.100, the homestead is exempt from attachment and from execution or forced sale((, except as in this chapter provided; and)) for the debts of the owner up to the amount specified in RCW 6.12.050. The proceeds of the voluntary sale of the homestead in good faith for the purpose of acquiring a new homestead, and proceeds from insurance covering destruction of homestead property held for use in

restoring or replacing the homestead property, up to the amount specified in RCW 6.12.050, shall likewise be exempt for one year from receipt, and also such new homestead acquired with such proceeds.

(2) Every homestead created under this chapter is presumed to be valid to the extent of all the ~~((lands))~~ property claimed exempt, until the validity thereof is contested in a court of general jurisdiction in the county or district in which the homestead is situated.

Sec. 208. Section 1, chapter 10, Laws of 1982 as amended by section 16, chapter 260, Laws of 1984 and RCW 6.12.100 are each amended to read as follows:

The homestead exemption is ~~((subject to))~~ not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, materialmen's or vendor's liens upon the premises;

(2) On debts secured by purchase money security agreements describing as collateral ~~((a))~~ the mobile home ~~((located on the premises))~~ that is claimed as a homestead or by mortgages or deeds of trust on the premises, executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, ~~((including as a joint case under 11 U.S.C. Sec. 302))~~ other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse exempts property from property of the estate under the ~~((federal))~~ bankruptcy exemption provisions of 11 U.S.C. Sec. ((522(b)(1))) 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance.

Sec. 209. Section 30, chapter 260, Laws of 1984 and RCW 6.12.105 are each amended to read as follows:

~~((When a homestead declaration occurs before a judgment, the judgment creditor has))~~ A judgment against the owner of a homestead shall become a lien on the value of the homestead property in excess of the homestead exemption~~((: This lien commences when))~~ from the time the judgment creditor records the judgment with the ~~((auditor))~~ recording officer of the county where the property is located.

Sec. 210. Section 9, chapter 64, Laws of 1895 and RCW 6.12.140 are each amended to read as follows:

When ~~((the))~~ execution for the enforcement of a judgment obtained in a case not within the classes enumerated in RCW 6.12.100 is levied upon the homestead, the judgment creditor ~~((may))~~ shall apply to the superior

court of the county in which the homestead is situated for the appointment of a person((s)) to appraise the value thereof.

Sec. 211. Section 10, chapter 64, Laws of 1895 as amended by section 15, chapter 329, Laws of 1981 and RCW 6.12.150 are each amended to read as follows:

The application under RCW 6.12.140 must be made ((upon)) by filing a verified petition, showing((=)):

(1) The fact that an execution has been levied upon the homestead.

(2) The name of the owner of the homestead property.

(3) That the net value of the homestead exceeds the amount of the homestead exemption.

Sec. 212. Section 12, chapter 64, Laws of 1895 as amended by section 16, chapter 329, Laws of 1981 and RCW 6.12.170 are each amended to read as follows:

A copy of the petition, with a notice of the time and place of hearing, must be served upon the owner and the owner's attorney of record, if any, at least ten days before the hearing.

Sec. 213. Section 13, chapter 64, Laws of 1895 as amended by section 1, chapter 118, Laws of 1984 and RCW 6.12.180 are each amended to read as follows:

At the hearing, the judge may, upon the proof of the service of a copy of the petition and notice and of the facts stated in the petition, appoint a disinterested qualified person of the county to appraise the value of the homestead.

Sec. 214. Section 14, chapter 64, Laws of 1895 and RCW 6.12.190 are each amended to read as follows:

The person((s)) appointed, before entering upon the performance of ((their)) duties, must take an oath to faithfully perform the same. The appraiser must view the premises and appraise the market value thereof and, if the appraised value, less all liens and encumbrances, exceeds the homestead exemption, must determine whether the land claimed can be divided without material injury. Within fifteen days after appointment, the appraiser must make to the court a report in writing, which report must show the appraised value, less liens and encumbrances, and, if necessary, the determination whether or not the land can be divided without material injury and without violation of any governmental restriction.

Sec. 215. Section 17, chapter 64, Laws of 1895 as amended by section 17, chapter 329, Laws of 1981 and RCW 6.12.220 are each amended to read as follows:

If, from the report, it appears to the court that the value of the homestead, less liens and encumbrances, exceeds the homestead exemption and the property can be divided without material injury and without violation of any governmental restriction, the court ((must)) may, by an order, direct

the appraiser(s) to set off to the owner so much of the land, including the residence, as will amount in net value to the homestead exemption, and the execution may be enforced against the remainder of the land.

Sec. 216. Section 18, chapter 64, Laws of 1895 as amended by section 18, chapter 329, Laws of 1981 and RCW 6.12.230 are each amended to read as follows:

If, from the report, it appears to the court that the ~~((homestead exceeds in))~~ appraised value of the homestead property, less liens and encumbrances, exceeds the amount of the homestead exemption and ~~((that it cannot be))~~ the property is not divided, the court must make an order directing its sale under the execution. The order shall direct that at such sale no bid may be received unless it exceeds the amount of the homestead exemption.

Sec. 217. Section 20, chapter 64, Laws of 1895 as amended by section 19, chapter 329, Laws of 1981 and RCW 6.12.250 are each amended to read as follows:

If the sale is made, the proceeds must be applied in the following order: First, to the amount of the homestead exemption, to be paid to the judgment debtor; second, up to the amount of the execution, to be applied to the satisfaction of the execution; third, the balance to be paid to the judgment debtor.

Sec. 218. Section 21, chapter 64, Laws of 1895 as last amended by section 20, chapter 329, Laws of 1981 and RCW 6.12.260 are each amended to read as follows:

The money paid to the owner is entitled to the same protection against legal process and the voluntary disposition of the husband or wife which the law gives to the homestead.

Sec. 219. Section 22, chapter 64, Laws of 1895 as amended by section 2, chapter 118, Laws of 1984 and RCW 6.12.270 are each amended to read as follows:

The court shall determine a reasonable compensation for the appraiser.

Sec. 220. Section 23, chapter 64, Laws of 1895 and RCW 6.12.280 are each amended to read as follows:

The execution creditor must pay the costs of these proceedings in the first instance; but in the cases provided for in RCW 6.12.220 and 6.12.230 the amount so paid must be added as costs on execution, and collected accordingly.

Sec. 221. Section 26, chapter 64, Laws of 1895 as amended by section 4, chapter 80, Laws of 1977 ex. sess. and RCW 6.12.300 are each amended to read as follows:

In case of a homestead, if either the husband or wife shall be or become incompetent or disabled to such a degree that he or she is unable to assist in the management of his or her interest in the marital property and



no guardian has been appointed, upon application of the (~~((husband or wife not so incompetent or disabled))~~) other spouse to the superior court of the county in which the homestead is situated, and upon due proof of such incompetency or disability in the severity required above, the court may make an order permitting the husband or wife applying to the court to sell and convey or mortgage such homestead.

Sec. 222. Section 27, chapter 64, Laws of 1895 as amended by section 5, chapter 80, Laws of 1977 ex. sess. and RCW 6.12.310 are each amended to read as follows:

Notice of the application for such order shall be given by publication of the same in a newspaper published in the county in which such homestead is situated, if there be a newspaper published therein, once each week for three successive weeks prior to the hearing of such application, and a copy of such notice shall be served upon the alleged incompetent husband or wife personally, and upon the nearest relative of such incompetent or disabled husband or wife other than the applicant, resident in this state, at least three weeks prior to such application being heard, and in case there be no such relative known to the applicant, a copy of such notice shall be served upon the prosecuting attorney of the county in which such homestead is situated; and it is hereby made the duty of such prosecuting attorney, upon being served with a copy of such notice, to appear in court and see that such application is made in good faith, and that the proceedings thereon are fairly conducted.

Sec. 223. Section 28, chapter 64, Laws of 1895 as amended by section 6, chapter 80, Laws of 1977 ex. sess. and RCW 6.12.320 are each amended to read as follows:

Thirty days before the hearing of any application under the provisions of this chapter, the applicant shall present and file in the court in which such application is to be heard a petition for the order mentioned, subscribed and sworn to by the applicant, setting forth the name and age of the alleged incompetent or disabled husband or wife; a description of the premises constituting the homestead; the value of the same; the county in which it is situated; such facts necessary to show that the nonpetitioning husband or wife is incompetent or disabled to the degree required under RCW 6.12.300; and such additional facts relating to the circumstances and necessities of the applicant and his or her family as he or she may rely upon in support of the petition.

Sec. 224. Section 29, chapter 64, Laws of 1895 and RCW 6.12.330 are each amended to read as follows:

If the court shall make the order provided for in RCW 6.12.300, the same shall be entered upon the minutes of the court, and thereafter any sale, conveyance (~~((for))~~), or mortgage made in pursuance of such order shall be as valid and effectual as if the property affected thereby was the

absolute property of the person making such sale, conveyance, or mortgage in fee simple.

NEW SECTION. Sec. 225. The following acts or parts of acts are each repealed:

- (1) Section 32, chapter 64, Laws of 1895, section 11, chapter 329, Laws of 1981 and RCW 6.12.070;
- (2) Section 33, chapter 64, Laws of 1895, section 12, chapter 329, Laws of 1981 and RCW 6.12.080;
- (3) Section 11, chapter 64, Laws of 1895 and RCW 6.12.160;
- (4) Section 15, chapter 64, Laws of 1895 and RCW 6.12.200;
- (5) Section 16, chapter 64, Laws of 1895 and RCW 6.12.210; and
- (6) Section 19, chapter 64, Laws of 1895 and RCW 6.12.240.

### PART III PERSONAL EXEMPTIONS

Sec. 301. Section 253, page 178, Laws of 1854 as last amended by section 8, chapter 45, Laws of 1983 1st ex. sess. and RCW 6.16.020 are each amended to read as follows:

Except as provided in RCW 6.16.080, the following personal property shall be exempt from execution ((and)), attachment, ((except as hereinafter specially provided)) and garnishment:

(1) All wearing apparel of every ~~((person))~~ individual and family, but not to exceed seven hundred fifty dollars in value in furs, jewelry, and personal ornaments for any ~~((person))~~ individual.

(2) All private libraries of every individual, but not to exceed one thousand dollars in value, and all family pictures and keepsakes.

(3) To each ~~((person or family))~~ individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

(a) The ~~((person's or family's))~~ individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed one thousand five hundred dollars in value;

(b) Provisions and fuel for the comfortable maintenance of ~~((such person or family))~~ the individual or community for three months; ((and))

(c) Other property, except personal earnings as provided under RCW 6.16.090(1), not to exceed five hundred dollars in value, of which not more than one hundred dollars in value may consist of cash, bank accounts, savings and loan accounts, stocks, bonds, or other securities((-)); and

~~((4))~~ To any person or family; (d) One motor vehicle which is used for personal transportation, not to exceed one thousand two hundred dollars in value.

~~((5))~~ To each qualified individual, one of the following exemptions:

(a) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed three thousand dollars in value((-);

~~((6))~~ (b) To a physician, surgeon, attorney, clergyman, or other professional person, the ~~((person's))~~ individual's library, office furniture, office equipment and supplies, not to exceed three thousand dollars in value~~(-)~~;

~~((7))~~ (c) To any other ~~((person))~~ individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed three thousand dollars in value.

~~((The property referred to in the foregoing subsection (3) shall be selected by any adult member of the family on behalf of the family or the person, if present, and in case no adult member of the family or person is present to make the selection, then the sheriff or the director of public safety shall make a selection equal in value to the applicable exemptions above described and he shall return the same as exempt by inventory. Any selection made as above provided shall be prima facie evidence (a) that the property so selected is exempt from execution and attachment, and (b) that the property so selected is not in excess of the values specified for the exemptions. Except as above provided, the exempt property shall be selected by the person claiming the exemption. No person shall be entitled to more than one exemption under the provisions of the foregoing subsections (5), (6) and (7).))~~

~~For purposes of this section "value" shall mean the reasonable market value of the article or item at the time of its selection, and shall be of the debtor's interest therein, exclusive of all liens and encumbrances thereon.~~

~~Wages, salary, or other compensation regularly paid for personal services rendered by the person claiming the exemption may not be claimed as exempt under the foregoing provisions, but the same may be claimed as exempt in any bankruptcy or insolvency proceeding to the same extent as allowed under the statutes relating to garnishments.~~

~~No property shall be exempt under this section from an execution issued upon a judgment for all or any part of the purchase price thereof, or for any tax levied upon such property:))~~

For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

Sec. 302. Section 1, page 88, Laws of 1890 and RCW 6.16.030 are each amended to read as follows:

Unless otherwise provided by federal law, any money received by any citizen of the state of Washington as a pension from the government of the United States, whether the same be in the actual possession of such person or be deposited or loaned ((by him)), shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her family any money exempted by this section, the same shall be exempt to the family as provided in this section.

Sec. 303. Section 1, chapter 76, Laws of 1895 and RCW 6.16.050 are each amended to read as follows:

~~((That whenever))~~ If property, which by the laws of this state is exempt from execution ((or)), attachment, or garnishment, is insured and the same is lost, stolen, or destroyed ((by fire)), then the insurance money coming to or belonging to the person thus insured, to an amount equal to the exempt property thus destroyed, shall be exempt from execution ((and)), attachment, and garnishment.

Sec. 304. Section 252, page 178, Laws of 1854 as last amended by section 14, chapter 154, Laws of 1973 1st ex. sess. and RCW 6.16.070 are each amended to read as follows:

All real and personal ~~((estate))~~ property belonging to any married person at the time of his or her marriage, and all which he or she may have acquired subsequently to such marriage, or to which he or she shall hereafter become entitled in his or her own right, and all his or her personal earnings, and all the issues, rents and profits of such real ~~((estate))~~ property, shall be exempt from ~~((attachment and))~~ execution, attachment, and garnishment upon any liability or judgment against the other spouse, so long as he or she or any minor heir of his or her body shall be living: PROVIDED, That the separate property of each spouse shall be liable for debts owing by him or her at the time of marriage.

Sec. 305. Section 344, page 88, Laws of 1869 as last amended by section 2, chapter 149, Laws of 1981 and RCW 6.16.080 are each amended to read as follows:

(1) Wages, salary, or other compensation regularly paid for personal services rendered by the debtor claiming the exemption shall not be claimed as exempt under RCW 6.16.020, but the same may be claimed as exempt in any bankruptcy or insolvency proceeding to the same extent as allowed under the statutes relating to garnishments.

(2) No property may be exempt under RCW 6.16.020 from execution, attachment, or garnishment issued upon a judgment for all or any part of the purchase price of the property.

(3) No property may be exempt under RCW 6.16.020 from legal process issued upon a judgment for any tax levied upon such property.

(4) Nothing in this chapter shall be so construed as to prevent ((the mortgaging of)) a debtor from creating a security interest in personal property which might be claimed as exempt, or the enforcement of such ((mortgage, nor to prevent the waiver of the right of exemption by failure to claim the same prior to sale under execution, and nothing in this chapter shall be construed to exempt from attachment or execution the personal property of a nonresident of this state, or a person who has left or is about to leave the state with the intention to defraud his creditors, or)) security interest against the property.

(5) Nothing in this chapter shall be construed to exempt personal property of a nonresident of this state or of an individual who has left or is about to leave this state with the intention to defraud his or her creditors.

(6) Personal property exemptions are waived by failure to claim them prior to sale of exemptible property under execution or, in a garnishment proceeding, within the time specified in section 1016 of this 1987 act.

(7) Personal property exemptions may not be claimed by one spouse in a bankruptcy ((proceeding where (1))) case that is not a joint case or a joint administration of the estate with the bankruptcy estate of the other spouse where (a) bankruptcy is filed by both spouses within a six-month period, ((including as a joint case under 11 U.S.C. Sec. 302, and (2) the other)) and (b) one spouse exempts property from property of the estate under the ((federal)) bankruptcy exemption provisions of 11 U.S.C. Sec. ((522(b)(1))) 522(d).

Sec. 306. Section 346, page 88, Laws of 1869 as last amended by section 15, chapter 154, Laws of 1973 1st ex. sess. and RCW 6.16.090 are each amended to read as follows:

((As used in this section the masculine shall apply also to the feminine.

When)) (1) Except as provided in subsection (2) of this section, property claimed exempt under RCW 6.16.020 shall be selected by the individual entitled to the exemption, or by the husband or wife entitled to a community exemption, in the manner described in subsection (3) of this section.

(2) If, at the time of seizure under execution or attachment of property exemptible under RCW 6.16.020(3) (a), (b), or (c), the individual or the husband or wife entitled to claim the exemption is not present, then the sheriff or deputy shall make a selection equal in value to the applicable exemptions and, if no appraisal is required as permitted under subsection (4) of this section, the officer shall return the same as exempt by inventory. Any selection made as provided shall be prima facie evidence (a) that the property so selected is exempt from execution and attachment, and (b) that the property so selected is not in excess of the values specified for the exemptions.

(3)(a) A debtor who claims personal property as exempt ((he)) against execution or attachment shall, at any time before sale, deliver to the officer making the levy a list by separate items of the property claimed as exempt, together with an itemized list of all the personal property owned or claimed by ((him)) the debtor, including money, bonds, bills, notes, claims and demands, with the residence of the person indebted upon the said bonds, bills, notes, claims and demands, and shall verify such list by affidavit. ((He shall also deliver to such officer a list by separate items of the property he claims as exempt:)) The officer shall immediately advise the creditor, attorney, or

agent of the exemption claim and, if no appraisal is required as permitted under subsection (4) of this section, the officer shall return with the process the list of property claimed as exempt.

(b) A debtor who claims personal property exempt against garnishment shall proceed as provided in section 1016 of this 1987 act.

(c) A debtor who claims as a homestead, under chapter 6.12 RCW, a mobile home that is not yet occupied as a homestead and that is located on land not owned by the debtor shall claim the homestead as against a specific levy by delivering to the sheriff who levied on the mobile home, before sale under the levy, a declaration of homestead that contains (i) a declaration that the debtor owns the mobile home, intends to reside therein, and claims it as a homestead, and (ii) a description of the mobile home, a statement where it is located or was located before the levy, and an estimate of its actual cash value.

(4)(a) Except as provided in (b) of this subsection, a creditor, or the agent or attorney of a creditor, who wishes to object to a claim of exemption shall proceed as provided in section 1016 of this 1987 act.

(b) A creditor, or the agent or attorney of the creditor, who wishes to object to a claim of exemption made to a levying officer, on the ground that the property claimed exceeds exemptible value, may demand appraisal. In the absence of such demand within seven days following the officer's giving of notice of the claim, the officer shall release to the debtor the property claimed as exempt. If the creditor, ((his)) or the agent or attorney of the creditor, demands an appraisal ((thereof, two disinterested householders of the neighborhood)), two persons shall be chosen to appraise the property, one by the debtor and the other by the creditor, ((his)) agent or attorney, and these two, if they cannot agree, shall select a third; but if either party fails to choose an appraiser, or the two fail to select a third, or if one or more of the appraisers fail to act, the ((officer)) court shall appoint one or more as the circumstances require. The appraisers shall forthwith proceed to make a list by separate items, of the personal property selected by the debtor as exempt, which they shall decide as exempt, stating the value of each article, and annexing to the list their affidavit to the following effect: "We solemnly swear that to the best of our judgment the above is a fair cash valuation of the property therein described," which affidavit shall be signed by two appraisers at least, and be certified by the officer administering the oaths. The list shall be delivered to the officer holding the execution or ((other process)) attachment and be ((by him)) annexed to and made part of ((his)) the return, and the property therein specified shall be exempt from levy and sale, ((and)) but the other personal estate of the debtor shall remain subject ((thereto)) to execution, attachment, or garnishment. ((In case no appraisal be required the officer shall return with the process the list of the property claimed as exempt by the debtor. The appraisers)) Each appraiser shall ((each)) be entitled to ((one)) fifteen dollars or such

larger fee as shall be fixed by the court, to be paid by the creditor(;) if all the property claimed by the debtor shall be exempt; otherwise to be paid by the debtor.

NEW SECTION. Sec. 307. If from an appraisal it appears that the value of the property claimed exempt, exclusive of liens and encumbrances, exceeds the exemptible value and the property is indivisible, the property shall be put up for sale on execution, but at the sale no bid may be received unless it exceeds the exempt value. The proceeds of a sale in excess of the exempt value shall be paid, first, to the debtor to the extent of the exempt amount; second, up to the amount of the execution, to the satisfaction of the execution; third, the balance to be paid to the debtor. A judgment creditor who is the successful bidder at the sale must pay the exempt amount in cash.

NEW SECTION. Sec. 308. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 57, Laws of 1897, section 6, chapter 292, Laws of 1971 ex. sess., section 12, chapter 154, Laws of 1973 1st ex. sess. and RCW 6.16.010; and

(2) Section 2, page 89, Laws of 1890 and RCW 6.16.040.

#### PART IV EXECUTIONS

NEW SECTION. Sec. 401. Unless otherwise expressly provided, all provisions of this chapter governing execution against personal property apply to proceedings before district courts of this state, but the district courts shall not have power to issue writs of execution against real property or any interest in real property or against a vendor's interest in a real estate contract.

Sec. 402. Section 2, chapter 25, Laws of 1929 as last amended by section 4, chapter 105, Laws of 1980 and RCW 6.04.010 are each amended to read as follows:

The party in whose favor a judgment of a court of record of this state or a district court of this state has been(;) or may ((hereafter)) be(;) rendered, or ((his)) the assignee, may have an execution issued for the collection or enforcement of the ((same,)) judgment at any time within ten years from ((the rendition thereof)) entry of the judgment.

Sec. 403. Section 7, chapter 25, Laws of 1929 as amended by section 2, chapter 8, Laws of 1957 and RCW 6.04.070 are each amended to read as follows:

~~((In all cases in which))~~ When a judgment ((heretofore or hereafter)) recovered in any court of this state(;) has been ((or shall be)) assigned ~~((to any person))~~, execution may issue in the name of the assignee((upon))

after the assignment ~~((being))~~ has been recorded in the execution docket~~((;))~~ by the clerk of the court in which the judgment ~~((is))~~ was recovered~~((, and in all cases in which a judgment has been or shall be recovered in any such court, and))~~. When the person in whose name execution might have issued~~((;))~~ has died ~~((or shall die))~~, execution may issue in the name of the executor, administrator or legal representative of such deceased person~~((, upon))~~ after letters testamentary or of administration~~((;))~~ or other sufficient proof ~~((being))~~ has been filed in ~~((said))~~ the cause and ~~((minuted upon))~~ recorded in the execution docket~~((;))~~ by the clerk of the court in which ~~((said))~~ the judgment ~~((is))~~ was entered~~((, and upon an order of said court or the judge thereof, which may be made on an ex parte application))~~.

**NEW SECTION.** Sec. 404. In addition to any stay of execution provided by court rule, stay of execution shall be allowed on judgments of the courts of this state for the following periods upon the judgment debtor filing with the clerk of the court in which the judgment was entered a bond in double the amount of the judgment and costs, with surety to the satisfaction of the clerk, conditioned to pay the judgment, interests, costs, and increased costs, at the expiration of the stay period. If execution is issued before elapse of the stay period, the judgment debtor may nevertheless stay execution for the balance of the period by filing the required bond.

(1) In the supreme court and the court of appeals, the period of stay, measured from date of entry of judgment, shall be:

- (a) On all sums under five thousand dollars, thirty days;
- (b) On all sums over five and under fifteen thousand dollars, sixty days;

and

- (c) On all sums over fifteen thousand dollars, ninety days.

(2) On judgments rendered in the superior court or a district court of this state, the period of stay shall be:

- (a) On all sums under three thousand dollars, two months;
- (b) On all sums over three thousand and under ten thousand dollars, five months; and

- (c) On all sums over ten thousand dollars, six months.

**NEW SECTION.** Sec. 405. If execution of a judgment is stayed as permitted by section 404 of this act and the judgment is not satisfied at expiration of the stay period, at any time thereafter the judgment creditor may, upon motion supported by an affidavit that the judgment or any part of it is unpaid and stating how much still remains due, have judgment against the surety on the bond for the balance remaining due, and have an execution on the judgment against the surety, on which stay shall not be allowed.

Sec. 406. Section 3, chapter 25, Laws of 1929 and RCW 6.04.020 are each amended to read as follows:



There shall be three kinds of executions(~~(, one)~~): First, against the property of the judgment debtor(~~(, the)~~); second, for the delivery of the possession of real or personal property(~~(;)~~) or such delivery with damages for withholding the same(~~(;)~~); and ~~((the))~~ third, commanding the enforcement of or obedience to any ~~((special))~~ other order of the court(~~(, and)~~). In all cases there shall be an order to collect the costs.

Sec. 407. Section 1, chapter 25, Laws of 1929 as amended by section 1, chapter 8, Laws of 1957 and RCW 6.04.030 are each amended to read as follows:

When any judgment of a court (~~(of record)~~) of this state requires the payment of money(~~(;)~~) or the delivery of real or personal property, ~~((the same))~~ it may be enforced ~~((in those respects))~~ by execution. When ~~((it))~~ a judgment of a court of record requires the performance of any other act, a certified copy of the judgment may be served on the party against whom it is given(~~(;)~~) or the person or officer who is required ~~((thereby,))~~ by the judgment or by law(~~(;)~~) to obey the same, and a writ ~~((shall))~~ may be issued commanding ~~((him))~~ the person or officer to obey or enforce the ~~((same))~~ judgment. ~~((if he refuses, he))~~ Refusal to do so may be punished by the court as for contempt.

Sec. 408. Section 604, page 154, Laws of 1869 as last amended by section 664, Code of 1881 and RCW 6.04.140 are each amended to read as follows:

~~((f))~~ No execution may issue for collection of a judgment ((be given)) for the recovery of money or damages against ((such)) a county or other public corporation((, no execution shall issue thereon for the collection of such money or damages, but such judgment in such respect shall be satisfied)). Any such judgment may be enforced as follows:

(1) ~~((party in whose favor such judgment is given))~~ judgment creditor may at any time ~~((thereafter,))~~ when execution might issue on a like judgment against a private person, ~~((present a certified transcript of the docket thereof to the officer of such county or other public corporation who is authorized to draw orders on the treasury thereof))~~ and after acknowledging satisfaction of the judgment as in ordinary cases, obtain from the clerk a certified transcript of the judgment. The clerk shall include in the transcript a copy of the memorandum of acknowledgment of satisfaction and the entry thereof as the basis for an order on the treasurer for payment. Unless the transcript contains such memorandum, no order upon the treasurer shall issue thereon.

(2) ~~((On the presentation of such transcript such))~~ The judgment creditor shall present the certified transcript showing satisfaction of the judgment to the officer of the county or other public corporation who is authorized to draw orders on its treasury.

(3) The officer shall draw an order on ((such)) the treasurer for the amount of the judgment, in favor of the ((party for whom the same was

given. Thereafter such)) judgment creditor. The order shall be presented for payment and paid with like effect and in like manner as other orders upon the treasurer ~~((of such county or other public corporation.~~

~~(3) The certified transcript herein provided for shall not be furnished by the clerk unless at the time an execution might issue on such judgment if the same were against a private person, nor until satisfaction of the same judgment in respect to such money or damages be acknowledged as in ordinary cases. The clerk shall include in the transcript the memorandum of such acknowledgment of satisfaction and the entry thereof. Unless the transcript contain such memorandum, no order upon the treasurer shall issue thereon)). If the proper officer of the county or other public corporation fails or refuses to draw the order for payment of the judgment as provided in this section, a writ of mandamus may be issued in the original case to compel performance of the duty.~~

Sec. 409. Section 6, chapter 25, Laws of 1929 and RCW 6.04.060 are each amended to read as follows:

All property, real and personal, of the judgment debtor(;) that is not exempted by law(; ~~shall be~~) is liable to execution.

Sec. 410. Section 4, chapter 329, Laws of 1981 and RCW 6.04.035 are each amended to read as follows:

(1) Before a writ of execution may issue on any real property, the judgment creditor must file with the court an affidavit ~~((with the court stating:~~

(a) ~~That the judgment creditor has exercised due diligence to ascertain if the judgment debtor has sufficient nonexempt personal property to satisfy the judgment with interest, a list of the personal property so located and whether the judgment creditor believes the items to be exempt, and a statement that, after diligent search, there is not sufficient nonexempt personal property belonging to the judgment debtor to satisfy the judgment;~~

~~(b) That the judgment creditor has exercised due diligence in ascertaining whether the property is occupied or claimed as a homestead by the judgment debtor, as defined in chapter 6.12 RCW;~~

~~(c) Whether or not the judgment debtor is currently occupying the property as the judgment debtor's permanent residence and whether there is a declaration of homestead or nonabandonment of record. If the affidavit alleges that the property is not occupied or claimed as a homestead, the creditor must list the facts relied upon to reach that conclusion; and~~

~~(d) If the judgment debtor is not occupying the property and there is no declaration of nonabandonment of record, that the judgment debtor has been absent for a period of at least six months and the judgment debtor's current address if known)) as described in subsection (4) of this section and must mail a copy of the affidavit to the judgment debtor at the debtor's last known address.~~

(2) If the affidavit attests that the premises are occupied or otherwise claimed as a homestead by the judgment debtor, the execution for the enforcement of a judgment obtained in a case not within the classes enumerated in RCW 6.12.100 must comply with RCW 6.12.140 through 6.12.250.

(3) The term "due diligence," as used in subsection (4) of this section, includes but is not limited to the creditor or the creditor's representative personally visiting the premises, contacting the occupants and inquiring about their relationship to the judgment debtor, contacting immediate neighbors of the premises, and searching the records of the auditor of the county in which the property is located to determine if a declaration of homestead or nonabandonment has been ((filed)) recorded by the judgment debtor. ((A copy of the affidavit must be mailed to the judgment debtor at the debtor's last known address.

~~If the affidavit attests that the premises are occupied or claimed as a homestead by the judgment debtor, the execution for the enforcement of a judgment obtained in a case not within the classes enumerated in RCW 6.12.100 must comply with RCW 6.12.140 through 6.12.250;))~~ (4) The affidavit required by this section shall include:

(a) A statement that the judgment creditor has exercised due diligence to ascertain whether the judgment debtor has sufficient nonexempt personal property to satisfy the judgment with interest and believes that there is not sufficient nonexempt personal property belonging to the judgment debtor to so satisfy the judgment. A list of personal property located shall be attached with an indication of any items that the judgment creditor believes to be exempt.

(b) A statement that the judgment creditor has exercised due diligence to ascertain whether the property is occupied or otherwise claimed by the judgment debtor as a homestead as defined in chapter 6.12 RCW.

(c) A statement based on belief whether the judgment debtor is currently occupying the property as the judgment debtor's principal residence and whether there is a declaration of homestead or nonabandonment of record. If the affidavit alleges that the property is not occupied or claimed as a homestead, the creditor must list the facts relied upon to reach that conclusion.

(d) If the judgment debtor is not occupying the property and there is no declaration of nonabandonment of record, a statement based on belief whether the judgment debtor has been absent for a period of at least six months, with facts relied upon to reach that conclusion, and, if known, the judgment debtor's current address.

Sec. 411. Section 4, chapter 25, Laws of 1929 as amended by section 5, chapter 329, Laws of 1981 and RCW 6.04.040 are each amended to read as follows:

(1) The writ of execution shall be issued in the name of the state of Washington, sealed with the seal of the court, and subscribed by the clerk

of the court in which the judgment was entered, and shall be directed to the sheriff of the county in which the property is situated (~~(; or to the coroner of such county, or the officer exercising the powers and performing the duties of coroner in case there be no coroner, when the sheriff is a party, or interested, and)~~). The writ shall intelligibly refer to the judgment, stating the court, the county where the judgment was rendered, the names of the parties, the amount of the judgment if it be for money, and the amount actually due thereon(~~(;)~~); and if the judgment has been recorded, the writ shall so indicate and shall state the recording number.

(2) Before an execution is delivered on a judgment of a district court of this state, the amount of the judgment, or damages and costs, and the fees due to each person separately shall be entered in the docket and on the back of the execution. In any proceeding to enforce a judgment certified to a district court from the small claims department under RCW 12.40.110, the execution shall include the amount of the judgment owed plus reasonable costs and reasonable attorneys' fees incurred by the judgment creditor in seeking enforcement of the judgment in district court.

(3) A writ shall require substantially as follows:

((~~(1)~~)) (a) If the execution ((~~be~~)) is against the property of the judgment debtor, it shall require the officer to satisfy the judgment(~~(; with interest;)~~) out of the personal property of the debtor unless an affidavit has been filed with the court pursuant to RCW 6.04.035, in which case it shall require that the judgment(~~(; with interest;)~~) be satisfied out of the real property of the debtor.

((~~(2)~~)) (b) If the execution ((~~be~~)) is against real or personal property in the hands of a personal representative(~~(s)~~), heir(~~(s)~~), devisee(~~(s)~~), legatee(~~(s)~~), tenant(~~(s)~~) of real property, or trustee(~~(s)~~), it shall require the officer to satisfy the judgment(~~(; with interest;)~~) out of such property.

((~~(3)~~)) (c) If the execution ((~~be~~)) is for the delivery of real or personal property, it shall particularly describe the property and state its value and require the officer to deliver possession of ((the same, particularly describing it;)) it to the party entitled thereto, and may, at the same time, require the officer to satisfy any charges, damages, or rents and profits recovered by the same judgment, out of the personal property of the party against whom it was rendered(~~(; and the value of the property for which the judgment was recovered, shall be specified therein)~~). If ((~~a delivery of~~)) the property described in the execution cannot be ((~~had~~)) delivered, and if sufficient personal property cannot be found to satisfy the judgment, it shall be satisfied out of the real property of the party against whom the judgment was rendered.

((~~(4)~~ ~~When~~ )) (d) If the execution is to enforce obedience to any ((~~special~~)) order, it shall particularly command what is required to be done or to be omitted.

~~((5) When))~~ (e) If the nature of the case ((shall)) requires it, the execution may embrace ((one)) two or more of the requirements ((above mentioned. And)) of this section.

(f) In all cases the execution shall require the collection of all interest, costs, and increased costs thereon.

Sec. 412. Section 5, chapter 25, Laws of 1929 as amended by section 1, chapter 45, Laws of 1983 1st ex. sess. and RCW 6.04.050 are each amended to read as follows:

The sheriff or other officer shall indorse upon the writ of execution ~~((the time when he received the same))~~ in ink, the day, hour, and minute when the writ first came into his or her hands, and the execution shall be ((returnable)) returned with a report of proceedings under the writ within sixty days after its date to the clerk who issued it. ((No sheriff or other officer shall retain any moneys collected on execution, more than twenty days before paying the same to the clerk of the court who issued the writ, under penalty of twenty percent on the amount collected, to be paid by the sheriff or other officer, one half to the party to whom the judgment is payable, and the other half to the county treasurer of the county wherein the action was brought, for the use of the school fund of said county. The clerk shall notify the party to whom the same is payable, and pay over the amount to the party as provided for by court order.)) When there are several writs of execution or of execution and attachment against the same debtor, they shall be executed in the order in which they were received by the sheriff.

Sec. 413. Section 351, page 91, Laws of 1869 as last amended by section 7, chapter 276, Laws of 1984 and RCW 6.04.100 are each amended to read as follows:

When the writ of execution is against the property of the judgment debtor, the sheriff shall set the date of sale and serve on the debtor, in the same manner as service of a summons in a civil action, or cause to be transmitted by both regular mail and certified mail, return receipt requested, a copy of the writ, together with copies of RCW 6.12.010, 6.12.045, 6.12.050, 6.16.020, and 6.16.090~~((, each as now existing or hereafter amended))~~, and shall at the time of service, or with the mailing, notify the judgment debtor of the date of sale~~((, and shall execute the writ as follows:~~

~~(1) If property has been attached, he shall indorse on the execution, and pay to the clerk forthwith the amount of the proceeds of sales of perishable property or debts due the defendant received by him, sufficient to satisfy the judgment:~~

~~(2) If the judgment is not then satisfied, and property has been attached and remains in his custody, he shall sell the same, or sufficient thereof to satisfy the judgment:~~

~~(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, he shall levy on the property of the judgment debtor, sufficient to satisfy the judgment:~~

~~(4) Property shall be levied on in like manner and with like effect as similar property is attached:~~

~~(5) Until a levy, personal property shall not be affected by the execution. When property has been sold or debts received by the sheriff on execution, he shall pay the proceeds thereof, or sufficient to satisfy the judgment, as commanded in the writ:~~

~~(6) When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the execution may be levied on other property of the judgment debtor without delay. If after satisfying the judgment any property, or the proceeds thereof, remain in the custody of the sheriff, he shall deliver the same to the judgment debtor)). If service on the judgment debtor must be effected by publication, only the following notice need be published under the caption of the case:~~

To . . . . ., Judgment Debtor:

A writ of execution has been issued in the above-captioned case, directed to the sheriff of . . . . . county, commanding the sheriff as follows:

"WHEREAS, ... [Quoting body of writ of execution]."

The sale date has been set for . . . . . YOU MAY HAVE A RIGHT TO EXEMPT PROPERTY from the sale under statutes of this state, including sections 6.12.010, 6.12.045, 6.12.050, 6.16.020, and 6.16.090 of the Revised Code of Washington, in the manner described in those statutes.

NEW SECTION. Sec. 414. The sheriff shall, at a time as near before or after service on the judgment debtor as is possible, execute the writ as follows:

(1) If property has been attached, the sheriff shall indorse on the execution, and pay to the clerk forthwith, if he or she has not already done so, the amount of the proceeds of sales of perishable property or debts due the defendant previously received, sufficient to satisfy the judgment.

(2) If the judgment is not then satisfied, and property has been attached and remains in custody, the sheriff shall sell the same, or sufficient thereof to satisfy the judgment. When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the sheriff may, on instructions from the judgment creditor, levy on other property of the judgment debtor without delay.

(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, the sheriff shall levy on the property of the judgment debtor, sufficient to satisfy the judgment, in the manner described in RCW 7.12.130.

(4) If, after the judgment is satisfied, any property remains in custody, the sheriff shall deliver it to the judgment debtor.

(5) Until a levy, personal property shall not be affected by the execution.

(6) When property has been sold or debts received on execution, the sheriff shall pay the proceeds to the clerk who issued the writ, for satisfaction of the judgment as commanded in the writ or for return of any excess proceeds to the judgment debtor. No sheriff or other officer may retain any moneys collected on execution more than twenty days before paying the same to the clerk of the court who issued the writ.

NEW SECTION. Sec. 415. Upon receipt of proceeds from the sheriff on execution, the clerk shall notify the party to whom the same is payable, and pay over the amount to that party as required by law. If any proceeds remain after satisfaction of the judgment, the clerk shall pay the excess to the judgment debtor.

Sec. 416. Section 13, page 42, Laws of 1886 as amended by section 1, chapter 100, Laws of 1927 and RCW 7.12.130 are each amended to read as follows:

The sheriff to whom the writ is directed and delivered ~~((must))~~ shall execute the same without delay as follows:

(1) Real property shall be ~~((attached))~~ levied on by ~~((filing))~~ recording a copy of the writ, together with a description of the property attached, with the ~~((county auditor))~~ recording officer of the county in which the ~~((attached))~~ real estate is situated.

(2) Personal property, capable of manual delivery, shall be ~~((attached))~~ levied on by taking into custody.

(3) ~~((Stock or shares, or interest in stock or shares, of any corporation, association or company, shall be attached by leaving with the president or other head of the same, or the secretary, cashier or managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the defendant is attached in pursuance of such writ))~~. Shares of stock and other investment securities shall be levied on in accordance with the requirements of RCW 62A.8-317.

(4) A fund in court shall be levied on by leaving a copy of the writ with the clerk of the court with notice in writing specifying the fund.

(5) A franchise granted by a public or quasi-public corporation shall be levied on by (a) serving a copy of the writ on the judgment debtor as required by RCW 6.04.100 and (b) filing a copy of the writ in the office of the auditor of the county in which the franchise was granted together with a notice in writing that the franchise has been levied on to be sold, specifying the time and place of sale, the name of the owner, the amount of the judgment for which the franchise is to be sold, and the name of the judgment creditor.

(6) A vendor's interest under a real estate contract shall be levied on by (a) recording a copy of the writ, with descriptions of the contract and of the real property covered by the contract, with the recording officer of the

county in which the real estate is located and (b) serving a copy of the writ, with a copy of the descriptions, on the judgment debtor in the manner as required by RCW 6.04.100.

(7) Other intangible personal property may be levied on by serving a copy of the writ on the judgment debtor as required by RCW 6.04.100.

NEW SECTION. Sec. 417. If a judgment debtor owns real estate jointly or in common with any other person, only the debtor's interest may be levied on and sold on execution, and the sheriff's notice of sale shall describe the extent of the debtor's interest to be sold as accurately as possible.

Sec. 418. Section 499, page 220, Laws of 1854 as last amended by section 3, chapter 8, Laws of 1957 and RCW 6.04.120 are each amended to read as follows:

When a ((defendant)) judgment debtor owns personal property jointly(;) or in ((partnership)) common with any other person, ((and the)) only the debtor's interest may be levied on and sold on execution, and the sheriff's notice of sale shall describe the extent of the debtor's interest as accurately as possible.

If the debtor's interest cannot be separately ((attached)) levied on, the sheriff shall take possession of the property(;) unless the other person having an interest ((therein shall)) gives the sheriff a sufficient bond, with surety, conditioned to hold and manage the property according to law; and the sheriff shall then proceed to sell the interest of the defendant in such property((; describing such interest in his advertisement as nearly as may be, and the purchaser shall acquire all the interest of such defendant therein; but nothing herein contained shall be so construed as to deprive the copartner of any such defendant of his interest in any such)). This section shall not be construed so as to deprive the joint or common owner of any interest in the property.

Sec. 419. Section 268, page 182, Laws of 1854 as last amended by section 358, Code of 1881 and RCW 6.04.130 are each amended to read as follows:

((When the sheriff shall)) After levy of execution upon personal property, ((by virtue of an execution, he)) the sheriff may permit the judgment debtor to retain ((the same;)) possession of the property or any part ((thereof, in his possession)) of it until the day of sale, upon the ((defendant)) debtor executing a written bond to the sheriff with sufficient surety, in double the value of such property, to the effect that it shall be delivered to the sheriff at the time and place of sale, and for nondelivery thereof, an action may be maintained upon such bond by the sheriff or the ((plaintiff in the execution; but the sheriff shall not thereby be discharged from his liability to the plaintiff for such property)) judgment creditor, or the judgment creditor may, on motion supported by affidavit that the property has not



been delivered and the judgment remains unpaid, stating the amount unpaid, have judgment against the surety on the bond for the balance remaining due. In the alternative, the sheriff may appoint the judgment debtor as an agent to keep the property, without bond, upon written approval by the judgment creditor.

NEW SECTION. Sec. 420. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 61, Laws of 1897 and RCW 6.04.080;
- (2) Section 2, chapter 61, Laws of 1897 and RCW 6.04.090;
- (3) Section 3, chapter 61, Laws of 1897 and RCW 6.04.095;
- (4) Section 499, page 220, Laws of 1854, section 694, page 174, Laws of 1869, section 757, page 152, Laws of 1877, section 751, Code of 1881 and RCW 6.04.110; and
- (5) Section 605, page 155, Laws of 1869, section 668, page 138, Laws of 1877, section 665, Code of 1881 and RCW 6.04.150.

#### PART V ADVERSE CLAIMS

NEW SECTION. Sec. 501. The definitions in this section apply throughout this chapter.

(1) "Adverse claimant" means a person, other than the judgment debtor or defendant, who claims title or right to possession of property levied on.

(2) "Levying creditor" means the judgment creditor or plaintiff who obtained the writ of execution or attachment under which levy was made.

NEW SECTION. Sec. 502. An adverse claimant may assert a claim under the procedures provided in this chapter whether the levy was made under a writ of execution or of attachment and whether the writ was issued by a superior court or a district court of this state, but this chapter does not supersede common law or other remedies available to an adverse claimant before or after levy or sale.

Sec. 503. Section 256, page 179, Laws of 1854 as last amended by section 1, chapter 40, Law of 1891 and RCW 6.20.010 are each amended to read as follows:

~~((When any other person than the judgment debtor shall claim property levied upon or attached, he may have the right to))~~ (1) An adverse claimant to property levied on may demand and receive the ((same)) property from the sheriff ((or other officer making the attachment or)) who made the levy, upon ((his)) making and delivering to the sheriff an affidavit that the property is ((his;)) owned by the claimant or that ((he)) the claimant has a right to the immediate possession thereof, stating on oath the value thereof, and giving to the sheriff ((or officer)) a bond, with sureties in double the value of such property(;;). The bond shall be conditioned that ((he)) the claimant will appear in the ((superior court of the county in

which the property was seized, within ten days)) court specified in RCW 6.20.030 after the bond is accepted by the sheriff ~~((or other officer))~~, and make good ~~((his title to the same, or that he))~~ the claim in the affidavit or will return the property or pay its value to the ((said)) sheriff ((or other officer)).

(2) Without giving a bond, an adverse claimant who delivers to the sheriff an affidavit as described in subsection (1) of this section may, on motion made within seven days after delivering the affidavit, appear in the court specified in RCW 6.20.030, with notice to the sheriff and to the attorney of record for the levying creditor, if any, otherwise to the levying creditor, and set a hearing at which the probable validity of the claim stated in the affidavit can be considered. If the court, after the hearing, finds that the claim is probably valid, it shall direct the sheriff to release the claimed property to the claimant; otherwise, the court shall direct the sheriff to continue to hold the property unless the claimant gives a bond as provided in subsection (1) of this section.

Sec. 504. Section 256, page 179, Laws of 1854 as last amended by section 5, chapter 8, Laws of 1957 and RCW 6.20.020 are each amended to read as follows:

If the adverse claimant posts a bond and the sheriff ((or other officer)) requires it, the sureties shall justify as in other cases, and in case they do not so justify when required, the sheriff ((or officer)) shall retain the property; if the sheriff ((or officer)) does not require the sureties to justify, he or she shall stand good for their sufficiency. ((He)) The sheriff shall date and indorse ((his)) acceptance upon the bond.

Sec. 505. Section 257, page 179, Laws of 1854 as last amended by section 2, chapter 40, Laws of 1891 and RCW 6.20.030 are each amended to read as follows:

The ((officer)) sheriff shall immediately return the affidavit(;) of an adverse claimant and the bond and justification, if any, to the office of the clerk of the ((superior)) court that issued the writ, unless the property was seized in another county, then to the clerk of the superior court of the county in which the property was seized or, if the levy was made under a writ of a district court of this state, then to a district court, to be selected by the sheriff, in the county in which the property was seized, and this case shall stand for trial in said court. The adverse claimant shall be the plaintiff, and the sheriff and the levying creditor shall be the defendants. The sheriff or levying creditor or both of them may respond to the affidavit, but no further pleadings are required, and any party may cause the matter to be noted for trial.

Sec. 506. Section 259, page 179, Laws of 1854 as last amended by section 354, Code of 1881 and RCW 6.20.050 are each amended to read as follows:

If the claimant makes good ((his)) on all or any part of the claim to title to the property or right to possession, judgment shall be entered for the claimant to the extent the claim has been established. If the claimant has given a bond, the bond shall be canceled(;) or, if ((to)) the claimant makes good on only a portion ((thereof)) of the claim, a like proportion of the bond shall be canceled(;-but if he shall)). If the claimant has not given a bond and the sheriff has retained possession of the property, judgment shall be entered in favor of the claimant for return of the property or its value.

If the claimant does not maintain ((his title)) the claim, judgment shall be rendered against ((him and his)) the claimant. If the claimant has retained possession of the property pending trial on the claim, the judgment shall be entered against the claimant and, if the claimant has given a bond, against the sureties for the return of the property or for the value of the property or of the portion of the property for which the claim is not maintained, or for such ((less)) lesser amount as shall not exceed the amount due on the original execution or attachment.

When the judgment is in favor of the sheriff for the entire property, the claimant shall pay the costs; when the claimant recovers all the property, judgment shall be given in favor of the claimant for costs; when the claimant recovers a portion of the property only, the costs shall be apportioned. When the ((plaintiff)) claimant prevails, the costs may be taxed against the ((defendant who was plaintiff in the execution or attachment, or the court may, if it shall be of opinion)) levying creditor or, if the court finds that the sheriff attached or levied upon ((said)) the property without the exercise of due caution, ((adjudge him)) the court may require the sheriff to pay the costs or any portion thereof.

NEW SECTION. Sec. 507. Section 258, page 179, Laws of 1854, section 349, page 90, Laws of 1869, section 356, page 75, Laws of 1877, section 353, Code of 1881 and RCW 6.20.040 are each repealed.

## PART VI SALES UNDER EXECUTION

NEW SECTION. Sec. 601. All the provisions of this chapter governing sales of personal property, except vendors' interests under real estate contracts, shall apply to proceedings before district courts.

Sec. 602. Section 1, chapter 35, Laws of 1935 as last amended by section 1, chapter 276, Laws of 1984 and RCW 6.24.010 are each amended to read as follows:

Before the sale of personal property under execution, order of sale or decree, notice thereof shall be given as follows:

(1) ~~((In case of personal property, the sheriff shall post typed or printed notice of the time and place of sale in three public places in the county where the sale is to take place, for a period of not less than thirty days prior~~

to the day of sale. Not)) The judgment creditor shall, not less than thirty days prior to the day of sale, ((~~the judgment creditor shall~~)) cause a copy of the notice of sale to be transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor at the debtor's last known address, and by regular mail to the attorney of record for the judgment debtor, if any.

(2) ((~~In case of real property, the sheriff shall post a notice as provided in RCW 6.24.015, particularly describing the property for a period of not less than four weeks prior to the day of sale in two public places in the county, one of which shall be at the court house door, where the property is to be sold, and in case of improved real estate, one of which shall be at the front door of the principal building constituting such improvement. The sheriff shall also publish a notice thereof once a week, consecutively, for the same period, in any daily or weekly legal newspaper of general circulation published in the county in which the real property to be sold is situated in substantially the following form:~~

~~IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR ..... COUNTY~~

|                       |   |  |
|-----------------------|---|--|
| <del>_____</del>      | } | CAUSE NO:  |
| <del>Plaintiff,</del> |   |  |
| <del>_____</del>      |   |  |
| <del>vs.</del>        |   |  |
| <del>_____</del>      | } | SHERIFF'S PUBLIC<br>NOTICE OF SALE<br>OF REAL PROPERTY |
| <del>_____</del>      |   |  |
| <del>Defendant.</del> |   |  |

~~TO: [Judgment Debtor]  
The Superior Court of ..... County has directed the undersigned Sheriff of ..... County to sell the property described below to satisfy a judgment in the above-entitled action. If developed the property address is: .....~~

~~The sale of the above described property is to take place:~~

~~Time: .....  
Date: .....  
Place: .....~~

~~The judgment debtor can avoid the sale by paying the judgment amount of \$ ....., together with interest, costs, and fees before the sale date. For the exact amount, contact the sheriff at the address stated below:~~

~~..... SHERIFF-DIRECTOR, ..... COUNTY,  
WASHINGTON:~~

~~By ....., Deputy  
Address .....  
.....(City)  
Washington 9.....~~

Phone (...) .....

~~PROVIDED, HOWEVER, That if there is more than one legal newspaper published in the county, then the plaintiff or moving party in the action, suit or proceeding shall have the exclusive right to designate in which of such qualified newspapers such notice shall be published. PROVIDED, FURTHER, That if there is no legal newspaper published in the county, then such notice shall be published in a legal newspaper published in a contiguous county. Not less than thirty days prior to the date of sale, the judgment creditor shall cause a copy of the notice as provided in RCW 6.24.015 to be (a) served on the judgment debtor or debtors and each of them in the same manner as a summons in a civil action, or (b) transmitted by both regular and certified mail, return receipt requested, to the judgment debtor or debtors and to each of them separately if there is more than one judgment debtor at the judgment debtor's last known address, and the judgment creditor shall mail a copy of the notice of sale to the attorney of record for the judgment debtor.~~

~~(3) The judgment creditor shall file an affidavit with the court that the judgment creditor has complied with the notice requirements of this section:)) The sheriff shall post typed or printed notice of the time and place of the sale in three public places in the county in which the sale is to take place, for a period of not less than four weeks prior to the day of sale.~~

NEW SECTION. Sec. 603. Before the sale of real property under execution, order of sale, or decree, notice of the sale shall be given as follows:

(1) The judgment creditor shall:

(a) Not less than thirty days prior to the date of sale, cause a copy of the notice in the form provided in RCW 6.24.015 to be (i) served on the judgment debtor or debtors and each of them in the same manner as a summons in a civil action, or (ii) transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor or debtors, and to each of them separately if there is more than one judgment debtor, at each judgment debtor's last known address; and

(b) Not less than thirty days prior to the date of sale, mail a copy of the notice of sale to the attorney of record for the judgment debtor, if any; and

(c) File an affidavit with the court that the judgment creditor has complied with the notice requirements of this section.

(2) The sheriff shall:

(a) For a period of not less than four weeks prior to the date of sale, post a notice in the form provided in RCW 6.24.015, particularly describing the property, in two public places in the county in which the property is located, one of which shall be at the courthouse door, where the property is to be sold, and in case of improved real estate, one of which shall be at the front door of the principal building constituting such improvement; and

(b) Publish a notice of the sale once a week, consecutively, for the same period, in any daily or weekly legal newspaper of general circulation published in the county in which the real property to be sold is situated, but if there is more than one legal newspaper published in the county, then the plaintiff or moving party in the action, suit, or proceeding has the exclusive right to designate in which of the qualified newspapers the notice shall be published, and if there is no qualified legal newspaper published in the county, then the notice shall be published in a qualified legal newspaper published in a contiguous county, as designated by the plaintiff or moving party. The published notice shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR . . . . . COUNTY

|            |   |  |
|------------|---|--|
| Plaintiff, | } | CAUSE NO.  |
| vs.        |   | SHERIFF'S PUBLIC<br>NOTICE OF SALE<br>OF REAL PROPERTY |
| Defendant. |   |  |

TO: [Judgment Debtor]

The Superior Court of . . . . . County has directed the undersigned Sheriff of . . . . . County to sell the property described below to satisfy a judgment in the above-entitled action. If developed, the property address is: . . . . .

The sale of the above described property is to take place:

Time: . . . . .

Date: . . . . .

Place: . . . . .

The judgment debtor can avoid the sale by paying the judgment amount of \$. . . . ., together with interest, costs, and fees, before the sale date. For the exact amount, contact the sheriff at the address stated below:

. . . . . SHERIFF-DIRECTOR, . . . . . COUNTY,  
WASHINGTON.

By . . . . ., Deputy

Address . . . . .

. . . . .(City)

Washington 9. . . . .

Phone (...) . . . . .

Sec. 604. Section 2, chapter 329, Laws of 1981 as amended by section 2, chapter 276, Laws of 1984 and RCW 6.24.015 are each amended to read as follows:

The notice of sale shall be printed or typed and shall be in substantially the following form, except that if the sale is not pursuant to a judgment of

foreclosure of a mortgage or a statutory lien, the notice shall also contain a statement that the sheriff has been informed that there is not sufficient personal property to satisfy the judgment and that if the judgment debtor or debtors do have sufficient personal property to satisfy the judgment, the judgment debtor or debtors should contact the sheriff's office immediately:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR ..... COUNTY

Plaintiff,

vs.

Defendant.

CAUSE NO.

SHERIFF'S NOTICE TO  
JUDGMENT DEBTOR OF  
SALE OF REAL PROPERTY

TO: [Judgment Debtor]

The Superior Court of ..... County has directed the undersigned Sheriff of ..... County to sell the property described below to satisfy a judgment in the above-entitled action. The property to be sold is described on the reverse side of this notice. If developed, the property address is: .....

The sale of the above described property is to take place:

- Time: .....
- Date: .....
- Place: .....

The judgment debtor can avoid the sale by paying the judgment amount of \$....., together with interest, costs, and fees, before the sale date. For the exact amount, contact the sheriff at the address stated below:

This property is subject to: (check one)

- 1. No redemption rights after sale.
- 2. A redemption period of eight months which will expire at 4:30 p.m. on the ..... day of ....., 19...
- 3. A redemption period of one year which will expire at 4:30 p.m. on the ..... day of ....., 19...

The judgment debtor or debtors or any of them may redeem the above described property at any time up to the end of the redemption period by paying the amount bid at the sheriff's sale plus additional costs, taxes, assessments, ((and)) certain other amounts, fees, and interest. If you are interested in redeeming the property contact the undersigned sheriff at the address stated below to determine the exact amount necessary to redeem.

**IMPORTANT NOTICE: IF THE JUDGMENT DEBTOR OR DEBTORS DO NOT REDEEM THE PROPERTY BY 4:30 p.m. ON**

THE ... DAY OF ....., 19.., THE END OF THE REDEMPTION PERIOD, THE PURCHASER AT THE SHERIFF'S SALE WILL BECOME THE OWNER AND MAY EVICT THE OCCUPANT FROM THE PROPERTY UNLESS THE OCCUPANT IS A TENANT HOLDING UNDER AN UNEXPIRED LEASE, IF THE PROPERTY TO BE SOLD IS OCCUPIED AS A ((PERMANENT)) PRINCIPAL RESIDENCE ((AND IS OCCUPIED)) BY THE JUDGMENT DEBTOR OR DEBTORS AT THE TIME OF SALE, HE, SHE, THEY, OR ANY OF THEM MAY HAVE THE RIGHT TO RETAIN POSSESSION DURING THE REDEMPTION PERIOD, IF ANY, WITHOUT PAYMENT OF ANY RENT OR OCCUPANCY FEE. THE JUDGMENT DEBTOR MAY ALSO HAVE A RIGHT TO RETAIN POSSESSION DURING ANY REDEMPTION PERIOD IF THE PROPERTY IS USED FOR FARMING OR IF THE PROPERTY IS BEING SOLD UNDER A MORTGAGE THAT SO PROVIDES.

..... SHERIFF-DIRECTOR, ..... COUNTY, WASHINGTON.

By ....., Deputy  
 Address .....  
 .....(City)  
 Washington 9.....  
 Phone (...) .....

~~((If the sale is not pursuant to a judgment of foreclosure of a mortgage, the above notice should also contain a statement that the sheriff has been informed that there is not sufficient personal property to satisfy the judgment and that if the judgment debtor or debtors do have sufficient personal property to satisfy the judgment, the judgment debtor or debtors should contact the sheriff's office immediately:))~~

Sec. 605. Section 2, chapter 50, Laws of 1897 as last amended by section 1, chapter 126, Laws of 1953 and RCW 6.24.020 are each amended to read as follows:

(1) All sales of property under execution, order of sale, or decree, shall be made by auction between nine o'clock in the morning and four o'clock in the afternoon. ~~((After sufficient property has been sold to satisfy the execution, no more shall be sold. Neither the officer holding the execution, nor his deputy, shall become a purchaser, or be interested in any purchase at such sale. When the sale is of personal property capable of manual delivery, and not in the possession of a third person, it shall be within view of those who attend the sale, and be sold in such parcels as are likely to bring the highest price, and [when] the sale is of real property, consisting of several known lots or parcels, they shall be sold separately or otherwise as is likely to bring the highest price, or when a portion of such real property is claimed by a third person, and he requires it to be sold separately, such portion shall be~~



sold separately.)) Sale of a public franchise under execution or order of sale on foreclosure must be made at the front door of the courthouse in the county in which the franchise was granted. Sales of real property shall be made at the courthouse door on Friday(~~(-PROVIDED, HOWEVER, That if)~~) unless Friday is a legal holiday and then the sale shall be held on the next following regular business day.

(2) If at the time appointed for the sale the sheriff is prevented from attending at the place appointed or, being present, should deem it for the advantage of all concerned to postpone the sale for want of purchasers, or other sufficient cause, the sheriff may postpone the sale not exceeding one week next after the day appointed, and so from time to time for the like cause, giving notice of every adjournment by public proclamation made at the same time, and by posting written notices of such adjournment under the notices of sale originally posted. The sheriff for like causes may also adjourn the sale from time to time, not exceeding thirty days beyond the day at which the writ is made returnable, with the consent of the plaintiff indorsed upon the writ.

NEW SECTION. Sec. 606. After sufficient property has been sold to satisfy the execution, no more shall be sold. Neither the officer holding the execution nor his or her deputy shall become a purchaser or be interested in any purchase at the sale.

Sec. 607. Section 270, page 183, Laws of 1854 as last amended by section 362, Code of 1881 and RCW 6.24.050 are each amended to read as follows:

((When the purchaser of any personal property, capable of manual delivery, and not in the possession of a third person, association or corporation, shall pay)) If the sale is of personal property capable of manual delivery, and not in the possession of a third person, it shall be within view of those who attend the sale and shall be sold in such parcels as are likely to bring the highest price; and upon receipt of the purchase money, the sheriff shall deliver ((to him)) the property(;) to the purchaser and ((if desired)) shall give ((him)) a bill of sale containing an acknowledgment of the payment if the purchaser requests it. A vendor's interest under a real estate contract, including vendor's legal title to the real property, shall be treated as personal property for purposes of sale, but the sheriff shall give the purchaser both a bill of sale covering the vendor's interest under the contract and a sheriff's deed covering the vendor's legal title to the real property. In all other sales of personal property, the sheriff shall give the purchaser a bill of sale with ((the like)) an acknowledgment of payment. The sheriff shall return the proceeds with the execution to the clerk who issued the writ for payment as required by law.

Sec. 608. Section 5, chapter 53, Laws of 1899 and RCW 6.24.030 are each amended to read as follows:

~~((Upon))~~ A sale of a real property ~~((under execution, decree or order of sale, when the))~~ estate ~~((is))~~ of less than a leasehold of two years unexpired term ~~((, the sale))~~ and a sale of a vendor's interest in real property being sold under a real estate contract shall be absolute. In all other cases ~~((such)),~~ real property shall be sold subject to redemption, as ~~((hereinafter))~~ provided in chapter 6.— RCW (part VII of this act). ~~((At the time of the sale the sheriff shall give to the purchaser a certificate of the sale, containing a particular description of the property sold, the price bid for each distinct lot, or parcel, the whole price paid, and when subject to redemption, it shall be so stated. The matters contained in such certificate shall be substantially stated in the sheriff's return of his proceedings upon the writ.))~~

Sec. 609. Section 262, page 181, Laws of 1854 as last amended by section 363, Code of 1881 and RCW 6.24.060 are each amended to read as follows:

(1) The form and manner of ~~((sale of))~~ selling real estate by execution shall be as follows: The sheriff shall proclaim aloud at the place of sale, in the hearing of all the bystanders: "I am about to sell the following tracts of real estate (here reading the description,) upon the following execution:" ~~((here reading the execution.))~~ The sheriff shall also state the amount ~~((which he))~~ that is required ~~((to make))~~ upon the execution, which shall include damages, interests and costs up to the day of sale, and increased costs. ~~((He))~~ The sheriff shall then offer the land for sale ~~((, the lots and parcels separately or together, as he shall deem most advantageous)).~~

(2) If the sale is of real property consisting of several known lots or parcels, they shall be sold separately or otherwise as the sheriff deems likely to bring the highest price, except that if an interest in a portion of such real property is claimed by a third person who, by request directed to the sheriff in writing prior to the sale or orally or in writing at the sale before the bidding is begun, requests that it be sold separately, such portion shall be sold separately. Bids on all land except town lots ~~((shall))~~ may be ~~((sold))~~ by the acre or by tract or parcel.

(3) If the land is sold by the acre and any fewer number of acres than the whole tract or parcel is sold, it shall be measured off to the purchaser in a square form, from the northeast corner of the tract or parcel, unless some person claiming an interest in the land, by request directed to the sheriff in writing prior to the sale or orally or in writing at the sale before the bidding is begun, requests that the land sold be taken from some other part or in some other form; in such case, if the request is reasonable, the officer making the sale shall sell accordingly.

(4) If an entire tract or parcel of land is sold by the acre, it shall not be measured but shall be deemed and taken to contain the number of acres named in the description, and be paid for accordingly; and if the number of acres is not contained in the description, the officer shall declare according

to his or her judgment how many acres are contained therein, which shall be deemed and taken to be the true number of acres.

Sec. 610. Section 265, page 182, Laws of 1854 as last amended by section 28, chapter 81, Laws of 1971 and RCW 6.24.090 are each amended to read as follows:

(1) The officer shall strike off the land to the highest bidder, who shall forthwith pay the money bid to the officer, who shall return the money with ~~((his))~~ the execution and ~~((his doings thereon;))~~ the report of proceedings on the execution to the clerk of the court from which the execution issued ~~((; according to the order thereof))~~: PROVIDED, HOWEVER, That when final judgment shall have been entered in the supreme court or the court of appeals and the execution upon which sale has been made issued from said court, the ~~((proceedings on execution and))~~ return shall be ~~((docketed for confirmation in))~~ made to the superior court in which the action was originally commenced, and ~~((like))~~ the same proceedings shall be had as though ~~((said))~~ execution had issued from ~~((the said))~~ that superior court.

(2) At the time of the sale, the sheriff shall prepare a certificate of the sale, containing a particular description of the property sold, the price bid for each distinct lot or parcel, and the whole price paid; and when subject to redemption, it shall be so stated. The matters contained in such certificate shall be substantially stated in the sheriff's return of proceedings upon the writ. Upon receipt of the purchase price, the sheriff shall give a copy of the certificate to the purchaser and the original certificate to the clerk of the court with the return on the execution to hold for delivery to the purchaser upon confirmation of the sale.

Sec. 611. Section 6, chapter 53, Laws of 1899 as last amended by section 3, chapter 276, Laws of 1984 and RCW 6.24.100 are each amended to read as follows:

(1) Upon the return of any sale of real estate ~~((as aforesaid))~~, the clerk (a) shall enter the cause, on which the execution or order of sale issued, by its title, on the motion docket, and mark opposite the same: "Sale of land for confirmation"; (b) shall mail notice of the filing of the return of sale ~~((shall be mailed by the clerk))~~ to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them ~~((and)); (c) shall file proof of such mailing~~ ~~((shall be filed))~~ in the action; ~~((and the following proceedings shall be had:))~~ (d) shall apply the proceeds of the sale returned by the sheriff, or so much thereof as may be necessary, to satisfaction of the judgment, including interest as provided in the judgment, and shall pay any excess proceeds as provided in subsection (5) of this section; and (e) upon confirmation of the sale, shall deliver the original certificate of sale to the purchaser.

~~((†))~~ (2) The judgment creditor or successful purchaser at the sheriff's sale is entitled to an order confirming the sale at any time after twenty days have elapsed from the mailing of the notice of the filing of ~~((such))~~ the

sheriff's return (~~(shall be entitled)~~), on motion with notice given to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them, (~~(to have an order confirming the sale;)~~) unless the judgment debtor, or in case of ~~((his))~~ the judgment debtor's death, ((his)) the representative, or any nondefaulting party to whom notice was sent shall file objections to confirmation with the clerk within twenty days after the mailing of the notice of the filing of such return((; his objections thereto)).

~~((2))~~ (3) If ~~((such))~~ objections ((be)) to confirmation are filed, the court shall~~((; notwithstanding;))~~ nevertheless allow the order confirming the sale, unless on the hearing of the motion, it shall satisfactorily appear that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case, the court shall disallow the motion and direct that the property be resold, in whole or in part, as the case may be, as upon an execution received as of that date.

~~((3))~~ Upon the return of the execution, the sheriff shall pay the proceeds of sale to the clerk, who shall then apply the same, or so much thereof as may be necessary, in satisfaction of the judgment including interest as provided in the judgment.)

(4) Upon a resale, the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken, except for a greater amount. If ((an order of)) on resale ((be afterwards made, and)) the property sells for a greater amount to any person other than the former purchaser, the clerk shall first repay to ((such)) the former purchaser out of the proceeds of the resale the amount of ((his)) the former purchaser's bid ((out of the proceeds of the latter sale)) together with interest as is provided in the judgment.

~~((4))~~ Upon a resale, the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken, except for a greater amount. An order confirming a sale shall be a conclusive determination of the regularity of the proceedings concerning such sale as to all persons in any other action, suit or proceeding whatever:))

(5) If, after the satisfaction of the judgment, there be any proceeds of the sale remaining, the clerk shall pay such proceeds to the judgment debtor, or ~~((his))~~ the judgment debtor's representative, as the case may be, ~~((at any time))~~ before the order is made upon the motion to confirm the sale~~((; PROVIDED, Such))~~ only if the party files with the clerk a waiver of all objections made or to be made to the proceedings concerning the sale; otherwise the excess proceeds shall remain in the custody of the clerk until the sale of the property has been disposed of; but if the sale be confirmed, such excess proceeds shall be paid to ((said party)) the judgment debtor or representative as a matter of course((; otherwise they shall remain in the custody of the clerk until the sale of the property has been disposed of)).

(6) The purchaser shall file the original certificate of sale for record with the recording officer in the county in which the property is located.

Sec. 612. Section 16, chapter 53, Laws of 1899 as amended by section 5, chapter 80, Laws of 1965 and RCW 6.24.220 are each amended to read as follows:

In all cases where real estate has been, or may hereafter be sold ((in pursuance of law)) by virtue of an execution or other process, ((issued upon an ordinary money judgment, or by virtue of execution, or other process issued upon a decree for the foreclosure of a mortgage or other lien)) it shall be the duty of the sheriff or other officer making such sale to execute and deliver to the purchaser, or other person entitled to the same, a deed of conveyance of the real estate so sold ((immediately after the time for redemption from such sale has expired. PROVIDED, Such sale has been duly confirmed by order of the court. AND, PROVIDED FURTHER, That such)). The deeds shall be issued upon request immediately after the confirmation of sale by the court in those instances where redemption rights have been precluded pursuant to RCW 61.12.093 et seq., or immediately after the time for redemption from such sale has expired in those instances in which there are redemption rights, as provided in RCW 6.24.160. In case the term of office of the sheriff or other officer making such sale shall have expired before a sufficient deed has been executed, then the successor in office of such sheriff shall, within the time specified in this section, execute and deliver to the purchaser or other person entitled to the same a deed of the premises so sold, and such deeds shall be as valid and effectual to convey to the grantee the lands or premises so sold, as if the deed had been made by the sheriff or other officer who made the sale.

Sec. 613. Section 364, page 96, Laws of 1869 as last amended by section 368, Code of 1881 and RCW 6.24.110 are each amended to read as follows:

~~((If the))~~ A purchaser of real property sold on execution, or ~~((his))~~ a purchaser's successor in interest, ~~((be))~~ who is evicted ~~((therefrom))~~ in consequence of the reversal of the judgment ~~((, he))~~ may recover from the plaintiff in the execution the price paid with interest and the costs and disbursements of the eviction suit ~~((by which he was evicted, from the plaintiff in the writ of execution)).~~

NEW SECTION. Sec. 614. The following acts or parts of acts are each repealed:

(1) Section 263, page 181, Laws of 1854, section 360, page 94, Laws of 1869, section 367, page 79, Laws of 1877, section 364, Code of 1881 and RCW 6.24.070;

(2) Section 264, page 182, Laws of 1854, section 361, page 95, Laws of 1869, section 368, page 79, Laws of 1877, section 365, Code of 1881 and RCW 6.24.080; and

(3) Section 272, page 183, Laws of 1854, section 365, page 96, Laws of 1869, section 372, page 81, Laws of 1877, section 369, Code of 1881 and RCW 6.24.120.

## PART VII

## REDEMPTIONS OF REAL PROPERTY FROM FORCED SALES

Sec. 701. Section 7, chapter 53, Laws of 1899 and RCW 6.24.130 are each amended to read as follows:

(1) Real property sold subject to redemption, as ~~((above))~~ provided in RCW 6.24.030, or any part thereof separately sold, may be redeemed by the following persons, or their successors in interest:

~~((1))~~ (a) The judgment debtor ~~((or his successor in interest))~~, in the whole or any part of the property separately sold.

~~((2))~~ (b) A creditor having a lien by judgment, decree, deed of trust, or mortgage, on any portion of the property, or any portion of any part thereof, separately sold, subsequent in time to that on which the property was sold. The persons mentioned in ~~((subdivision (2) of this section))~~ this subsection are termed redemptioners.

(2) As used in this chapter, the terms "judgment debtor," "redemptioneer," and "purchaser," refer also to their respective successors in interest.

Sec. 702. Section 8, chapter 53, Laws of 1899 as last amended by section 4, chapter 276, Laws of 1984 and RCW 6.24.140 are each amended to read as follows:

(1) Unless redemption rights have been precluded pursuant to RCW 61.12.093 et seq., the judgment debtor ~~((or his successor in interest))~~ or any redemptioner~~(;)~~ may redeem the property from the purchaser at any time (a) within eight months after the date of the sale if the sale is pursuant to judgment and decree of foreclosure of any mortgage executed after June 30, 1961, which mortgage declares in its terms that the mortgaged property is not used principally for agricultural or farming purposes, and in which complaint the judgment creditor has expressly waived any right to a deficiency judgment, or (b) otherwise within one year after the date of the sale~~(; on paying)~~.

(2) The person who redeems from the purchaser must pay: (a) The amount of the bid, with interest thereon at the rate provided in the judgment to the time of redemption, together with (b) the amount of any assessment or taxes which the purchaser ~~((or his successor in interest may have))~~ has paid thereon after purchase, and like interest on such amount from time of payment to time of redemption, together with (c) any sum paid by the purchaser on a prior lien or obligation secured by an interest in the property to the extent the payment was necessary for the protection of the interest of the judgment debtor~~((, the judgment debtor's successor in interest))~~ or a redemptioner ~~((which the purchaser or the purchaser's successor in interest may have paid thereon with)), and like interest upon every~~

payment made (~~(by the purchaser or the purchaser's successor in interest at the rate provided in the judgment)~~) from the date of payment (~~(thereof)~~) to the time of redemption(~~(:)~~), and (d) if the redemption is by a redemptioner and if the purchaser ((be)) is also a creditor having a lien, by judgment, decree, deed of trust, or mortgage, prior to that of the redemptioner, other than the judgment under which such purchase was made, the redemptioner shall also pay the amount of such lien with like interest: PROVIDED, HOWEVER, That ((whenever there is an execution sale of property pursuant to judgment and decree of foreclosure of any mortgage executed after June 30, 1961, which mortgage declares in its terms that the mortgaged property is not used principally for agricultural or farming purposes, and in which complaint the judgment creditor has expressly waived any right to a deficiency judgment, the period of redemption shall be eight months after the said sale)) a purchaser who makes any payment as mentioned in (c) of this subsection shall submit to the sheriff the affidavit required by RCW 6.24.180, and any purchaser who pays any taxes or assessments or has or acquires any such lien as mentioned in (d) of this subsection must file the statement required in section 705 of this 1987 act and provide evidence of the lien as required by RCW 6.24.180.

Sec. 703. Section 6, chapter 329, Laws of 1981 as amended by section 5, chapter 276, Laws of 1984 and RCW 6.24.145 are each amended to read as follows:

(1) If the property is subject to a homestead as provided in ((RCW 6.17.045 or 6.17.050)) chapter 6.12 RCW, the purchaser ((or the purchaser's assignee)), or the redemptioner ((or the redemptioner's assignee)) if the property has been redeemed, shall send a notice, in the form prescribed in subsection (3) of this section, at least forty but not more than sixty days before the expiration of the judgment debtor's redemption period both by regular mail and by certified mail, return receipt requested, ((and by first class mail)) to the judgment debtor or debtors and to each of them separately, if there is more than one judgment debtor, at their last known address or addresses and to "occupant" at the property address. The ((notice)) party who sends the notice shall file a copy of the notice with an affidavit of mailing with the clerk of the court and deliver or mail a copy to the sheriff.

(2) Failure to comply with this section extends the judgment debtor's redemption period six months. If the redemption period is extended, no further notice need be sent. Time for redemption by redemptioners shall not be extended.

(3) The notice and affidavit of mailing required by subsection (1) of this section shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR . . . . COUNTY

|            |   |  |
|------------|---|--|
| Plaintiff, | } | CAUSE NO.                                    |
| vs.        |   | NOTICE OF EXPIRATION<br>OF REDEMPTION PERIOD |
| Defendant. |   |  |

TO: [Judgment Debtor]

THIS IS AN IMPORTANT NOTICE AFFECTING YOUR RIGHT TO RETAIN YOUR PROPERTY.

NOTICE IS HEREBY GIVEN that the period for redemption of the following described real property ("the property") is expiring. The property is situated in the County of . . . . ., State of Washington, to wit:

\_\_\_\_\_ [legal description] \_\_\_\_\_  
 and commonly known as . . . . ., which was sold by . . . . ., . . . . . County Sheriff, in . . . . ., . . . . . County, Washington on the . . . . . day of . . . . ., 19.., under and by virtue of a writ of execution and order of sale issued by the court in the above-entitled action.

THE REDEMPTION PERIOD FOR THE PROPERTY IS . . . . . MONTHS. THE REDEMPTION PERIOD COMMENCED ON . . . . ., 19.., AND WILL EXPIRE AT 4:30 p.m. ON . . . . ., 19..

If you intend to redeem the property described above you must give written notice of your intention to the . . . . . County Sheriff on or before . . . . ., 19..

Following is an itemized account of the amount required to redeem the property to date:

| Item  | Amount    |
|---|-----------|
| Purchase price paid at sale   | \$        |
| Interest from date of sale to date of<br>this notice at . . . percent per annum   | \$        |
| Real estate taxes <u>plus interest</u>  | \$        |
| Assessments <u>plus interest</u>  | \$        |
| Liens or other costs paid <u>by purchaser</u><br><u>or purchaser's successor during</u><br><u>redemption period plus interest</u> | \$        |
| <u>Lien of redemptioner</u>   | \$        |
| <b>TOTAL REQUIRED TO REDEEM AS<br/>OF THE DATE OF THIS NOTICE</b>   | <b>\$</b> |

You may redeem the property by 4:30 p.m. on or before the . . . day of . . . . ., 19.., by paying the amount set forth above and such other amounts as may be required by law. Payment must be in the full amount and in cash, certified check, or cashier's check. Because such other amounts



as may be required by law to redeem may include presently unknown expenditures required to operate, preserve, protect, or insure the property, or the amount to comply with state or local laws, or the amounts of prior liens, with interest, held by the purchaser or a redemptioner, it will be necessary for you to contact the . . . . . County Sheriff at the address stated below prior to the time you tender the redemption amount so that you may be informed exactly how much you will have to pay to redeem the property.

. . . . . SHERIFF-DIRECTOR, . . . . . COUNTY, WASHINGTON.

By . . . . ., Deputy  
Address . . . . .  
. . . . .(City)  
Washington 9. . . . .  
Phone (...) . . . . .

IF YOU FAIL TO REDEEM THE PROPERTY BY 4:30 p.m. ON OR BEFORE THE . . . . . DAY OF . . . . ., 19. . ., THE DATE UPON WHICH THE REDEMPTION PERIOD WILL EXPIRE, THE PURCHASER OR THE PURCHASER'S ((ASSIGNEE)) SUCCESSOR WILL BE ENTITLED TO POSSESSION OF THE PROPERTY AND MAY BRING AN ACTION TO EVICT YOU FROM POSSESSION OF THE PROPERTY.

DATED THIS . . . DAY OF . . . . ., 19. . .

[Purchaser]  
By  
[Purchaser's attorney]  
Attorneys for

STATE OF WASHINGTON }  
  } ss.  
COUNTY OF

The undersigned being first duly sworn on oath states: That on this day affiant deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the judgment debtor at the address stated on the face of this document and to "occupant" at the property address, both by certified mail, return receipt requested, and by first class mail, all of the mailings containing a copy of the document to which this affidavit is attached.

---

((~~SUBSCRIBED~~)) SIGNED AND SWORN TO BEFORE ME THIS . . . . . DAY OF . . . . ., 19..((:)), BY . . . . .  
(name of person making statement)

~~((NOTARY PUBLIC in and for the State of Washington, residing at:))~~

.....  
Title .....  
My appointment expires ....., 19..

~~((In the event that the redemption period is extended no further notice need be sent:~~

~~The party who sends the notice shall file a copy of the notice with an affidavit of mailing with the clerk of the court and deliver or mail a copy to the sheriff. Failure to comply with this section extends the redemption period for six months.))~~

Sec. 704. Section 9, chapter 53, Laws of 1899 and RCW 6.24.150 are each amended to read as follows:

(1) If property ((be so)) is redeemed from the purchaser by a redemptioner, as provided in RCW 6.24.140, another redemptioner may, within sixty days after the ((last)) first redemption, ((again)) redeem it from the ((last)) first redemptioner ((by paying the sum paid on such last redemption with interest at the rate of eight percent per annum, and the amount of any taxes or assessment which the last redemptioner may have paid thereon after the redemption by him, with like interest on such amount, and in addition thereto by paying the amount of any liens, by judgment, decree or mortgage, held by said last redemptioner prior to his own, with interest; but the judgment under which the property was sold need not be so paid as a lien)). The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty days after the last redemption, ((on)) and such sixty-day redemption periods may extend beyond the period prescribed in RCW 6.24.140 for redemption from the purchaser.

(2) The judgment debtor may also redeem from a redemptioner, but in all cases the judgment debtor shall have the entire redemption period prescribed by RCW 6.24.140, but no longer unless the time is extended under RCW 6.24.145 or 6.24.190. If the judgment debtor redeems, the effect of the sale is terminated and the estate of the debtor is restored.

(3) A redemptioner may redeem under this section by paying the sum paid on the last previous redemption with interest ((thereon)) at the rate of eight percent per annum, and the amount of any assessments or taxes which the last previous redemptioner paid on the property after ((the redemption by him)) redeeming, with like interest ((thereon)), and the amount of any liens by judgment, decree, deed of trust, or mortgage, other than the judgment under which the property was sold, held by the last redemptioner, ((previous)) prior to his own, with interest. ((If the purchaser or)) A judgment debtor who redeems from a redemptioner under this section must

make the same payments as are required to effect a redemption by a redemptioner, including any lien by judgment, decree, deed of trust, or mortgage, other than the judgment under which the property was sold, held by the redemptioner. A redemptioner ((shall pay)) who pays any taxes or assessments, or ((have or acquire)) has or acquires any such lien as herein mentioned, ((he)) must file a statement ((thereof with the auditor of the county where said property is situate before the property shall have been redeemed from him, otherwise the property may be redeemed without paying such tax, assessment or lien. Such statement shall be recorded by such auditor)) as required under section 705 of this 1987 act.

NEW SECTION. Sec. 705. A purchaser or redemptioner who pays any taxes or assessments or has or acquires a lien on the property by judgment, decree, deed of trust, or mortgage prior to that of a prospective redemptioner must file a statement thereof, for recording, with the recording officer of the county in which the property is situated before the property has been redeemed from him or her. Otherwise, the property may be redeemed without paying such tax, assessment, or lien, but if actual notice of such payments or liens has been given to the person who redeems, failure to file the statement shall not affect the right to payment from that person absent that person's demonstration of prejudice resulting from the failure to file the statement.

Sec. 706. Section 10, chapter 53, Laws of 1899 as amended by section 2, chapter 196, Laws of 1961 and RCW 6.24.160 are each amended to read as follows:

If no redemption ((be)) is made within the redemption period prescribed by RCW 6.24.140 or within any extension of that period under any other provision of this chapter, the purchaser ((or his assignee)) is entitled to a ((conveyance)) sheriff's deed; or, if so redeemed, whenever sixty days have elapsed((;)) and no other redemption has been made((;)) or notice given operating to extend the period ((of redemption)) for re-redemption, and the time for redemption by the judgment debtor has expired, the last redemptioner ((or his assignee)) is entitled to receive a sheriff's deed((; but in all cases the judgment debtor shall have the entire redemption period prescribed by RCW 6.24.140 from the date of the sale to redeem the property. If the judgment debtor redeem he must make the same payments as are required to effect a redemption by the redemptioner. If the judgment debtor redeem, the effect of the sale is terminated and he is restored to his estate. A certificate of redemption must be filed and recorded in the office of the auditor of the county in which the property is situated, and the auditor must note the record thereof in the margin of the record of the certificate of sale)) as provided in RCW 6.24.220.

Sec. 707. Section 11, chapter 53, Laws of 1899 and RCW 6.24.170 are each amended to read as follows:

When two or more persons apply to the sheriff to redeem at the same time ~~((he))~~, the sheriff shall allow the person having the prior lien to redeem first, and so on. The sheriff shall immediately pay the money over to the person from whom the property is redeemed, if ~~((he attend at the))~~ that person is present at time of redemption; or if not, at any time thereafter when demanded. When a sheriff ~~((shatt))~~ wrongfully ~~((refuse))~~ refuses to allow any person to redeem, ~~((his))~~ the right to redeem shall not be prejudiced ~~((thereby))~~ by such refusal, and the sheriff may be required, by order of the court, to allow such redemption.

Sec. 708. Section 12, chapter 53, Laws of 1899 as amended by section 6, chapter 276, Laws of 1984 and RCW 6.24.180 are each amended to read as follows:

~~((The mode of redeeming shall be as provided in this section.))~~ (1) The person seeking to redeem shall give the sheriff at least five days' written notice of ~~((his))~~ intention to apply to the sheriff for that purpose. It shall be the duty of the sheriff to notify the purchaser or redemptioner, as the case may be, or ~~((his))~~ the purchaser's or redemptioner's attorney, of the receipt of such notice, if such person ~~((be))~~ is within such county. At the time ~~((and place))~~ specified in such notice, the person seeking to redeem may do so by paying to the sheriff the sum required. The sheriff shall give the person redeeming a certificate stating ~~((therein))~~ the sum paid on redemption, from whom redeemed, the date thereof and a description of the property redeemed. A certificate of redemption must be filed and recorded in the office of the recording officer of the county in which the property is situated, and the recording officer must note the record thereof in the margin of the record of the certificate of sale.

(2) A person seeking to redeem shall submit to the sheriff the evidence of ~~((his))~~ the right ~~((thereto))~~ to redeem, as follows:

~~((1) If he be a))~~ (a) A lien creditor~~((;))~~ shall submit a copy of the docket of the judgment or decree under which ~~((he claims))~~ the right to redeem is claimed, certified by the clerk of the court where such judgment or decree is docketed; or ~~((if he seeks to redeem upon mortgage,))~~ the holder of a mortgage or deed of trust shall submit the certificate of the record thereof~~((; also))~~ together with an affidavit, verified by ~~((himself))~~ the holder or agent, showing the amount then actually due thereon.

~~((2) A))~~ (b) An assignee shall submit a copy of any assignment necessary to establish ~~((his))~~ the claim, verified by the affidavit of ~~((himself))~~ the assignee or agent, showing the amount then actually due on the judgment, decree, deed of trust, or mortgage.

(3) If the redemptioner or purchaser has a lien prior to that of the lien creditor seeking to redeem, such redemptioner or purchaser shall submit to the sheriff the same kind of evidence thereof as is required from a person seeking to redeem under subsection (2) of this section, and the amount due thereon, or the same may be disregarded.

(4) ~~((if the))~~ A purchaser ~~((or the purchaser's successor in interest))~~ who has paid a sum on a prior lien or obligation secured by an interest in the property ~~((, he or she))~~ shall submit to the sheriff an affidavit, verified by the purchaser ~~((or the purchaser's successor in interest))~~ or an agent, showing the amount paid on the prior lien or obligation, or the prior lien or obligation may be disregarded.

Sec. 709. Section 13, chapter 53, Laws of 1899 and RCW 6.24.190 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section and in RCW 6.24.210, the purchaser, from the time of the sale until the redemption, and the redemptioner from the time of ~~((his))~~ the redemption until another redemption, ~~((except as hereinafter provided,))~~ is entitled to receive from the tenant in possession the rents of the property sold ~~((;))~~ or the value of the use and occupation thereof. But when any rents or profits have been received ~~((by such person or persons thus entitled thereto,))~~ from the property ~~((thus sold))~~ by such purchaser or redemptioner, preceding the redemption thereof from him or her, the amount of such rents and profits, over and above the expenses paid for operating, caring for, protecting and insuring the property, shall be a credit upon the redemption money to be paid ~~((; and if the)).~~

(2) If a redemptioner or other person entitled to ~~((make such redemption))~~ redeem, before the expiration of the time allowed for such redemption, files with the sheriff a demand in writing for a written and verified statement of the amounts of ~~((such))~~ rents and profits thus received ~~((;))~~ and expenses paid and incurred, the period for redemption is extended five days after such a sworn statement is given by ~~((such))~~ the person ~~((thus))~~ receiving such rents and profits, or by his or her agent, to the person making ~~((such))~~ the demand, or to the sheriff. It shall be the duty of the sheriff to serve a copy of such demand upon the person receiving such rents and profits, his or her agent or his or her attorney, if ~~((such))~~ service can be made in the county where the property is situate. If such person shall, for a period of ten days after such demand has been given to the sheriff, fail or refuse to give such statement, ~~((such))~~ the redemptioner or other person entitled to redeem ~~((from such sale, making such demand,))~~ who made the demand may bring an action within sixty days after making such demand, but not later, in any court of competent jurisdiction, to compel an accounting and disclosure of such rents, profits and expenses, and until fifteen days from and after the final determination of such action the right of redemption is extended to such redemptioner or other person ~~((making such demand who shall be))~~ entitled to redeem who made the demand. If a sworn statement is given by the purchaser or other person receiving such rents and profits, and ~~((such))~~ the redemptioner or other person entitled to redeem ~~((;))~~ who ~~((makes such))~~ made the demand, desires to contest the correctness of the ~~((same))~~ statement, he or she must first redeem in

accordance with such sworn statement, and if he or she desires to bring an action for an accounting thereafter he or she may do so within thirty days after such redemption, but not later (~~(: PROVIDED, That if)~~).

(3) If such property ~~((be))~~ is farming or agricultural property and ~~((be))~~ is in possession of any purchaser or any previous redemptioner and is redeemed after the first day of April and before the first day of December, and the purchaser or previous redemptioner or ~~((his))~~ the tenant of either has performed any work in preparing such property for crops~~((:))~~ or has planted crops, ~~((he))~~ such purchaser or previous redemptioner shall ~~((be entitled to))~~ have the option to demand reimbursement for such work and labor or ~~((the right))~~ to retain possession of such property until the first day of December following, and the new redemptioner shall be entitled to collect the reasonable rental value thereof during such farming year, unless such reasonable rental shall have been collected by such purchaser or previous redemptioner and accounted for to the new redemptioner.

Sec. 710. Section 14, chapter 53, Laws of 1899 and RCW 6.24.200 are each amended to read as follows:

Until the expiration of the time allowed for redemption, the court may restrain the commission of waste on the property. But it is not waste for the person in possession of the property at the time of the sale or entitled to possession afterwards during the period allowed for redemption to continue to use it in the same manner in which it was previously used, or to use it in the ordinary course of husbandry, or to make the necessary repairs of buildings thereon, or to use wood or timber on the property therefor, or for the repairs of fences, or for fuel in his or her family while ~~((he occupies))~~ occupying the property.

Sec. 711. Section 15, chapter 53, Laws of 1899 as last amended by section 21, chapter 329, Laws of 1981 and RCW 6.24.210 are each amended to read as follows:

(1) Except as provided in this section and RCW 6.24.190, the purchaser from the day of sale until a resale or redemption, and the redemptioner from the day of ~~((his))~~ redemption until another redemption, shall be entitled to the possession of the property purchased or redeemed, unless the same be in the possession of a tenant holding under an unexpired lease, and in such case shall be entitled to receive from such tenant the rents or the value of the use and occupation thereof during the period of redemption (~~(: PROVIDED, That when)~~).

(2) If a mortgage contains a stipulation that in case of foreclosure the mortgagor may remain in possession of the mortgaged premises after sale and until the period of redemption has expired, the court shall make its decree to that effect and the mortgagor shall have such right (~~(: PROVIDED; FURTHER, That as)~~).

(3) As to any land so sold which is at the time of the sale used for farming purposes, or which is a part of a farm used, at the time of sale, for

farming purposes, the judgment debtor shall be entitled to retain possession thereof during the period of redemption and the purchaser or his successor in interest shall, if the judgment debtor does not redeem, have a lien upon the crops raised or harvested thereon during said period of redemption, for interest on the purchase price at the rate of six percent per annum during said period of redemption and for taxes becoming delinquent during the period of redemption together with interest thereon(~~(-AND, PROVIDED FURTHER, That))~~).

(4) In case of any homestead as defined in chapter 6.12 RCW and occupied for that purpose at the time of sale, the judgment debtor shall have the right to retain possession thereof during the period of redemption without accounting for issues or for value of occupation.

Sec. 712. Section 23, chapter 329, Laws of 1981 and RCW 6.24.230 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, during the period of redemption for any property (~~which~~) that a person would be entitled to claim as a homestead, any licensed real estate broker within the county in which the property is located may nonexclusively list the property for sale whether or not there is a listing contract. If the property is not redeemed by the judgment debtor and a sheriff's deed is issued under RCW 6.24.220, then the property owner shall accept the highest current qualifying offer upon tender of full cash payment within two banking days after notice of the pending acceptance is received by the offeror. If timely tender is not made, such offer shall no longer be deemed to be current and the opportunity shall pass to the next highest current qualifying offer, if any. Notice of pending acceptance shall be given for the first highest current qualifying offer within five days after delivery of the sheriff's deed under RCW 6.24.220 and for each subsequent highest current qualifying offer within five days after the offer becoming the highest current qualifying offer. An offer is qualifying if the offer is made during the redemption period through a licensed real estate broker listing the property and is at least equal to the sum of: (a) One hundred twenty percent greater than the redemption amount determined under RCW 6.24.140 and (b) the normal commission of the real estate broker or agent handling the offer.

(2) The proceeds shall be divided at the time of closing with: (a) One hundred twenty percent of the redemption amount determined under RCW 6.24.140 paid to the property owner, (b) the real estate broker's or agent's normal commission paid, and (c) any excess paid to the judgment debtor.

(3) Notice, tender, payment, and closing shall be made through the real estate broker or agent handling the offer.

(4) This section shall not apply to mortgage or deed of trust foreclosures under chapter 61.12 or 61.24 RCW.

PART VIII  
ATTACHMENT

NEW SECTION. Sec. 801. Unless otherwise expressly provided, all the provisions of this chapter governing attachment of personal property apply to proceedings before district courts of this state, but the district courts shall not have power to issue writs of attachment against real property or any interest in real property or against vendors' interests under real estate contracts.

Sec. 802. Section 1, page 39, Laws of 1886 and RCW 7.12.010 are each amended to read as follows:

The plaintiff at the time of commencing an action, or at any time afterward before judgment, may have the property of the defendant, or that of any one or more of several defendants, attached in the manner (~~hereinafter~~) prescribed in this chapter, as security for the satisfaction of such judgment as (~~he~~) the plaintiff may recover.

Sec. 803. Section 2, page 39, Laws of 1886 as last amended by section 16, chapter 154, Laws of 1973 1st ex. sess. and RCW 7.12.020 are each amended to read as follows:

The writ of attachment (~~shall~~) may be issued by (~~the clerk of~~) the court in which the action is pending (~~but before any such writ of attachment shall issue, the plaintiff, or someone in his behalf, shall make and file with such clerk an affidavit showing that the defendant is indebted to the plaintiff (specifying the amount of such indebtedness over and above all just credits and offsets), and that the attachment is not sought and the action is not prosecuted to hinder, delay, or defraud any creditor of the defendant, and either~~) on one or more of the following grounds:

- (1) That the defendant is a foreign corporation; or
- (2) That the defendant is not a resident of this state; or
- (3) That the defendant conceals himself so that the ordinary process of law cannot be served upon him; or
- (4) That the defendant has absconded or absented himself from his usual place of abode in this state, so that the ordinary process of law cannot be served upon him; or
- (5) That the defendant has removed or is about to remove any of his property from this state, with intent to delay or defraud his creditors; or
- (6) That the defendant has assigned, secreted, or disposed of, or is about to assign, secrete, or dispose of, any of his property, with intent to delay or defraud his creditors; or
- (7) That the defendant is about to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors; or
- (8) That the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought; or



(9) That the damages for which the action is brought are for injuries arising from the commission of some felony, gross misdemeanor, or misdemeanor; or

(10) That the object for which the action is brought is to recover on a contract, express or implied.

Sec. 804. Section 3, page 39, Laws of 1886 and RCW 7.12.030 are each amended to read as follows:

An action may be commenced and the property of a debtor may be attached previous to the time when the debt becomes due, when nothing but time is wanting to fix an absolute indebtedness, and when the complaint and the affidavit allege, in addition to that fact, ~~((states))~~ one or more of the following grounds:

(1) That the defendant is about to dispose or has disposed of his property in whole or in part with intent to defraud his creditors; or

(2) That the defendant is about to remove from the state~~((;))~~ and refuses to make any arrangements for securing the payment of the debt when it falls due, and ~~((which))~~ the contemplated removal was not known to the plaintiff at the time the debt was contracted; or

~~(3) ((That the defendant has disposed of his property in whole or in part with intent to defraud his creditors; or~~

~~(4)))~~ That the debt was incurred for property obtained under false pretenses.

Sec. 805. Section 4, page 40, Laws of 1886 and RCW 7.12.040 are each amended to read as follows:

If the debt or demand for which the attachment is sued out is not due at the time of the commencement of the action, the defendant is not required to file any pleadings until the maturity of such debt or demand, but ~~((he))~~ the defendant may, in his or her discretion, do so, and go to trial as early as the cause is reached. No final judgment shall be rendered in such action until the debt or demand upon which it is based becomes due, unless the defendant consents by filing pleadings or otherwise. However, property of a perishable nature may be sold as provided in RCW 7.12.160.

**NEW SECTION.** Sec. 806. (1) The plaintiff or someone on plaintiff's behalf shall apply for a writ of attachment by affidavit, alleging that the attachment is not sought and the action is not prosecuted to hinder, delay, or defraud any creditor of the defendant and also alleging that affiant has reason to believe and does believe the following, together with specific facts on which affiant's belief in the allegations is based: (a) That the defendant is indebted to the plaintiff (specifying the nature of the claim and the amount of such indebtedness over and above all just credits and offsets), and (b) that one or more of the grounds stated in RCW 7.12.020 for issuance of a writ of attachment exists.

(2) If the action is based on a debt not due, the ground alleged under subsection (1)(b) of this section must be one stated in RCW 7.12.030 for attachment on a debt not due, and affiant shall also allege reason to believe and belief that nothing but time is wanting to fix an absolute indebtedness due from defendant, together with specific facts on which the affiant's belief in the allegations is based.

**NEW SECTION. Sec. 807.** (1) Except as provided in subsection (2) of this section, the court shall issue a writ of attachment only after prior notice to defendant, given in the manner prescribed in subsections (4) and (5) of this section, with an opportunity for a prior hearing at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for attachment exists.

(2) Subject to subsection (3) of this section, the court shall issue the writ without prior notice to defendant and an opportunity for a prior hearing only if:

(a)(i) The attachment is to be levied only on real property, or (ii) if it is to be levied on personal property, the ground alleged for issuance of attachment is one appearing in RCW 7.12.020 (5) through (7) or in RCW 7.12.030(1) or, if attachment is necessary for the court to obtain jurisdiction of the action, the ground alleged is one appearing in RCW 7.12.020 (1) through (4); and

(b) The court finds, on the basis of specific facts alleged in the affidavit, after an ex parte hearing, that there is probable cause to believe the allegations of plaintiff's affidavit.

(3) If a writ is issued under subsection (2) of this section without prior notice to defendant, after seizure of property under the writ the defendant shall be entitled to prompt notice of the seizure and of a right to an early hearing, if requested, at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for attachment exists. Such notice shall be given in the manner prescribed in subsections (4) and (5) of this section.

(4) When notice and a hearing are required under this section, notice may be given by a show cause order stating the date, time, and place of the hearing. Notice required under this section shall be jurisdictional and, except as provided for published notice in subsection (5) of this section, notice shall be served in the same manner as a summons in a civil action and shall be served together with: (a) Copies of the plaintiff's affidavit and of the writ; (b) if the defendant is an individual, copies of homestead statutes, RCW 6.12.010, 6.12.045, and 6.12.050, if real property is to be attached, or copies of exemption statutes, RCW 6.16.020 and 6.16.090, if personal property is to be attached; and (c) if the plaintiff has proceeded under subsection (2) of this section, a copy of a "Notice of Right to Hearing" in substantially the following form:

**NOTICE OF RIGHT TO HEARING**

In a lawsuit against you, a Washington court has issued the Writ of Attachment included with this notice. Under the writ a sheriff or sheriff's deputy has or will put a lien against your real estate or has seized or will seize other property of yours to hold until the court decides the lawsuit.

Delivery of this notice of your rights is required by law.

**YOU HAVE THE RIGHT TO A HEARING.** At the hearing, the plaintiff must give evidence that there is probable cause to believe that the statements in the enclosed affidavit are true and also that the claim stated in the lawsuit is probably valid, or else your property will be released.

If the defendant is an individual, the following paragraph shall be added to the notice:

**YOU MAY ALSO HAVE A RIGHT TO HAVE YOUR PROPERTY RELEASED** if it is exempt property as described in the copies of statutes included with this notice and if you claim your exemptions in the way described in the statutes.

(5) If service of notice on the defendant must be effected by publication, only the following notice need be published under the caption of the case:

To Defendant:

A writ of attachment has been issued in the above-captioned case, directed to the Sheriff of ..... County, commanding the Sheriff as follows:

"WHEREAS, . . . [Quoting body of writ of attachment]"

**YOU HAVE A RIGHT TO ASK FOR A HEARING.** At the hearing, the plaintiff must give evidence that there is probable cause to believe that the ground for attachment alleged in an affidavit filed with the court exists and also that the claim stated in the lawsuit is probably valid, or else the attachment will be discharged.

If the defendant is an individual, the following paragraph shall be added to the published notice:

**YOU MAY ALSO HAVE A RIGHT TO HAVE YOUR PROPERTY RELEASED** if it is exempt property as described in Washington exemption statutes, including sections 6.12.010, 6.12-.045, 6.12.050, 6.16.020 and 6.16.090 of the Revised Code of Washington, in the manner described in those statutes.

Sec. 808. Section 6, page 40, Laws of 1886 as last amended by section 1, chapter 51, Laws of 1957 and RCW 7.12.060 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, before the writ of attachment shall issue, the plaintiff, or someone in ((his)) the plaintiff's behalf, shall execute and file with the clerk a surety bond or undertaking in the sum in no case less than three ((hundred)) thousand dollars, in the superior court, nor less than ((fifty)) five hundred dollars in the ((justice)) district court, and double the amount for which plaintiff demands judgment, or such other amount as the court shall fix, conditional that the plaintiff will prosecute ((his)) the action without delay and will pay all costs that may be adjudged to the defendant, and all damages ((which he)) that the defendant may sustain by reason of the writ of attachment or of additional writs issued as permitted under RCW 7.12.100, not exceeding the amount specified in such bond or undertaking, as the penalty thereof, should the same be wrongfully, oppressively or maliciously sued out. ((With said bond or undertaking there shall also be filed the affidavit of the sureties, from which it must appear that such sureties are qualified and that they are, taken together, worth the sum specified in the bond or undertaking, over and above all debts and liabilities, and property exempt from execution. No person not qualified to become surety as provided by law, shall be qualified to become surety upon a bond or undertaking for an attachment: PROVIDED, That when))

(2) If it is desired to attach real estate only, and such fact is stated in the affidavit for attachment, and the ground of attachment is that the defendant is a foreign corporation or is not a resident of the state, or conceals himself or herself or has absconded or is absent from his or her usual place of abode so that the ordinary process of law cannot be served upon him or her, ((or has absconded or absented himself from his usual place of abode, so that the ordinary process of law cannot be served upon him;)) the writ of attachment shall issue without bond or undertaking by or on behalf of the plaintiff((: AND PROVIDED FURTHER, That when the claim, debt or obligation whether in contract or tort, upon which plaintiff's cause of action is based, shall have been assigned to him, and his)).

(3) If the plaintiff sues on an assigned claim and the plaintiff's immediate or any other assignor thereof retains or has any interest ((therein)) in the claim, then the plaintiff and every assignor ((of said claim, debt or obligation)) who retains or has any interest therein((:)) shall be jointly and severally liable ((to the defendant)) for all costs that may be adjudged to ((him)) the defendant and for all damages ((which he)) that the defendant may sustain by reason of the attachment, should the same be wrongfully, oppressively or maliciously sued out.

Sec. 809. Section 7, page 40, Laws of 1886 and RCW 7.12.070 are each amended to read as follows:

The defendant may, at any time before judgment, move the court or judge for additional security on the part of the plaintiff, or for security if none was required under RCW 7.12.060, and if, on such motion, the court or judge is satisfied that security or additional security should be required or that the surety in the plaintiff's bond has removed from this state(;) or is not sufficient, the attachment may be vacated, and restitution directed of any property taken under it, unless in a reasonable time, to be fixed by the court or judge, further security is given by the plaintiff in form as provided in RCW 7.12.060.

Sec. 810. Section 8, page 41, Laws of 1886 and RCW 7.12.080 are each amended to read as follows:

In an action on such bond (~~((the plaintiff therein may recover))~~), if (~~((he shows))~~) it is shown that the attachment was wrongfully sued out, (~~((and that there was no reasonable cause to believe the ground upon which the same was issued to be true;))~~) the defendant may recover the actual damages sustained and reasonable attorney's fees to be fixed by the court(~~(-and))~~). If it ((be)) is shown that such attachment was sued out maliciously, (~~((he))~~) the defendant may recover exemplary damages, (~~((nor need he))~~) and the defendant need not wait until the principal suit is determined before suing on the bond.

Sec. 811. Section 9, page 41, Laws of 1886 and RCW 7.12.090 are each amended to read as follows:

The writ of attachment shall be directed to the sheriff of any county in which property of the defendant may be, and shall require (~~((him))~~) the sheriff to attach and safely keep the property of such defendant within (~~((his))~~) the county, to the requisite amount, which shall be stated in conformity with the affidavit. The sheriff shall in all cases attach the amount of property directed, if sufficient property not (~~((exempt))~~) exempted from execution be found in (~~((his))~~) the county, giving that in which the defendant has a legal and unquestionable title a preference over that in which (~~((his))~~) title is doubtful or only equitable, and (~~((he))~~) the sheriff shall as nearly as the circumstances of the case will permit, levy upon property fifty percent greater in valuation than the amount that the plaintiff in ((his)) the affidavit claims to be due. When property is seized on attachment, the court may allow to the officer having charge thereof such compensation for (~~((his))~~) the trouble and expenses in keeping the same as shall be reasonable and just.

Sec. 812. Section 10, page 41, Laws of 1886 and RCW 7.12.100 are each amended to read as follows:

If a writ of attachment has been issued in a case, other writs of attachment may be issued in the same case from the (~~((superior))~~) court(~~(s))~~) to different counties, and several may, at the option of the plaintiff, be issued at the same time, or in succession and subsequently, until sufficient property has been attached; but only those executed shall be taxed in the costs, unless

otherwise ordered by the court, and if more property is attached in the aggregate than the plaintiff is entitled to have held, the surplus must be abandoned and the plaintiff pay all costs incurred in relation to such surplus. After the first writ (~~shall have~~) has issued, it shall not be necessary for the plaintiff to file any further affidavit or bond unless the court otherwise directs, but (~~he~~) the plaintiff shall be entitled to as many writs as may be necessary to secure the amount claimed.

Sec. 813. Section 11, page 41, Laws of 1886 and RCW 7.12.110 are each amended to read as follows:

The sheriff or other officer shall indorse upon the writ of attachment in ink the day, hour, and minute when the writ first came into the officer's hands. Where there are several attachments against the same defendant, they shall be executed in the order in which they were received by the sheriff.

**NEW SECTION.** Sec. 814. The sheriff shall levy on property to be attached in the same manner as provided for execution in RCW 7.12.130, section 417 of this 1987 act, and RCW 6.04.120.

Sec. 815. Section 12, page 42, Laws of 1886 and RCW 7.12.120 are each amended to read as follows:

If, after an attachment has been placed in the hands of the sheriff, any property of the defendant is moved from the county, the sheriff may pursue and attach the (~~same~~) property in an adjoining county(;) within twenty-four hours after removal.

Sec. 816. Section 21, page 43, Laws of 1886 as amended by section 2, chapter 100, Laws of 1927 and RCW 7.12.200 are each amended to read as follows:

The sheriff shall make a full inventory of the property attached and return the (~~same~~) inventory with the writ of attachment within twenty days of receipt of the writ, with a return of the proceedings indorsed on or attached to the writ. If the writ was issued at the same time as the summons, the sheriff shall return the writ with the summons.

Sec. 817. Section 14, page 42, Laws of 1886 and RCW 7.12.140 are each amended to read as follows:

Whenever it appears by the affidavit of the plaintiff that the plaintiff has probable cause to believe that a ground for attachment exists and it appears by the plaintiff's affidavit or by the return of the attachment that no property is known to the plaintiff or officer on which the attachment can be executed, or not enough to satisfy the plaintiff's claim, and it being shown to the court or judge by affidavit that the defendant has property within the state not (~~exempt~~) exempted, the defendant may be required by such court or judge to attend before the court or judge or referee appointed by the court or judge and give information on oath respecting the (~~same~~) property.

Sec. 818. Section 31, page 45, Laws of 1886 as amended by section 1, chapter 131, Laws of 1927 and RCW 7.12.270 are each amended to read as follows:

(1) The defendant may at any time, after ~~((he has appeared))~~ appearing in the action and before ~~((he has given))~~ giving bond ~~((to the effect that he will perform the judgment of the court,))~~ as provided in RCW 7.12.250, apply on motion, upon reasonable notice to the plaintiff, to the court in which the action is brought or to the judge thereof, that the writ of attachment be discharged on the ground that ~~((the same))~~ it was improperly or irregularly issued.

(2) If the motion is made on affidavits on the part of the defendant, the plaintiff may oppose the same by affidavits in addition to those on which the attachment was issued or by other evidence, unless otherwise ordered by the court.

(3) If upon application it satisfactorily appears that the writ of attachment was improperly or irregularly issued, it must be discharged.

(4) Whenever an order has been made discharging or releasing an attachment upon real property, a certified copy of such order may be recorded with the recording officer of the county in which the writ of attachment has been recorded.

Sec. 819. Section 29, page 45, Laws of 1886 and RCW 7.12.250 are each amended to read as follows:

If the defendant, at any time before judgment, causes a bond to be executed to the plaintiff with sufficient sureties, to be approved by the officer having the attachment or after the return thereof by the clerk ~~((to the effect that he will perform)),~~ conditional on the performance of the judgment of the court, the attachment shall be discharged and restitution made of property taken or proceeds thereof. The execution of such bond shall be deemed an appearance of such defendant to the action. The bond shall be part of the record and, if judgment goes against the defendant, the judgment shall be entered against the defendant and the sureties.

Sec. 820. Section 15, page 42, Laws of 1886 as amended by section 9, chapter 9, Laws of 1957 and RCW 7.12.150 are each amended to read as follows:

The court before whom the action is pending may at any time appoint a receiver to take possession of property attached under the provisions of this chapter~~((;))~~ and to collect, manage, and control the ~~((same))~~ property and pay over the proceeds according to the nature of the property and the exigency of the case.

NEW SECTION. Sec. 821. (1) If, before or after levy under a writ of attachment, the plaintiff receives notice that the defendant has become a debtor in a bankruptcy case, the plaintiff shall immediately give written notice of that fact to the sheriff.

(2) If, before levying under a writ of attachment, a sheriff receives notice that the defendant has become a debtor in a bankruptcy case, the sheriff shall immediately give written notice of that fact to the plaintiff's attorney of record, if any, otherwise to the plaintiff, and shall not be bound to levy under the writ. If, after levying on property under a writ of attachment, a sheriff receives such notice, the sheriff shall give written notice of the attachment, describing the property seized, to the trustee in the bankruptcy case if there is one, otherwise to the bankruptcy court, with a copy to the plaintiff's attorney of record, if any, otherwise to the plaintiff, and shall transfer the property to the trustee on demand or as the bankruptcy court otherwise directs. If no demand is made on the sheriff for surrender of the property and the sheriff thereafter receives notice of the closing of the bankruptcy case, the sheriff shall give written notice by first class mail to the plaintiff's attorney of record, if any, otherwise to the plaintiff, requiring that the plaintiff release the property or obtain a renewal of the writ from the court, and, if the plaintiff fails to release the property or to apply for a renewal within fourteen days after the mailing of the sheriff's notice, the sheriff may release the property to the defendant.

Sec. 822. Section 16, page 42, Laws of 1886 as amended by section 2, chapter 51, Laws of 1957 and RCW 7.12.160 are each amended to read as follows:

If any property attached be perishable or in danger of serious and immediate waste or decay, the sheriff shall sell the same in the manner in which such property is sold on execution. Whenever it shall be made to appear satisfactorily to the court or judge that the interest of the parties to the action will be subserved by a sale of any attached property, the court or judge may order such property to be sold in the same manner as like property is sold under execution. Such order shall be made only upon notice to the adverse party or ~~((his))~~ that party's attorney in case such party shall have been personally served with a summons in the action.

Sec. 823. Section 17, page 43, Laws of 1886 and RCW 7.12.170 are each amended to read as follows:

All moneys received by the sheriff under the provisions of this chapter shall be paid to the clerk of the court that issued the writ, to be held to be applied to any judgment that may be recovered in the action, and all other attached property shall be retained by ~~((him))~~ the sheriff to ~~((answer))~~ be applied to any judgment that may be recovered in the action ~~((unless sooner subjected to execution upon another judgment recovered previous to the issuing of the attachment))~~.

Sec. 824. Section 25, page 44, Laws of 1886 as amended by section 4, chapter 51, Laws of 1957 and RCW 7.12.210 are each amended to read as follows:



If judgment ~~((be))~~ is recovered by the plaintiff ~~((the sheriff shall satisfy the same)), it shall be paid out of any proceeds held by the clerk of the court and out of the property (attached by him which has not been delivered to the defendant or claimant as in this chapter provided or subjected to execution on another judgment recovered previous to the issuing of the attachment, if it be))~~ retained by the sheriff if it is sufficient for that purpose as follows:

(1) By applying on the execution issued on said judgment the proceeds of all sales of perishable or other property sold ~~((by him)),~~ or so much as shall be necessary to satisfy the judgment.

(2) If any balance remains due ~~((he)),~~ the sheriff shall sell under the execution so much of the personal property(~~(-real or personal;))~~ attached as may be necessary to satisfy the balance(~~(-if enough for that purpose remain in his hands))~~ and, if there is not sufficient personal property to satisfy the balance, the sheriff shall sell so much of any real property attached as is necessary to satisfy the judgment.

Notice of ~~((the))~~ sale shall be given and ~~((the))~~ sale conducted as in other cases of sales on execution.

Sec. 825. Section 26, page 44, Laws of 1886 as amended by section 5, chapter 51, Laws of 1957 and RCW 7.12.220 are each amended to read as follows:

If, after ~~((selling))~~ the proceeds of all the property attached ~~((by him remaining in his hands, and applying the proceeds, deducting his fees;))~~ have been applied to the payment of the judgment, any balance ~~((shall))~~ remains due, the sheriff shall proceed ~~((to collect such balance))~~ as upon an execution in other cases. Whenever the judgment ~~((shall have))~~ has been paid, the sheriff, upon reasonable demand, shall deliver ~~((over))~~ to the defendant the attached property remaining ~~((in his hands))~~ and the clerk shall pay to the defendant any remaining proceeds of the property attached ((unapplied)) that have not been applied on the judgment.

Sec. 826. Section 27, page 45, Laws of 1886 and RCW 7.12.230 are each amended to read as follows:

If the execution ~~((be))~~ is returned unsatisfied, in whole or in part, the plaintiff may proceed as in other cases upon the return of an execution.

Sec. 827. Section 28, page 45, Laws of 1886 and RCW 7.12.240 are each amended to read as follows:

If the defendant recovers judgment against the plaintiff, all the proceeds of sales and money collected by the sheriff and deposited with the clerk and all the property attached ~~((remaining in))~~ and retained by the sheriff ~~((s hands))~~ shall be delivered to the defendant or ~~((his))~~ the defendant's agent. The order of attachment shall be discharged and the property released therefrom.

Sec. 828. Section 35, page 46, Laws of 1886 and RCW 7.12.310 are each amended to read as follows:

This chapter shall be liberally construed, and the plaintiff, at any time when objection is made thereto, shall be permitted to amend any defect in the complaint, affidavit, bond, writ or other proceeding, and no attachment shall be quashed or dismissed, or the property attached released, if the defect in any of the proceedings has been or can be amended so as to show that a legal cause for the attachment existed at the time it was issued, and the court shall give the plaintiff a reasonable time to perfect such defective proceedings. (~~The causes for attachment shall not be stated in the alternative.~~)

NEW SECTION. Sec. 829. The following acts or parts of acts are each repealed:

- (1) Section 5, page 40, Laws of 1886 and RCW 7.12.050;
- (2) Section 20, page 43, Laws of 1886, section 3, chapter 51, Laws of 1957 and RCW 7.12.190;
- (3) Section 30, page 45, Laws of 1886 and RCW 7.12.260;
- (4) Section 32, page 45, Laws of 1886 and RCW 7.12.280;
- (5) Section 33, page 45, Laws of 1886 and RCW 7.12.290;
- (6) Section 34, page 45, Laws of 1886 and RCW 7.12.300; and
- (7) Section 37, page 46, Laws of 1886 and RCW 7.12.330.

NEW SECTION. Sec. 830. The following acts or parts of acts are each repealed:

- (1) Section 86, page 238, Laws of 1854, section 85, page 350, Laws of 1873, section 1786, Code of 1881 and RCW 12.24.010;
- (2) Section 87, page 238, Laws of 1854, section 86, page 351, Laws of 1873, section 1787, Code of 1881 and RCW 12.24.020;
- (3) Section 88, page 238, Laws of 1854, section 87, page 351, Laws of 1873, section 1788, Code of 1881 and RCW 12.24.030;
- (4) Section 91, page 238, Laws of 1854, section 90, page 352, Laws of 1873, section 1791, Code of 1881, section 14, chapter 89, Laws of 1957 and RCW 12.24.040;
- (5) Section 89, page 238, Laws of 1854, section 88, page 351, Laws of 1873, section 1789, Code of 1881, section 15, chapter 89, Laws of 1957 and RCW 12.24.050;
- (6) Section 90, page 238, Laws of 1854, section 89, page 351, Laws of 1873, section 1790, Code of 1881, section 16, chapter 89, Laws of 1957 and RCW 12.24.060;
- (7) Section 92, page 239, Laws of 1854, section 91, page 352, Laws of 1873, section 1792, Code of 1881 and RCW 12.24.070;
- (8) Section 93, page 239, Laws of 1854, section 92, page 352, Laws of 1873, section 1793, Code of 1881 and RCW 12.24.080;
- (9) Section 94, page 239, Laws of 1854, section 93, page 352, Laws of 1873, section 1794, Code of 1881 and RCW 12.24.090;

(10) Section 95, page 240, Laws of 1854, section 94, page 352, Laws of 1873, section 1795, Code of 1881, section 1, chapter 21, Laws of 1984 and RCW 12.24.100;

(11) Section 96, page 240, Laws of 1854, section 95, page 352, Laws of 1873, section 1796, Code of 1881 and RCW 12.24.110;

(12) Section 97, page 240, Laws of 1854, section 96, page 352, Laws of 1873, section 1797, Code of 1881 and RCW 12.24.120;

(13) Section 98, page 240, Laws of 1854, section 97, page 353, Laws of 1873, section 1798, Code of 1881 and RCW 12.24.130;

(14) Section 4, chapter 254, Laws of 1983, section 94, chapter 258, Laws of 1984 and RCW 12.24.135;

(15) Section 99, page 240, Laws of 1854, section 98, page 353, Laws of 1873, section 1799, Code of 1881 and RCW 12.24.140;

(16) Section 100, page 240, Laws of 1854, section 99, page 353, Laws of 1873, section 1800, Code of 1881 and RCW 12.24.150;

(17) Section 101, page 241, Laws of 1854, section 100, page 354, Laws of 1873, section 1801, Code of 1881 and RCW 12.24.160;

(18) Section 102, page 241, Laws of 1854, section 101, page 354, Laws of 1873, section 1802, Code of 1881 and RCW 12.24.170;

(19) Section 103, page 241, Laws of 1854, section 102, page 354, Laws of 1873, section 1803, Code of 1881 and RCW 12.24.180;

(20) Section 106, page 241, Laws of 1854, section 105, page 354, Laws of 1873, section 1806, Code of 1881 and RCW 12.24.190;

(21) Section 107, page 241, Laws of 1854, section 106, page 355, Laws of 1873, section 6, page 202, Laws of 1877, section 1807, Code of 1881 and RCW 12.24.200; and

(22) Section 108, page 242, Laws of 1854, section 89, page 355, Laws of 1863, section 107, page 355, Laws of 1873, section 1808, Code of 1881 and RCW 12.24.210.

## PART IX PREJUDGMENT GARNISHMENT

NEW SECTION. Sec. 901. Except as limited by RCW 7.33.060, relating to the state and other public entities, and RCW 7.33.350, relating to continuing liens on earnings, the plaintiff at the time of commencing an action, or at any time thereafter before judgment in an action, may obtain a prejudgment writ of garnishment from a superior or district court of this state before which the action is pending on the following grounds:

(1) If the writ is directed to other than an employer and for a purpose other than garnishing a defendant's earnings as defined in section 1001 of this act, (a) on the ground that an attachment has been issued in accordance with chapter 7.12 RCW, (b) on the ground that the plaintiff sues on a debt that is due and owing and unpaid, or (c) on one or more of the grounds for issuance of attachment stated in RCW 7.12.020 or 7.12.030; or

(2) If the writ is directed to an employer for the purpose of garnishing earnings of a defendant, on the grounds that the defendant:

- (a) Is not a resident of this state, or is about to move from this state; or
- (b) Has concealed himself or herself, absconded, or absented himself or herself so that ordinary process of law cannot be served on him or her; or
- (c) Has removed or is about to remove any of his or her property from this state, with intent to delay or defraud his or her creditors.

Sec. 902. Section 3, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.030 are each amended to read as follows:

In all cases of garnishment before judgment, before the writ shall issue, the plaintiff shall pay the fee described in RCW 7.33.040 and shall execute and file with the clerk a bond with ((two or more good and)) sufficient sureties, to be approved by the clerk of the court issuing the writ, payable to the defendant in the suit, in double the amount of the debt claimed therein, conditioned that ((he)) the plaintiff will prosecute ((his)) the suit without delay and pay all damages and costs that may be adjudged against him or her for wrongfully suing out such garnishment ((~~PROVIDED, That nothing in this section shall prohibit a credit agency, or other party contemplating multiple garnishments before judgment, from posting one large bond covering more than one garnishment proceeding~~)).

NEW SECTION. Sec. 903. In an action on the bond under RCW 7.33.030, if it is shown that the garnishment was wrongfully sued out, the defendant may recover the actual damages sustained and reasonable attorney's fees to be fixed by the court. If it is shown that such garnishment was sued out maliciously, the defendant may also recover exemplary damages, and the defendant need not wait until the principal suit is determined before suing on the bond by counterclaim in the original action or in a separate action.

Sec. 904. Section 34, chapter 264, Laws of 1969 ex. sess. as amended by section 4, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.340 are each amended to read as follows:

In all actions in which a prejudgment writ of garnishment has been issued by a court and served upon a garnishee, in the event judgment is not entered for the plaintiff on the claim sued upon by plaintiff, and the claim has not voluntarily been settled or otherwise satisfied, the defendant shall have an action for damages against the plaintiff. The defendant's action for damages may be brought by way of a counterclaim in the original action or in a separate action and, in the action the trier of fact, in addition to other actual damages sustained by the defendant, may award ((him)) the defendant reasonable attorney's fees.

NEW SECTION. Sec. 905. The plaintiff or someone on the plaintiff's behalf shall apply for a prejudgment writ of garnishment by affidavit, alleging that the garnishment is not sought and the action is not prosecuted to

hinder, delay, or defraud any creditor of the defendant and also alleging that the affiant has reason to believe and does believe the following, together with specific facts on which the affiant's belief in the allegations is based: (1) That the defendant is indebted to the plaintiff (specifying the nature of the claim and the amount of such indebtedness over and above all just credits and offsets); (2) that one or more of the grounds for prejudgment garnishment established in section 901 of this act exists; (3) that the plaintiff has reason to believe, and does believe, that the garnishee, stating the garnishee's name and residence or place of business, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or that the garnishee has possession or control of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law; (4) whether or not the garnishee is the employer of the defendant; and (5) if the action is based on a debt not due, that nothing but time is wanting to fix an absolute indebtedness due from the defendant.

**NEW SECTION.** Sec. 906. (1) When application is made for a prejudgment writ of garnishment, the court shall issue the writ in substantially the form prescribed in RCW 7.33.050, 7.33.120, and 7.33.110 directing that the garnishee withhold an amount as prescribed in RCW 7.33.090, but, except as provided in subsection (2) of this section, the court shall issue the writ only after prior notice to the defendant, given in the manner prescribed in subsections (4) and (5) of this section, with an opportunity for a prior hearing at which the plaintiff shall establish the probable validity of the plaintiff's claim and that there is probable cause to believe that the alleged ground for garnishment exists.

(2) Subject to subsection (3) of this section, the court shall issue the writ without prior notice to the defendant and without an opportunity for a prior hearing only if:

(a) A ground alleged in the plaintiff's affidavit is: (i) A ground appearing in section 901(2)(c) of this act if the writ is to be directed to an employer for the purpose of garnishing the defendant's earnings; or (ii) a ground appearing in RCW 7.12.020 (5) through (7) or in RCW 7.12.030(1) of the attachment chapter; or (iii) if garnishment is necessary to permit the court to acquire jurisdiction over the action, the ground alleged is one appearing in RCW 7.12.020 (1) through (4) or in section 901(2) (a) or (b) of this act; and

(b) The court finds on the basis of specific facts, after an ex parte hearing, that there is probable cause to believe the allegations of the plaintiff's affidavit.

(3) If a writ is issued under subsection (2) of this section without prior notice to the defendant, after service of the writ on the garnishee, the defendant shall be entitled to prompt notice of the garnishment and a right to an early hearing, if requested, at which the plaintiff shall establish the

probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for garnishment exists.

(4) When notice and a hearing are required under this section, notice may be given by a show cause order stating the date, time, and place of the hearing. Notice required under this section shall be jurisdictional and, except as provided for published notice in subsection (5) of this section, notice required under this section shall be served in the same manner as a summons in a civil action and shall be served together with (a) copies of plaintiff's affidavit and of the writ, and (b) a copy of the following "Notice of Right to a Hearing" or, if defendant is an individual, a copy of the claim form and the "Notice of Garnishment and of Your Rights" prescribed by section 1014 of this act, in which the following notice is substituted for the first paragraph of said Notice:

#### NOTICE OF RIGHT TO HEARING

The writ of garnishment served with this Notice has been issued by a Washington court and has been or will be served on the garnishee defendant. It will require the garnishee defendant to withhold payment of money that may be due to you and to withhold other property of yours that the garnishee may hold or control until a lawsuit in which you are a defendant has been decided by the court. Service of this notice of your rights is required by law.

**YOU HAVE A RIGHT TO A HEARING.** At the hearing, the plaintiff must give evidence that there is probable cause to believe that the statements in the enclosed affidavit are true and also that the claim stated in the lawsuit is probably valid, or else the garnishment will be released.

(5) If service of notice on the defendant must be effected by publication, only the following notice need be published under the caption of the case:

To, Defendant:

A writ of prejudgment garnishment has been issued in the above captioned case, directed to . . . . . as Garnishee Defendant, commanding the Garnishee to withhold amounts due you or to withhold any of your property in the Garnishee's possession or control for application to any judgment that may be entered for plaintiff in the case.

**YOU HAVE A RIGHT TO ASK FOR A HEARING.** At the hearing, the plaintiff must give evidence that there is probable cause to believe that the ground for garnishment alleged in an affidavit filed with the court exists and also that the claim stated in the lawsuit is probably valid, or else the garnishment will be released.

If the defendant is an individual, the following paragraph shall be added to the published notice:

**YOU MAY ALSO HAVE A RIGHT TO HAVE THE GARNISHMENT RELEASED** if amounts or property withheld are exempt under federal or state statutes, for example, bank accounts in which benefits such as Aid to Families with Dependent children (AFDC), Supplemental Security Income (SSI), Social Security, United States pension, Unemployment Compensation, or Veterans' benefits have been deposited or certain personal property described in section 6.16.020 of the Revised Code of Washington.

NEW SECTION. Sec. 907. Except as otherwise provided, the provisions of chapter 7.33 RCW governing garnishments apply to prejudgment garnishments.

NEW SECTION. Sec. 908. The following acts or parts of acts are each repealed:

- (1) Section 7, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.070;
- (2) Section 8, chapter 264, Laws of 1969 ex. sess., section 2, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.080;
- (3) Section 10, chapter 264, Laws of 1969 ex. sess. and RCW 7.33-.100;
- (4) Section 12, chapter 264, Laws of 1969 ex. sess. and RCW 7.33-.120;
- (5) Section 25, chapter 264, Laws of 1969 ex. sess., section 4, chapter 41, Laws of 1983 1st ex. sess. and RCW 7.33.250; and
- (6) Section 9, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.390.

## PART X GARNISHMENT

NEW SECTION. Sec. 1001. (1) As used in this chapter, the term "earnings" means compensation paid or payable to an individual for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(2) As used in this chapter, the term "disposable earnings" means that part of earnings remaining after the deduction from those earnings of any amounts required by law to be withheld.

Sec. 1002. Section 1, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.010 are each amended to read as follows:

(1) (~~Except as is provided in subsection (2) of this section,)~~ The clerks of the superior courts and district courts (~~in the various counties in the~~) of this state may issue writs of garnishment returnable to their respective courts (~~in the following cases:~~

~~(a) Where an original attachment has been issued in accordance with the statutes in relation to attachments:~~

~~(b) Where the plaintiff sues for a debt and the plaintiff or someone in his behalf makes affidavit that such debt is just, due and unpaid, and that the garnishment applied for is not sued out to injure either the defendant or the garnishee:~~

~~(c) Where the plaintiff) for the benefit of a judgment creditor who has a judgment wholly or partially unsatisfied in the court from which ((he seeks to have a writ of garnishment issued)) the garnishment is sought.~~

~~(2) ((A writ of garnishment which is not sought in order to satisfy an existing judgment shall not be issued by the clerk of the superior court against any employer for the purpose of garnishing any earnings he owes his employee, unless the plaintiff sues for a debt and the plaintiff believes that the employee:~~

~~(a) is not a resident of this state, or is about to move from this state; or~~

~~(b) has concealed himself, absconded, or absented himself so that ordinary process of law cannot be served on him; or~~

~~(c) has removed or is about to remove any of his property from this state, with intent to delay or defraud his creditors; and the plaintiff or someone on his behalf files an affidavit stating the specific facts upon which his belief is founded and the court pursuant to an ex parte hearing finds that there is sufficient reason to find the belief true.~~

~~(3) As used in this chapter, the term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program)) Except as otherwise provided in RCW 7.33.060 and 7.33.350, the superior courts and district courts of this state may issue prejudgment writs of garnishment to a plaintiff at the time of commencement of an action or at any time afterward, subject to the requirements of chapter 6.— RCW (part IX of this act).~~

Sec. 1003. Section 2, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.020 are each amended to read as follows:

All ((of)) the provisions of this chapter((, except the provisions of RCW 7.33.030;)) shall apply to ((actions and)) proceedings before ((courts of limited jurisdiction)) district courts of this state. ((Where proceedings are in courts of limited jurisdiction, references to the superior court and/or the clerk thereof shall be translated to apply to the appropriate court of limited jurisdiction and/or clerk thereof;))

Sec. 1004. Section 6, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.060 are each amended to read as follows:

The state of Washington, all counties, cities, towns, school districts and other municipal corporations shall be subject to garnishment after judgment has been entered in the principal action, but not before, in the superior and



((justice)) district courts, in the same manner and with the same effect, as provided in the case of other garnishees.

The venue of any such garnishment proceeding shall be the same as for the original action, and the writ shall be issued by the clerk of the court having jurisdiction of such original action.

The writ of garnishment shall be served in the same manner and upon the same officer as is required for service of summons upon the commencement of a civil action against the state, county, city, town, school district, or other municipal corporation, as the case may be.

Sec. 1005. Section 19, page 43, Laws of 1886 as amended by section 1, chapter 101, Laws of 1927 and RCW 7.12.180 are each amended to read as follows:

A sheriff(~~(, constable or any))~~ or other peace officer (~~(may be garnished for)~~) who holds money of the defendant (~~(in his hands but nothing herein shall be construed as permitting the garnishment of a sheriff, constable or other peace officer)~~) is subject to garnishment, excepting only for money or property taken from a person arrested by such officer, at the time of the arrest. A judgment debtor of the defendant (~~(may be garnished)~~) is subject to garnishment when the judgment has not been previously assigned on the record or by writing filed in the office of the clerk(~~(, and by him))~~ of the court that entered the judgment and minuted by the clerk as an assignment (~~(on the margin of))~~ in the execution docket(~~(, and also))~~. An executor or administrator (~~(may be garnished)~~) is subject to garnishment for money due from the decedent to the defendant.

Sec. 1006. Section 4, chapter 264, Laws of 1969 ex. sess. as last amended by section 3, chapter 193, Laws of 1981 and RCW 7.33.040 are each amended to read as follows:

(~~(Before the issuance of the writ of garnishment))~~ The judgment creditor as the plaintiff or someone in (~~(his))~~ the judgment creditor's behalf shall (~~(make application therefor))~~ apply for a writ of garnishment by affidavit, stating the following facts (~~(authorizing the issuance of the writ, including))~~): (1) The plaintiff has a judgment wholly or partially unsatisfied in the court from which the writ is sought; (2) the amount alleged to be due(~~(; and that))~~ under that judgment; (3) the plaintiff has reason to believe, and does believe(~~(, (a))~~) that the garnishee, stating (~~(his))~~ the garnishee's name and residence or place of business, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or (~~(fb))~~) that (~~(he))~~ the garnishee has (~~(in his))~~ possession(~~(;)~~) or (~~(under his))~~ control(~~(;)~~) of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law(~~(;)~~); and (4) whether or not the garnishee is the employer of the judgment debtor.

The judgment creditor shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the ((justice)) district

court the fee of two dollars. (~~The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant.~~)

Sec. 1007. Section 1, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.050 are each amended to read as follows:

When application for a writ of garnishment is made by a judgment creditor and the ((foregoing requisites)) requirements of RCW 7.33.040 have been complied with, the clerk shall docket the case in the names of the ((plaintiff)) judgment creditor as plaintiff, the judgment debtor as defendant, and ((of)) the garnishee as garnishee defendant, and shall immediately issue and deliver a writ of garnishment((:)) to the judgment creditor in ((such)) the form ((as provided)) prescribed in RCW 7.33.110, directed to the garnishee, commanding ((him)) the garnishee to answer said writ on forms served with the writ and complying with RCW 7.33.150 within twenty days after the service of the writ upon ((him)) the garnishee.

The writ of garnishment shall be dated and attested as in the form prescribed in RCW 7.33.110. The name and office address of the plaintiff's attorney shall be indorsed thereon or, in case the plaintiff has no attorney, the name and address of the plaintiff shall be indorsed thereon. The address of the clerk's office shall appear at the bottom of the writ.

NEW SECTION. Sec. 1008. A writ of garnishment directed to a bank, banking association, mutual savings bank, savings and loan association, or credit union that maintains branch offices may identify a particular branch or the financial institution as the garnishee defendant, and the statement required by RCW 7.33.130(2) may be incorporated in the writ or served separately. Service shall be as required by RCW 7.33.130 except that, if the financial institution is named as garnishee defendant, service shall be on the head office or on any other office designated by the financial institution for receipt of service of process. If the branch is named as garnishee defendant, service shall be as required by RCW 7.33.130 and shall be effective only to attach the accounts, credits, or other personal property of the defendant in the particular branch to which the writ is directed and on which service is made.

Sec. 1009. Section 9, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.090 are each amended to read as follows:

The writ of garnishment shall set forth in the first paragraph the amount ((which)) that garnishee is required to hold, which shall be an amount determined as follows: (1) The amount of ((a)) the judgment remaining unsatisfied or ((b)) if before judgment, the amount prayed for in the complaint; (2) plus interest to the date of garnishment ((at the rate specified in the contractual document or the statutory rate, if there be no contractual document)), as provided in RCW 4.56.110; (3) plus whichever shall be greater of (a) fifty dollars ((or)), (b) statutory costs, or (c) ten

percent of (i) the amount of the judgment remaining unsatisfied or (ii) the amount prayed for in the complaint. The court may, by order, set a higher amount to be held upon a showing of good cause by plaintiff(~~(, set a higher amount)~~).

Sec. 1010. Section 11, chapter 264, Laws of 1969 ex. sess. as amended by section 4, chapter 193, Laws of 1981 and RCW 7.33.110 are each amended to read as follows:

~~((Said))~~ The writ shall be substantially in the following form: PROVIDED, That if the writ is issued under a court order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or court order for child support": AND PROVIDED FURTHER, That if the garnishment is for a continuing lien, the form shall be modified as provided in RCW 7.33.360:

"IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF .....

.....

Plaintiff,

No. ....

vs.

.....

Defendant

WRIT OF  
GARNISHMENT

.....

Garnishee Defendant

THE STATE OF WASHINGTON TO: .....

Garnishee Defendan

AND TO: .....

Defendant

The above-named plaintiff (~~(claims)~~) has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount ((of ..... dollars should)) to be held to satisfy that indebtedness ((and has applied for a writ of garnishment against you)) is \$ ....., consisting of:

Balance on Judgment or Amount  
of Claim

\$ .....

Interest under Judgment from

..... to .....

\$ .....

Allowed Costs and Attorneys' Fees

\$ .....

Estimated Garnishment Costs:

Service Fees

\$ .....

Certified Mail

\$ .....

|                           |                 |
|---------------------------|-----------------|
| <u>Attorney's Fee</u>     | <u>\$ 50.00</u> |
| <u>Answer Fee or Fees</u> | <u>\$ .....</u> |
| <u>Other</u>              | <u>\$ .....</u> |

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court or by this writ, not to pay any debt, whether wages subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

~~((You are hereby commanded))~~ YOU ARE FURTHER COMMANDED to answer this writ by filling in the attached form according to the instructions ~~((thereon, and you must))~~ in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or ((his)) the plaintiff's attorney, and one copy to the defendant ((within twenty days after the service of the writ upon you)), in the envelopes provided.

If, at the time this writ was served, you ~~((owe))~~ owed the defendant any wages, salary, commission, bonus, or other compensation for personal services or any periodic payments pursuant to a pension or retirement program, ~~((then you shall do as follows:~~

~~(1) For each week of such wages, salary or other compensation for personal services you owe the defendant, deduct twenty-five percent of the disposable earnings of defendant, or the amount by which his disposable earnings exceed ..... dollars for each week, whichever shall be less.~~

~~(2) The total amount deducted above is subject to garnishment, and all other sums shall be paid to the defendant on the day you would customarily pay him such wages, salary or other compensation.~~

~~(3) Do not make any deduction if the defendant's wages, salary or other compensation does not exceed ..... dollars for each week of such wages, salary or other compensation you owe the defendant. This weekly amount is exempt by law from garnishment and must be paid to the defendant.~~

Unless directed by the court, do not pay any debt, whether wages subject to this garnishment or any other debt, owed the defendant when this writ was served, or deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control when this writ was served; any such payment, delivery, sale or transfer is void as to so much of the debt, property or shares as are necessary to satisfy plaintiff's claim and costs for this writ with interest)) the defendant is entitled to receive amounts that are exempt from garnishment

under federal and state law. You must pay the exempt amounts to the defendant on the day you would customarily pay the compensation or other periodic payment. As more fully explained in the answer, the basic exempt amount is the greater of seventy-five percent of disposable earnings or \$ ..... for each week of compensation or other periodic payment due, to be calculated as provided in the answer. However, if this writ carries a statement in the heading that "This garnishment is based on a judgment or court order for child support," the basic exempt amount is forty percent of disposable earnings.

~~((In the event that))~~ If you owe ((to)) the defendant a debt payable in money ((and subject to this garnishment)) in excess of the amount set forth in the first paragraph of this ((garnishment)) writ, hold only the amount set forth in ((said)) the first paragraph ((of this garnishment)) and release all additional funds or property to defendant.

**YOUR FAILURE TO ANSWER THIS WRIT AS COMMANDED WILL RESULT IN A JUDGMENT BEING ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTERESTS AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT((; YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR THE DEFENDANT'S CLAIMED DEBT TO THE PLAINTIFF.**

~~NOTICE TO DEFENDANT: THE LAW MAY PROTECT CERTAIN TYPES AND AMOUNTS OF YOUR INCOME AND PROPERTY FROM GARNISHMENT. TO CLAIM SUCH EXEMPTIONS, YOU MUST FILE A SWORN STATEMENT WITH THE COURT WITHIN TWENTY DAYS AFTER THE GARNISHEE ANSWERS THIS WRIT).~~

Witness, the Honorable ....., Judge of the Superior Court, and the seal thereof, this ..... day of ....., 19...

[Seal]

.....  
Attorney for Clerk of  
Plaintiff (or Superior  
Plaintiff, Court  
if no attorney)

.....  
Address By

.....  
Address

Sec. 1011. Section 13, chapter 264, Laws of 1969 ex. sess. as last amended by section 5, chapter 193, Laws of 1981 and RCW 7.33.130 are each amended to read as follows:

(1) Service of the writ of garnishment on the garnishee is invalid unless ~~((there))~~ the writ is served ~~((therewith-1))~~ together with: (a) Four answer forms as ~~((provided))~~ prescribed in RCW 7.33.150 ~~((together with))~~; (b) three stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to the plaintiff if ((he)) the plaintiff has no attorney), and the defendant; and ~~((2))~~ (c) cash((-) or a check made payable to the garnishee in the amount of ten dollars.

(2) The writ of garnishment ~~((may))~~ shall be mailed to the garnishee by certified mail, return receipt requested, addressed in the same manner as a summons in a civil action, and will be binding upon the garnishee on the ~~((second-business))~~ day ~~((following the time as))~~ set forth on the return receipt. In the alternative, the writ ((may also)) shall be served by the sheriff of the county in which the garnishee lives or has its place of business or ((it may be served)) by any ((citizen of the state of Washington eighteen years of age or over and not a party to the action in which it is issued)) person qualified to serve process in the same manner as a summons in ((an)) a civil action is served: PROVIDED, HOWEVER, That ((where the)) a writ ((is)) directed to a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, as garnishee, ~~((the writ must be directed to and service thereof must be made by certified mail, return receipt requested, to, or by leaving a copy of the writ with))~~ shall be served by mail directed to, or by service on, the manager or ~~((any))~~ other officer or cashier or assistant cashier of such bank or association at ~~((the))~~ its office or branch ~~((thereof at which the account evidencing such indebtedness of the defendant is carried or at the office or branch which has in its possession or under its control credits or other personal property belonging to the defendant. In every case where))~~ that allegedly carries an account for defendant or allegedly holds or controls property belonging to the defendant and, in addition, there shall be served with the writ, as part of the service, a statement in writing signed by the plaintiff or plaintiff's attorney, stating (a) the defendant's place of residence and business, occupation, trade, or profession, or (b) the defendant's account number, if such information is not incorporated in the writ. If the statement is not served with the writ and such information is not included in the writ, the service shall be deemed incomplete and the garnishee shall not be held liable for funds owing to the defendant that it fails to discover.

(3) If a writ of garnishment is served by ((an officer, such officer)) a sheriff, the sheriff shall ((make his)) file with the clerk of the court that issued the writ a signed return ((thereon)) showing the time, place, and manner of service and that the writ was accompanied by answer forms

~~((and)), addressed envelopes, and cash or a check as required by this section, and noting thereon ((his)) fees for making ((such)) the service ((and shall sign his name to such return. In case such)). If service is made by any person other than ((an officer)) a sheriff, such person shall file a signed return including the same information and shall also attach to the ((original writ his)) return an affidavit showing ((his)) qualifications to make such service((, and that the writ was accompanied by answer forms and addressed envelopes and cash deposit or a check as required by this section, and the time, place and manner of making service, and shall endorse thereon the legal fees therefor)). If a writ of garnishment is served by mail, the person making the mailing shall file a signed return showing the time, place, and manner of mailing and that the writ was accompanied by answer forms, addressed envelopes, and cash or a check as required by this section and shall attach to the return a copy of the return receipt.~~

Sec. 1012. Section 14, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.140 are each amended to read as follows:

(1) From and after the service of ~~((such))~~ a writ of garnishment, it shall not be lawful, except as provided in this chapter or as directed by the court, for the garnishee to pay any debt owing to the defendant at the time of such service, or to deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects belonging to the defendant in the garnishee's possession or under ~~((his))~~ the garnishee's control at the time of such service; and any such payment, delivery, sale or transfer shall be void and of no effect as to so much of said debt, personal property or effects ~~((; shares, or interest))~~ as may be necessary to satisfy the plaintiff's demand ~~((: PROVIDED, HOWEVER, That in case the garnishee is a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, service must be made as provided for in RCW 7.33.130, and shall only be effective to attach the accounts, credits, or other personal property of the defendant in that particular branch upon which service is made and to which the writ is directed. PROVIDED, FURTHER, That))~~.

(2) This section shall have no effect as to any portion of a debt ~~((which))~~ that is exempt from garnishment ~~((: AND PROVIDED, FURTHER, That))~~.

(3) The garnishee shall incur no liability for releasing funds or property in excess of the amount stated in the writ of garnishment ~~((where))~~ if the garnishee ~~((shall))~~ continues to hold an amount equal to the amount stated in the writ of garnishment.

Sec. 1013. Section 32, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.320 are each amended to read as follows:

~~((In any case where a writ of garnishment has issued, the party at whose instance the writ was issued shall))~~ (1) When a writ is issued under a judgment, on or before the date of service of the writ on the garnishee, the judgment creditor shall mail or ((may)) cause to be mailed to the judgment

debtor, by certified mail, addressed to the last known post office of the judgment debtor, (a) a copy of the writ and a copy of the judgment~~((, if any, or the complaint, if brought before judgment, to the defendant or judgment debtor in said cause at his last known post office address;))~~ or, if it is a district court judgment, a copy of the judgment creditor's affidavit submitted in application for the writ, and (b) if the judgment debtor is an individual, the notice and claim form prescribed in section 1014 of this 1987 act. In the alternative, ((a copy of the writ shall be served upon the defendant or judgment debtor)) on or before the day of the service of the writ on the garnishee or within two days thereafter, the stated documents shall be served on the judgment debtor in the same manner as is required for personal service of summons upon a party to an action ~~((on or before the date of the service of said writ on the garnishee defendant or within two days thereafter))~~.

~~((This))~~ (2) The requirements of this section shall not be jurisdictional, but~~((;))~~ (a) no disbursement order or judgment against the garnishee defendant shall be entered unless there is on file the return of service or mailing required by subsection (3) of this section, and (b) if the ((copy is)) copies of the writ and judgment or affidavit, and the notice and claim form if the defendant is an individual, are not mailed or served as herein provided, or if any irregularity ((shall)) appears with respect to the mailing or service, the court, in its discretion, on motion of the ((defendant or)) judgment debtor promptly made and supported by affidavit showing that ((he)) the judgment debtor has suffered substantial injury ((in)) from the plaintiff's failure to mail or otherwise to serve such ((copy)) copies, may set aside the ((said)) garnishment and award to ((said defendant or)) the judgment debtor an amount equal to the damages suffered ((by plaintiff's)) because of such failure.

(3) If the service on the judgment debtor is made by a sheriff, the sheriff shall file with the clerk of the court that issued the writ a signed return showing the time, place, and manner of service and that the copy of the writ was accompanied by a copy of a judgment or affidavit, and by a notice and claim form if required by this section, and shall note thereon fees for making such service. If service is made by any person other than a sheriff, such person shall file a signed return including the same information and shall also attach to the return an affidavit showing qualifications to make such service. If service on the judgment debtor is made by mail, the person making the mailing shall file a signed return including the same information as required for return on service and, in addition, showing the address of the mailing and attaching the return receipt or the mailing should it be returned to the sender as undeliverable.

**NEW SECTION.** Sec. 1014. (1) The notice required by RCW 7.33.320(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:



**NOTICE OF GARNISHMENT AND OF YOUR RIGHTS**

A Writ of Garnishment issued by a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

**YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:**

**WAGES.** If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse or dependent child, you are entitled to claim an additional ten percent as exempt.

**BANK ACCOUNTS.** If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

**OTHER EXEMPTIONS.** If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.16.020, a Washington statute that exempts up to five hundred dollars of property of your choice (including up to one hundred dollars in cash or in a bank account) and certain property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

**HOW TO CLAIM EXEMPTIONS.** Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your

claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2) The claim form required by RCW 7.33.320(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

|                     |                        |
|---------------------|------------------------|
| Name of Court       |                        |
| Plaintiff,          | No. _____              |
| vs.                 |                        |
| Defendant,          | <b>EXEMPTION CLAIM</b> |
| Garnishee Defendant |                        |

**INSTRUCTIONS:**

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines.
2. Make two copies of the completed form. Deliver the original form by first class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. **YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 weeks) AFTER THE DATE ON THE WRIT.**

I/We claim the following money or property as exempt:

**IF BANK ACCOUNT IS GARNISHED:**

- [ ] The account contains payments from:
- [ ] AFDC, SSI, or other public assistance. I receive \$ \_\_\_\_\_ monthly.
  - [ ] Social Security. I receive \$ \_\_\_\_\_ monthly.

- Veterans' Benefits. I receive \$\_\_\_\_\_ monthly.
- U.S. Government Pension. I receive \$\_\_\_\_\_ monthly.
- Unemployment Compensation. I receive \$\_\_\_\_\_ monthly.
- Child support. I receive \$\_\_\_\_\_ monthly.
- Other. Explain \_\_\_\_\_

**IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:**

- No money other than from above payments are in the account.
- Moneys in addition to the above payments have been deposited in the account. Explain \_\_\_\_\_

**IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:**

- I claim maximum exemption.
- I am supporting another child or other children.
- I am supporting a husband or a wife.

**IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:**

- Name and address of employer who is paying the benefits: \_\_\_\_\_

**OTHER PROPERTY:**

- Describe property \_\_\_\_\_

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

|                       |   |
|-----------------------|---|
| Print:      Your name | If married, name of husband/wife              |
| Your signature        | Signature of husband or wife                  |
| Address               | Address (if different from yours)             |
| Telephone number      | Telephone number<br>(if different from yours) |

**CAUTION:** If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank

account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

Sec. 1015. Section 28, chapter 264, Laws of 1969 ex. sess. as last amended by section 6, chapter 193, Laws of 1981 and RCW 7.33.280 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, if the garnishee is an employer owing the defendant ((wages, salary, or other compensation for personal services)) earnings, then for each week of such ((wages, salary, or other compensation)) earnings, an amount shall be exempt from garnishment which is the greatest of the following:

- (a) ~~((Forty times the state hourly minimum wage; or~~
- (b) ~~Seventy-five percent of the disposable earnings of the defendant; or~~
- (c) ~~Such amount as may be exempt under federal law.~~

(2) ~~Such exemption)) Thirty times the federal minimum hourly wage prescribed by section 206(a)(1) of Title 29 of the United States Code in effect at the time the earnings are payable; or~~

- (b) ~~Seventy-five percent of the disposable earnings of the defendant.~~

(2) In the case of a garnishment based on a judgment or other court order for child support, other than a mandatory wage assignment order, the exemption shall be fifty percent of the disposable earnings of the defendant if the individual is supporting a spouse or dependent child (other than a spouse or child on whose behalf the garnishment is brought), or forty percent of the disposable earnings of the defendant if the individual is not supporting such a spouse or dependent child.

(3) The exemptions stated in this section shall apply whether such earnings are paid, or are to be paid, weekly, monthly, or at other intervals, and whether ((there be)) earnings are due the defendant ((earnings)) for one week, a portion thereof, or for a longer period.

((3) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld: PROVIDED, That amount deducted from an employee's compensation as contributions toward a participating pension or retirement program established pursuant to a collective bargaining agreement shall not be considered a part of disposable earnings.))

(4) Unless directed otherwise by the court, the garnishee shall determine and deduct ~~((the amount))~~ exempt amounts under this section as directed in the writ of garnishment and answer, and shall pay ~~((this))~~ these amounts to the defendant.

~~((4) The exemptions under this section shall not apply in the case of a garnishment for child support if (a) the garnishment is based on a judgment or other court order; (b) the amount stated on the writ does not exceed the amount of two months support payments; and (c) the following language is conspicuously added to the writ of garnishment: "This garnishment is based on a judgment or court order for child support. Hold all funds you owe the defendant up to the amount stated above without regard to any statutory exemption".))~~

(5) No money due or earned as earnings as defined in ~~((RCW 7.33.010(3)))~~ section 1001 of this 1987 act shall be exempt from garnishment under the provisions of RCW 6.16.020, as now or hereafter amended.

NEW SECTION. Sec. 1016. (1) A defendant may claim exemptions from garnishment in the manner specified by the statute that creates the exemption or by delivering to or mailing by first class mail to the clerk of the court out of which the writ was issued a declaration in substantially the following form or in the form set forth in section 1014 of this act and mailing a copy of the form by first class mail to the plaintiff or plaintiff's attorney at the address shown on the writ of garnishment, all not later than twenty-eight days after the date stated on the writ.

[NAME OF COURT]

.....  
Plaintiff  
.....  
Defendant  
.....  
Garnishee

No. ....  
CLAIM OF EXEMPTION

I/We claim the following described property or money as exempt from execution:

I/We believe the property is exempt because:

|                  |                                  |
|------------------|----------------------------------|
| .....            | .....                            |
| Print name       | Print name of spouse, if married |
| .....            | .....                            |
| Signature        | Signature                        |
| .....            | .....                            |
| Address          | Address                          |
| .....            | .....                            |
| .....            | .....                            |
| Telephone number | Telephone number                 |
| .....            | .....                            |

(2) A plaintiff who wishes to object to an exemption claim must, not later than seven days after receipt of the claim, cause to be mailed to the defendant by first class mail, to the address shown on the exemption claim, a declaration by self, attorney, or agent, alleging the facts on which the objection is based, together with notice of date, time, and place of a hearing on the objection, which hearing the plaintiff must cause to be noted for a hearing date not later than fourteen days after the receipt of the claim. After a hearing on an objection to an exemption claim, the court shall award costs to the prevailing party and may also award an attorney's fee to the prevailing party if the court concludes that the exemption claim or the objection to the claim was not made in good faith.

(3) If the plaintiff elects not to object to the claim of exemption, the plaintiff shall, not later than ten days after receipt of the claim, obtain from the court and deliver to the garnishee an order directing the garnishee to release such part of the debt, property, or effects as is covered by the exemption claim. If the plaintiff fails to obtain and deliver the order as required or otherwise to effect release of the exempt funds or property, the defendant shall be entitled to recover fifty dollars from the plaintiff, in addition to actual damages suffered by the defendant from the failure to release the exempt property.

Sec. 1017. Section 16, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.160 are each amended to read as follows:

No employer shall discharge an employee for the reason that a creditor of the employee has subjected or attempted to subject unpaid earnings of the employee to a writ of ((wage)) garnishment directed to the employer: PROVIDED, HOWEVER, That this provision shall not apply if garnishments on three or more separate indebtednesses are served upon the employer within any period of twelve consecutive months.

Sec. 1018. Section 17, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.170 are each amended to read as follows:

If the defendant in the principal action causes a bond to be executed to the plaintiff with sufficient sureties, to be approved by the officer having the writ of garnishment, or after the return of said writ, by the clerk of the

court out of which ((said)) the writ was issued, ((to the effect)) conditioned that ((he)) the defendant will perform the judgment of the court, the writ of garnishment shall, upon the filing of said bond with the clerk, be immediately discharged, and all proceedings ((had thereunder)) under the writ shall be vacated: PROVIDED, That the garnishee shall not be thereby deprived from recovering any costs in said proceeding, to which ((he)) the garnishee would otherwise be entitled under ((RCW 7.33.010 through 7.33.050 and 7.33.090 through 7.33.340)) this chapter. The bond shall be part of the record and, if judgment is against the defendant, it shall be entered against defendant and the sureties.

Sec. 1019. Section 15, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.150 are each amended to read as follows:

The answer of the garnishee shall be signed by ((him)) the garnishee or ((his)) attorney or if the garnishee is a corporation, by an officer, attorney or duly authorized agent of the garnishee, under penalty of perjury, and the original delivered, either personally or by mail, to the clerk of the ((superior)) court that issued the writ, one copy to the plaintiff or ((his)) the plaintiff's attorney, and one copy to the defendant. The answer shall be made on ((forms)) a form substantially as appears in this section, served on the garnishee with the writ, ((substantially as follows:)) with exempt amounts for relevant pay periods filled in by the plaintiff before service of the answer forms, except that, if the garnishment is for a continuing lien, the answer form shall be as prescribed in RCW 7.33.360.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF .....

|                     |             |
|---------------------|-------------|
| .....               | NO. ....    |
| Plaintiff           |             |
| vs.                 | ANSWER      |
| .....               | TO WRIT OF  |
| Defendant           | GARNISHMENT |
| .....               |             |
| Garnishee Defendant |             |

At the time of service of the writ of garnishment on the garnishee there was due and owing from the garnishee to the above-named defendant \$. . . . . (On the reverse side of this answer form, or on an attached page, give an explanation of the dollar amount stated, or give reasons why there is uncertainty about your answer.)

If the above amount or any part of it is for personal earnings (that is, compensation payable for personal services, whether called wages, salary, commission, bonus, or otherwise, and including periodic payments pursuant to a pension or retirement program): Garnishee has deducted from this amount \$. . . . . which is the exemption to which the defendant is entitled((-

~~On the reverse side of this answer form, or on a schedule attached hereto, give the following information: (1) An explanation of the dollar amount stated, or reasons why there is uncertainty about your answer, if deemed necessary; (2)), leaving \$ . . . . . that garnishee holds under the writ. The exempt amount is calculated as follows:~~

|   |              |
|---|--------------|
| <u>Total compensation due defendant</u>   | \$ . . . . . |
| <u>LESS deductions for social security and withholding taxes and any other deduction required by law (list separately and identify)</u> | \$ . . . . . |
| <u>Disposable wages</u>   | \$ . . . . . |

If the title of this writ indicates that this is a garnishment under a child support judgment, enter forty percent of disposable wages: \$ . . . . . This amount is exempt and must be paid to the defendant at the regular pay time.

If this is not a garnishment for child support, enter seventy-five percent of disposable wages: \$ . . . . . From the listing in the following paragraph, choose the amount for the relevant pay period and enter that amount: \$ . . . . . (If amounts for more than one pay period are due, multiply the preceding amount by the number of pay periods and/or fraction of pay period for which amounts are due and enter that amount: \$ . . . . . ) The greater of the amounts entered in this paragraph is the exempt amount and must be paid to the defendant at the regular pay time.

Amounts for different pay periods: Weekly \$ . . . . .; Biweekly \$ . . . . .; Semimonthly \$ . . . . .; Monthly \$ . . . . .

List all of the personal property or effects of defendant in the garnishee's possession or control when the writ was served. (Use the reverse side of this answer form or attach a schedule if necessary.)

An attorney may answer for the garnishee.

Under penalty of perjury, I affirm that I have examined this answer, including accompanying schedules, and to the best of my knowledge and belief it is true, correct, and complete.

|   |       |
|---|-------|
| .....                                   | ..... |
| Signature of Garnishee <u>Defendant</u> | Date  |

|   |                           |
|---|---------------------------|
| .....                                       | .....                     |
| Signature of person answering for garnishee | Connection with garnishee |

.....  
Address of Garnishee



Sec. 1020. Section 19, chapter 264, Laws of 1969 ex. sess. as amended by section 10, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.190 are each amended to read as follows:

((Should)) If the garnishee fails to ((make)) answer ((to)) the writ within the time prescribed ((therein)) in the writ, ((it shall be lawful for the court, on or)) after the time to answer ((such)) the writ has expired((;)) and after required returns have been filed, showing service on the garnishee and service on or mailing to the defendant, it shall be lawful for the court to render judgment by default against such garnishee, in accordance with rules relating to entry of default judgments, for the full amount claimed by the plaintiff against the defendant, or in case the plaintiff has a judgment against the defendant, for the full amount of ((such)) the plaintiff's unpaid judgment against the defendant with all accruing interest and costs as prescribed in RCW 7.33.090: PROVIDED, That upon motion by the garnishee at any time prior to issuance of a writ of execution under such judgment, ((such)) the judgment against the garnishee shall be reduced to the amount of any nonexempt funds or property which was actually in the possession of the garnishee at the time the writ was served, plus the cumulative amount of the nonexempt earnings subject to the lien provided for in RCW 7.33-.370, or the sum of one hundred dollars, whichever is more, but in no event to exceed the full amount claimed by the plaintiff or the amount of the unpaid judgment against the principal defendant plus all accruing interest and costs and attorney's fees as prescribed in RCW 7.33.090, and in addition the plaintiff shall be entitled to a reasonable attorney's fee for the plaintiff's response to the garnishee's motion to reduce said judgment against the garnishee under this proviso and the court may allow additional attorney's fees for other actions taken because of the garnishee's failure to answer.

Sec. 1021. Section 24, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.240 are each amended to read as follows:

If the garnishee files an answer, either the plaintiff ((should)) or the defendant, if not ((be)) satisfied with the answer of the garnishee ((he)), may controvert within twenty days after the filing of the answer, by filing an affidavit in writing signed by ((him)) the controverting party or attorney or agent, stating that ((he)) the affiant has good reason to believe and does believe that the answer of the garnishee is incorrect, stating in what particulars ((he)) the affiant believes the same is incorrect. Copies of the affidavit shall be served on or mailed by first class mail to the garnishee at the address indicated on the answer or, if no address is indicated, at the address to or at which the writ was mailed or served, and to the other party, at the address shown on the writ if the defendant controverts, or at the address to or at which the copy of the writ of garnishment was mailed or served on the defendant if the plaintiff controverts, unless otherwise directed in writing by the defendant or defendant's attorney.

Sec. 1022. Section 26, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.260 are each amended to read as follows:

If the answer of the garnishee is controverted, as provided in RCW 7.33.240 (~~and 7.33.250, an issue shall be formed, under the direction of the court, and tried as other cases. PROVIDED, HOWEVER~~), the garnishee may respond by affidavit of the garnishee, the garnishee's attorney or agent, within twenty days of the filing of the controverting affidavit, with copies served on or mailed by first class mail to the plaintiff at the address shown on the writ and to the defendant as provided in RCW 7.33.240. Upon the expiration of the time for garnishee's response, the matter may be noted by any party for hearing before a commissioner or presiding judge for a determination whether an issue is presented that requires a trial. If a trial is required, it shall be noted as in other cases, but no pleadings shall be necessary on such issue other than the affidavit of the plaintiff, the answer of the garnishee and the reply of the plaintiff or defendant controverting such answer, unless otherwise ordered by the court.

Sec. 1023. Section 29, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.290 are each amended to read as follows:

Where the answer is controverted, the costs of the proceeding, including a reasonable compensation for attorney's fees, shall (~~abide the issue of such contest~~) be awarded to the prevailing party: PROVIDED, That no costs or attorney's fees in such contest shall be taxable to the defendant in the event of a controversion (on the part of) by the plaintiff.

Sec. 1024. Section 18, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.180 are each amended to read as follows:

~~((Should))~~ If it appears from the answer of the garnishee that ((he)) the garnishee was not indebted to the defendant when the writ of garnishment was served ((on him)), and that ((he had)) the garnishee did not ((in his)) have possession or ((under his)) control of any personal property or effects of the defendant, and ((should)) if an affidavit controverting the answer of the garnishee is not ((be controverted)) filed within twenty days of the filing of the answer, as ((hereinafter)) provided in this chapter, the garnishee shall stand discharged without further action by the court or the garnishee and shall have no further liability.

Sec. 1025. Section 20, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.200 are each amended to read as follows:

~~((Should))~~ (1) If it appears from the answer of the garnishee or ((should)) if it ((be)) is otherwise made to appear((, as hereinafter provided,)) that the garnishee was indebted to the defendant in any amount, not exempt, when the writ of garnishment was served, and if the required return showing service on or mailing to the defendant is on file, the court shall render judgment for the plaintiff against such garnishee for the amount so admitted or found to be due to the defendant from the garnishee, unless

such amount ~~((shall))~~ exceeds the amount of the plaintiff's claim or ~~((demand))~~ judgment against the defendant with accruing interest and costs and attorney's fees as prescribed in RCW 7.33.090, in which case it shall be for the amount of such claim or ~~((demand))~~ judgment, with said interest ~~((and)), costs(~~(-PROVIDED, HOWEVER,))~~, and fees.~~

(2) If it shall appear from the answer of the garnishee and the same is not controverted, or if it shall appear from the hearing or trial ~~((hereinafter provided for))~~ on controversion or by stipulation of the parties that the garnishee is indebted to the principal defendant in any sum, but that such indebtedness is not matured and is not due and payable, and if the required return showing service on or mailing to the defendant is on file, the court shall make an order requiring the garnishee to pay such sum into court when the same becomes due, the date when such payment is to be made to be specified in ~~((said))~~ the order, and in default thereof that judgment shall be entered against the garnishee for the amount of such indebtedness so admitted or found due. In case the garnishee ~~((shall pay said))~~ pays the sum at the time specified in ~~((said))~~ the order, ~~((said))~~ the payment shall operate as a discharge, otherwise judgment shall be entered against ~~((him))~~ the garnishee for the amount of such indebtedness, which judgment shall have the same force and effect, and be enforced in ~~((like))~~ the same manner as other judgments entered against garnishees as provided ~~((for))~~ in ~~((RCW 7.33.010 through 7.33.050, and 7.33.090 through 7.33.340))~~ this chapter: PROVIDED ~~((FURTHER))~~, That if judgment ~~((shall be))~~ is rendered in favor of the principal defendant, or if any judgment rendered against ~~((him be))~~ the principal defendant is satisfied prior to the date of payment specified in ~~((said))~~ an order of payment entered under this subsection, the garnishee shall not be required to make the payment ~~((hereinbefore provided for))~~, nor shall any judgment in such case be entered against ~~((him))~~ the garnishee.

Sec. 1026. Section 21, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.210 are each amended to read as follows:

Execution may be issued on the judgment against the garnishee ~~((herein provided for))~~ in ~~((like))~~ the same manner as upon any other judgment. The amount made upon any such execution shall be paid by the officer executing ~~((the same))~~ it to the clerk of the ~~((superior))~~ court from which ~~((such))~~ the execution was issued; and, in cases where judgment has been rendered against the defendant, the amount made on the execution shall be applied to the satisfaction of the judgment, interest and costs against the defendant. In case judgment has not been rendered against the defendant at the time execution issued against the garnishee is returned, any amount made on ~~((said))~~ the execution shall be paid to the clerk of the court from which ~~((such))~~ the execution issued, who shall retain the same until judgment ~~((be))~~ is rendered in the action between the plaintiff and defendant. In case judgment ~~((be))~~ is rendered ~~((therein))~~ in favor of the

plaintiff, the amount made on the execution against the garnishee shall be applied to the satisfaction of such judgment and the surplus, if any (~~(there be)~~), shall be paid to the defendant. In case judgment (~~(be)~~) is rendered (~~(in such action)~~) in favor of the defendant, the amount made on (~~(said)~~) the execution against the garnishee shall be paid to the defendant.

Sec. 1027. Section 22, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.220 are each amended to read as follows:

~~((Should))~~ If it appears from the garnishee's answer or otherwise that the garnishee had (~~(in his)~~) possession or (~~(under his)~~) control, when the writ was served, of any personal property or effects of the defendant liable to execution, and if the required return showing service on or mailing to the defendant is on file, the court shall render a decree requiring the garnishee to deliver up to the sheriff on demand, and after making arrangements with the sheriff as to time and place of delivery, such personal property or effects or so much of them as may be necessary to satisfy the plaintiff's claim. (~~(In cases where)~~) If a judgment has been rendered in favor of the plaintiff against the defendant, such personal property or effects may be sold in (~~(like)~~) the same manner as any other property is sold upon an execution issued on said judgment. (~~(In cases where)~~) If judgment has not been rendered in the principal action, the sheriff shall retain (~~(said)~~) possession of the personal property or effects (~~(in his possession)~~) until the rendition of judgment therein, and (~~(in case)~~), if judgment is thereafter rendered in (~~(said principal action in)~~) favor of the plaintiff, said (~~(goods)~~) personal property or effects, or sufficient of them to satisfy such judgment, may be sold in (~~(like)~~) the same manner as other property is sold on execution, by virtue of an execution (~~(issuing)~~) issued on (~~(said)~~) the judgment in the principal action. (~~(In case)~~) If judgment (~~(shall be)~~) is rendered in (~~(said)~~) the action against the plaintiff and in favor of the defendant, such effects and personal property shall be (~~(by the sheriff)~~) returned to the defendant by the sheriff: PROVIDED, HOWEVER, That (~~(in cases where)~~) if such effects or personal property are of a perishable nature, or the interests of the parties will be subserved by making a sale thereof before judgment, the court may order a sale thereof by the sheriff in (~~(like)~~) the same manner as sales upon execution are made, and the proceeds of such sale shall be paid to the clerk of the (~~(superior)~~) court that issued the writ, and (~~(like)~~) the same disposition shall be made of (~~(such)~~) the proceeds at the termination of the action as would have been made of (~~(such)~~) the personal property or effects under the provisions of this section in case (~~(such)~~) the sale had not been made.

Sec. 1028. Section 23, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.230 are each amended to read as follows:

~~((Should))~~ If the garnishee, adjudged to have effects or personal property of the defendant in (~~(his)~~) possession or under (~~(his)~~) control as provided in RCW 7.33.220, fails or refuses to deliver them to the sheriff on such demand, the officer shall immediately make return of such failure or

refusal, whereupon, on motion of the plaintiff, the garnishee shall be cited to show cause why he or she should not be ~~((attached for))~~ found in contempt of court for such failure or refusal, and should the garnishee fail to show some good and sufficient excuse for such failure and refusal, he or she shall be fined for such contempt and imprisoned until he or she shall deliver such personal property or effects.

Sec. 1029. Section 33, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.330 are each amended to read as follows:

~~((Where))~~ (1) If the garnishee in ((his)) the answer states that ((he)) the garnishee at the time of the service of the writ was indebted to or had possession or control of personal property or effects ((in his possession or under his control at the time of the service of the writ of garnishment upon him)) belonging to a person ((of the same or similar)) with a name the same as or similar to the name ((to)) of the defendant, and stating the place of business or residence of said person, and that ((he)) the garnishee does not know whether or not such person is the same person as the defendant, and prays the court to determine whether or not the person ((to whom he was indebted or whose personal property or effects he had in his possession)) is the same person as the defendant, the court, before rendering judgment against the garnishee defendant as hereinbefore provided, shall conduct a hearing to take proof as to the identity of said persons~~((, and if he should find therefrom that they are not one and the same individual, the garnishee shall be discharged and shall have and recover his costs against the plaintiff, and if he should find that said persons are one and the same individuals, he shall make a similar judgment as to the payment of the money or the delivery of personal property and effects and as to costs of the garnishee as is hereinbefore provided, where the garnishee is held upon his answer))~~.

(2) Before ((any such)) the hearing on the question of identity ((is had)), the plaintiff shall cause the court to issue a citation directed to the person ((to whom the garnishee answers he was indebted or whose personal property or effects the garnishee has answered he had in his possession or under his control)) identified in the garnishee's answer, commanding ((him)) that person to appear before the court from which ((it)) the citation is issued within ten days after the service of the same ((upon him)), and to answer on oath whether or not he or she is the same person as the defendant in said action. ((Said)) The citation shall be dated and attested in ((like)) the same manner as a writ of garnishment and be delivered to the plaintiff or ((his)) the plaintiff's attorney and shall be served in the same manner as a summons in ((an)) a civil action is served.

(3) If the court finds after hearing that the persons are not the same, the garnishee shall be discharged and shall recover costs against the plaintiff. If the court finds that the persons are the same, it shall make the same

kind of judgment as in other cases in which the garnishee is held upon the garnishee's answer, including provision for garnishee's costs.

(4) If ~~((upon))~~ the court finds after the hearing ~~((in this section provided for, the court shall find))~~ that the defendant or judgment debtor is the same person as the person ~~((to whom the garnishee defendant was indebted, or whose personal property or effects said garnishee defendant had in possession or under control))~~ identified in the garnishee's answer, it shall be sufficient answer to any claim of said person against the garnishee founded on any indebtedness of ~~((such))~~ the garnishee or on the possession or control by ~~((said person))~~ the garnishee of any personal property or effects for the garnishee to show that ~~((such))~~ the indebtedness was paid or ~~((such))~~ the personal property or effects were delivered under the judgment of the court in accordance with the provisions in this chapter.

Sec. 1030. Section 30, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.300 are each amended to read as follows:

It shall be a sufficient answer to any claim of the defendant against the garnishee founded on any indebtedness of ~~((such))~~ the garnishee or on the possession ~~((by him))~~ or control by the garnishee of any personal property or effects, for the garnishee to show that such indebtedness was paid or such personal property or effects were delivered ~~((; or such shares of stock or other interest in such corporation were sold))~~ under the judgment of the court in accordance with ~~((the provisions of RCW 7.33.010 through 7.33.050, and 7.33.090 through 7.33.340))~~ this chapter.

Sec. 1031. Section 27, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.270 are each amended to read as follows:

In all cases where it shall appear from the answer of the garnishee that ~~((he))~~ the garnishee was indebted to the defendant when the writ of garnishment was served ~~((and)),~~ no controversion is pending, there has been no discharge or judgment against the garnishee entered, and one year ~~((shall have))~~ has passed since the filing of the answer of the garnishee, the court, after ten days' notice in writing to the plaintiff, shall enter an order dismissing the writ of garnishment and discharging the garnishee: PROVIDED, That this provision shall have no effect ~~((when))~~ if the cause of action between plaintiff and defendant ~~((shall be))~~ is pending on the trial calendar, or ~~((upon the filing of))~~ if any party files an affidavit ~~((by any party))~~ that the action is still pending.

Sec. 1032. Section 5, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.350 are each amended to read as follows:

A ~~((plaintiff or a))~~ judgment creditor may obtain a continuing lien on ~~((wages))~~ earnings by a garnishment pursuant to RCW 7.33.360 ~~((through)),~~ 7.33.370, 7.33.380, and 7.33.390.

Sec. 1033. Section 6, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.360 are each amended to read as follows:

(1) Service of ((the)) a writ for a continuing lien shall comply fully with RCW 7.33.130 ((and, in addition (1) plaintiff shall mark the caption of the writ "continuing lien"; and (2) all answer forms served on employer shall be substantially as follows:

(1) Where garnishee is an employer:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF .....

|            |   |
|------------|---|
| .....      | } _____ NO. ....                                      |
| Plaintiff, |   |
| vs.        |   |
| .....      |   |
| Defendant, | } ANSWER TO WRIT<br>OF GARNISHMENT<br>(EMPLOYER FORM) |
| .....      |   |
| Garnishee. |   |

At the time of service of the writ of garnishment on the garnishee there was due and owing from the garnishee to the above-named defendant \$..... for the last pay period. Garnishee has deducted from this amount \$..... which is the exemption to which the defendant is entitled.

On the reverse side of this answer form, or on a schedule attached hereto, give the following information: (1) An explanation of the dollar amount stated, or reasons why there is uncertainty about your answer, if deemed necessary; (2) List all of the personal property or effects or funds, other than wages, of defendant in the garnishee's possession or control when the writ was served. ~~GARNISHEE WILL CONTINUE TO HOLD THE NONEXEMPT PORTION OF THE DEFENDANT'S EARNINGS AS THEY ACCRUE THROUGH THE LAST PAYROLL PERIOD ENDING ON OR BEFORE THIRTY DAYS FROM THE EFFECTIVE DATE OF THE WRIT (DATE OF SERVICE OR DATE PREVIOUSLY SERVED WRIT OR WRITS TERMINATES), OR UNTIL THE SUM HELD EQUALS THE AMOUNT STATED IN THE WRIT OF GARNISHMENT OR UNTIL THE EMPLOYMENT RELATIONSHIP TERMINATES WHICHEVER SHALL COME FIRST.~~

Garnishee (is) (is not) presently holding the nonexempt portion of defendant's wages, salary or other compensations under a previous writ which will terminate not later than ....., 19... An attorney may answer for the garnishee.

Under penalty or [of] perjury, I affirm that I have examined this answer, including accompanying schedules, and to the best of my knowledge and belief it is true, correct, and complete.

.....  
 Signature of \_\_\_\_\_ Date \_\_\_\_\_  
 Garnishee

.....  
 Signature of person \_\_\_\_\_ Connection with  
 answering for \_\_\_\_\_ garnishee  
 garnishee):

(2) The caption of the writ shall be marked "CONTINUING LIEN ON EARNINGS" and the following additional paragraph shall be included in the writ form prescribed in RCW 7.33.110:

"THIS IS A WRIT FOR A CONTINUING LIEN. THE GARNISHEE SHALL HOLD the nonexempt portion of the defendant's earnings due at the time of service of this writ and shall also hold the defendant's nonexempt earnings that accrue through the last payroll period ending on or before SIXTY days after the date of service of this writ. HOWEVER, IF THE GARNISHEE IS PRESENTLY HOLDING THE NONEXEMPT PORTION OF THE DEFENDANT'S EARNINGS UNDER A PREVIOUSLY SERVED WRIT FOR A CONTINUING LIEN, THE GARNISHEE SHALL HOLD UNDER THIS WRIT only the defendant's nonexempt earnings that accrue from the date the previously served writ or writs terminate and through the last payroll period ending on or before sixty days after the date of termination of the previous writ or writs. IN EITHER CASE, THE GARNISHEE SHALL STOP WITHHOLDING WHEN THE SUM WITHHELD EQUALS THE AMOUNT STATED IN THIS WRIT OF GARNISHMENT."

(3) The answer forms served on an employer shall include in the caption, "ANSWER TO WRIT OF GARNISHMENT FOR CONTINUING LIEN ON EARNINGS," and the following paragraph shall be added as the first paragraph of the answer form prescribed in RCW 7.33.150:

"If you are withholding the defendant's nonexempt wages under a previously served writ for a continuing lien, answer only this portion of this form and mail or deliver the forms as directed in the writ. Withhold from the defendant's future nonexempt earnings as directed in the writ, and a second set of answer forms will be forwarded to you later."

ANSWER: I am presently holding the defendant's nonexempt earnings under a previous writ served on ..... that will



terminate not later than . . . . ., 19. . . .

. . . . .

If you are NOT withholding the defendant's earnings under a previously served writ for a continuing lien, answer the following portion of this form and mail or deliver the forms as directed in the writ. A second set of answer forms will be forwarded to you later for subsequently withheld earnings."

(4) In the event plaintiff fails to comply with this section, employer may elect to treat the garnishment as one not creating a continuing lien.

Sec. 1034. Section 7, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.370 are each amended to read as follows:

(1) ~~((In the case of a garnishment of earnings,))~~ Where the garnishee's answer to a garnishment for a continuing lien reflects that the defendant is employed by ((him)) the garnishee, the judgment or balance due thereon as reflected on the writ of garnishment((;)) shall become a lien on earnings due at the time of ((service of)) the effective date of the writ, as defined in this subsection, to the extent that they are not exempt from garnishment, and such lien shall continue as to subsequent nonexempt earnings until the total subject to the lien equals the amount stated on the writ of garnishment or until the expiration of the employer's payroll period ending ((immediately prior to thirty)) on or before sixty days after the effective date of the writ ((as hereafter defined)), whichever occurs first, except that such lien on subsequent earnings shall terminate sooner if the employment relationship is terminated ((for)) or if the underlying judgment is vacated, modified, or satisfied in full or if the writ is dismissed. The "effective date" of a writ is the date of service of the writ if there is no previously served writ; otherwise, it is the date of termination of a previously served writ or writs.

(2) At the time of the expected termination of the lien, the plaintiff shall mail to the garnishee cash or a check made payable to the garnishee in the amount of ten dollars, three additional stamped envelopes addressed as provided in RCW 7.33.130, and four additional copies of the answer form ((and three additional stamped envelopes addressed as provided in RCW 7.33.130.)) conspicuously marked at the top: "ANSWER THE SECOND PART OF THIS FORM WITH RESPECT TO THE TOTAL AMOUNT OF WAGES WITHHELD UNDER THIS GARNISHMENT, INCLUDING THE AMOUNT, IF ANY, STATED IN YOUR FIRST ANSWER, AND WITHIN TWENTY DAYS AFTER YOU RECEIVE THESE FORMS, MAIL OR DELIVER THEM AS DIRECTED IN THE WRIT."

(3) Within twenty days of receipt of the second answer form the garnishee shall file a second answer, in the form as provided in ((RCW 7.33-360)) subsection (2) of this section, stating the total amount held subject to the garnishment.

Sec. 1035. Section 8, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.380 are each amended to read as follows:

A lien obtained under RCW 7.33.370 shall have priority over any subsequent garnishment lien or wage assignment(~~(-Any writ of garnishment served upon an employer pursuant to RCW 7.33.360 while a lien imposed by a previous writ is still in effect, shall be answered by employer with a statement that he is holding no funds and with a further statement stating when all previous liens are expected to terminate. Such subsequent writ shall have full effect for thirty days from the termination of all prior liens; or until this is otherwise terminated under RCW 7.33.370: PROVIDED;))~~ except that ((a subsequent)) service of a writ shall not be effective to create a continuing lien with such priority if a writ in the same ((cause of action)) case is pending at the time of the service of ((garnishment)) the new writ.

#### PART XI MISCELLANEOUS PROVISIONS

Sec. 1101. Section 121, chapter 299, Laws of 1961 as amended by section 701, chapter 258, Laws of 1984 and RCW 3.66.100 are each amended to read as follows:

(1) Every district judge having authority to hear a particular case may issue criminal process in and to any place in the state.

(2) Notwithstanding any provision in the ~~((justice court))~~ civil rules to the contrary, every district judge having authority to hear a particular case may issue civil process, including writs of execution, attachment, garnishment, and replevin, in and to any place in the state.

Sec. 1102. Section 23, page 337, Laws of 1873 as last amended by section 11, chapter 292, Laws of 1971 ex. sess. and RCW 12.04.050 are each amended to read as follows:

All process issued by ~~((justices of the peace shall run in the name of the state of Washington, be dated the day issued and signed by the justice granting the same;))~~ district court judges of the state and all executions and writs of attachment or of replevin shall be served by ~~((the sheriff or some constable of the county in which the justice resides))~~ a sheriff or a deputy, but a summons or notice and complaint may be served by any citizen of the state of Washington over the age of eighteen years and not a party to the action.

Sec. 1103. Section 1, chapter 60, Laws of 1929 as last amended by section 5, chapter 45, Laws of 1983 1st ex. sess. and RCW 4.56.190 are each amended to read as follows:

The real estate of any judgment debtor, and such as ~~((he))~~ the judgment debtor may acquire, not exempt by law, shall be held and bound to satisfy any judgment of the district court of the United States rendered in this state~~(:))~~ and any judgment of the supreme court, court of appeals, ~~((or))~~ superior court, or district court of this state~~(-and any judgment of~~

~~any justice of the peace rendered in this state)), and every such judgment shall be a lien thereupon to commence as ((hereinafter)) provided in RCW 4.56.200 and to run for a period of not to exceed ten years from the day on which such judgment was ((rendered)) entered. As used in this chapter, real estate shall not include the vendor's interest under a real estate contract for judgments rendered after August 23, 1983. If a judgment debtor owns real estate, subject to execution, jointly or in common with any other person, the judgment shall be a lien on the interest of the defendant only.~~

Personal property of the judgment debtor shall be held only from the time it is actually levied upon.

NEW SECTION. Sec. 1104. The amendment of RCW 4.56.190 by this act applies only to judgments entered after the effective date of this act.

Sec. 1105. Section 234, page 173, Laws of 1854 as last amended by section 1, chapter 34, Laws of 1967 ex. sess. and RCW 4.64.060 are each amended to read as follows:

Every county clerk shall keep in ((his)) the clerk's office a record, to be called the execution docket, which shall be a public record and open during the usual business hours to all persons desirous of inspecting it.

Sec. 1106. Section 5, chapter 60, Laws of 1929 as amended by section 1, chapter 22, Laws of 1935 and RCW 4.64.070 are each amended to read as follows:

~~((It shall be the duty of the county))~~ The clerk ((to)) shall keep a proper record index to the execution docket, both direct and inverse, of ((any and)) all judgments, abstracts and transcripts of judgments in ((his)) the clerk's office~~((, and all renewals thereof, and such))~~. The index shall refer to each party against whom the judgment is rendered or whose property is affected ((thereby)) by it, and shall, together with the ((records of judgments)) execution docket, be open to public inspection during regular office hours.

Sec. 1107. Section 307, page 75, Laws of 1869 as last amended by section 6, chapter 128, Laws of 1984 and RCW 4.64.030 are each amended to read as follows:

~~((All judgments shall be entered by))~~ The clerk shall enter all judgments in the execution docket, subject to the direction of the court~~((, in the execution docket,))~~ and shall specify clearly the amount to be recovered, the relief granted, or other determination of the action.

~~((At the end))~~ On the first page of each judgment which provides for the payment of money, the following shall be succinctly summarized: The judgment creditor and the name of his or her attorney, the judgment debtor, the amount of the judgment, the interest owed to the date of the judgment, and the total of the taxable costs and attorney fees, if known at the time of the entry of the judgment. If the attorney fees and costs are not included in

the judgment, they shall be summarized in the cost bill when filed. This information is included in the judgment to assist the county clerk in his or her record-keeping function.

Sec. 1108. Section 237, page 174, Laws of 1854 as last amended by section 6, chapter 7, Laws of 1957 and RCW 4.64.080 are each amended to read as follows:

((He)) When entering a judgment in the execution docket, the clerk shall leave space on the same page, if practicable, ~~((with each case,))~~ in which ~~((he))~~ the clerk shall enter, in the order in which they occur, all the proceedings subsequent to the judgment in ~~((said))~~ the case until its final satisfaction, including ~~((the time))~~ when and to what county ~~((the))~~ an execution is issued, ~~((and))~~ when returned, and the return or the substance thereof. When the execution is levied on personal property which is returned unsold, the entry shall be: "levied (noting the date) on property not sold." When any sheriff shall furnish the clerk with a copy of any levy upon real estate on any judgment the minutes of which are entered in ~~((his))~~ the execution docket, the entry shall be: "levied upon real estate," noting the date. When any execution issued to any other county is returned levied upon real estate in such county, the entry in the docket shall be, "levied on real estate of . . . . ., in . . . . . county," noting the date, county, and defendants whose estate is levied upon~~((; and))~~. When ~~((the))~~ any money is paid, ~~((or any part thereof,))~~ the amount and time when paid shall be entered~~((; also,))~~. When a judgment is appealed, modified, discharged, or in any manner satisfied, the facts in respect thereto shall be entered. The parties interested may also assign or discharge such judgment on such execution docket. When the judgment is fully satisfied in any way, the clerk shall write the word "satisfied," in large letters across the face of the ~~((entry))~~ record of such judgment in the execution docket.

Sec. 1109. Section 2, chapter 65, Laws of 1921 as amended by section 1, chapter 176, Laws of 1927 and RCW 4.64.020 are each amended to read as follows:

(1) The clerk on the return of a verdict shall forthwith enter ~~((the same))~~ it in the execution docket, specifying the amount ~~((thereof, and)),~~ the names of the parties to the action, and the names of the party or parties against whom the verdict is rendered; such entry shall be indexed in the record index and shall conform as near as may be to entries of judgments required to be made in ~~((such))~~ the execution docket.

(2) Beginning at eight o'clock a.m. the day after the entry of ~~((such))~~ a verdict as herein provided, ~~((the same))~~ it shall be notice to all the world of the rendition thereof, and any person subsequently acquiring title to or a lien upon the real property of the party or parties against whom the verdict is returned shall be deemed to have acquired such title or lien with notice, and such title or lien shall be subject and inferior to any judgment afterwards entered on the verdict.

Sec. 1110. Section 3, chapter 65, Laws of 1921 as amended by section 5, chapter 76, Laws of 1984 and RCW 4.64.100 are each amended to read as follows:

The clerk shall, on request and at the expense of the party in whose favor the verdict is rendered, or ~~((his))~~ the party's attorney, prepare an abstract of such verdict in substantially the same form as an abstract of a judgment and transmit such abstract to the clerk of any court in any county in the state as directed, and shall make a note on the execution docket of the name of the county to which each of such abstracts is sent. The clerk receiving such abstract shall, on payment of ~~((a fee of fifty cents therefor))~~ the statutory fee, enter and index ~~((the same))~~ it in the execution docket in the same manner as an abstract of judgment. ~~((On))~~ The entry ~~((thereof the same))~~ shall have the same effect in such county as in the county where the verdict was rendered.

Whenever the verdict, or any judgment rendered thereon, shall cease to be a lien in the county where rendered, the clerk of the court shall on request of anyone, and the payment of the cost and expense thereof, certify that the lien ~~((thereof))~~ has ceased, and transmit such certificate to the clerk of any court to which an abstract was forwarded, and ~~((such))~~ the clerk receiving the certificate, on payment of ~~((a fee of fifty cents therefor))~~ the statutory fee, shall enter ~~((the same))~~ it in the execution docket, and then ~~((and thereupon))~~ the lien of such verdict or judgment shall cease. Nothing in this section or RCW 4.64.020 shall be construed as authorizing the issuance of an execution by a clerk in any other county than that in which the judgment is rendered.

Sec. 1111. Section 4, chapter 60, Laws of 1929 and RCW 4.64.120 are each amended to read as follows:

It shall be the duty of the county clerk to enter in ~~((his))~~ the execution docket any duly certified transcript of a judgment of a ~~((justice of the peace))~~ district court of this state and any duly certified abstract of any judgment of any court mentioned in RCW 4.56.200, filed in ~~((his))~~ the county clerk's office, and to index the same in the same manner as judgments originally rendered in the superior court for the county of which he or she is clerk.

**\*Sec. 1112. Section 9, chapter 7, Laws of 1957 and RCW 4.64.110 are each amended to read as follows:**

**A transcript of the district court docket ~~((of a justice of the peace))~~ shall contain an exact copy of the district court judgment from the ~~((justice's))~~ docket.**

**\*Sec. 1112 was vetoed, see message at end of chapter.**

Sec. 1113. Section 8, chapter 7, Laws of 1957 and RCW 4.64.090 are each amended to read as follows:

The abstract of a judgment shall contain (1) the name of the party, or parties, in whose favor the judgment was rendered; (2) the name of the party, or parties, against whom the judgment was rendered; (3) the date of the rendition of the judgment; (4) the amount for which the judgment was rendered, and in the following manner, viz: Principal \$ . . . . .; interest \$ . . . . .; costs \$ . . . . .; total \$ . . . . .

**NEW SECTION.** Sec. 1114. A new section is added to chapter 6.32 RCW to read as follows:

If it appears from the examination or testimony taken in the special proceedings authorized by this chapter that the judgment debtor owns an interest in a partnership, the judge who granted the order or warrant or to whom it is returnable may in his or her discretion, upon such notice to other partners as the judge deems just, and to the extent permitted by Title 25 RCW, (1) enter an order charging the partnership interest with payment of the judgment, directing that all or any part of distributions or other amounts becoming due to the judgment debtor, other than earnings as defined in section 1001 of this act, be paid to a receiver if one has been appointed, otherwise to the clerk of the court that entered the judgment, for application to payment of the judgment in the same manner as proceeds from sale on execution and, in aid of the charging order, the court may make such other orders as a case requires, or (2) enter an order directing sale of the partnership interest in the same manner as personal property is sold on execution.

Sec. 1115. Section 25, chapter 133, Laws of 1893 and RCW 6.32.250 are each amended to read as follows:

This chapter does not authorize the seizure of, or other interference with, (1) any property which is expressly exempt by law from levy and sale by virtue of an execution, attachment, or garnishment; or (2) any money, thing in action or other property held in trust for a judgment debtor where the trust has been created by, or the fund so held in trust has proceeded from, a person other than the judgment debtor; or (3) the earnings of the judgment debtor for ((his)) personal services (~~((rendered within sixty days next before the institution of the special proceeding, where it is made to appear by his oath or otherwise that those earnings are necessary for the use of a family wholly or partly supported by his labor))~~) to the extent they would be exempt against garnishment of the employer under RCW 7.33.280.

Sec. 1116. Section 11.52.010, chapter 145, Laws of 1965 as last amended by section 17, chapter 260, Laws of 1984 and RCW 11.52.010 are each amended to read as follows:

If it is made to appear to the satisfaction of the court that no homestead has been claimed in the manner provided by law, either prior or subsequent to the death of the person whose estate is being administered, then

the court, after hearing and upon being satisfied that the funeral expenses, expenses of last sickness and of administration have been paid or provided for, and upon petition for that purpose, shall award and set off to the surviving spouse, if any, property of the estate, either community or separate, not exceeding the value of (~~twenty-five~~) thirty thousand dollars at the time of death, exclusive of general taxes and special assessments which were liens at the time of the death of the deceased spouse, exclusive of the unpaid balance of any contract to purchase, mortgage, or mechanic's, laborer's or materialmen's liens upon the property so set off, exclusive of debts arising out of a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance and exclusive of funeral expenses, expenses of last sickness and administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving spouse; provided that the court shall have no jurisdiction to make such award unless the petition therefor is filed with the clerk within six years from the date of the death of the person whose estate is being administered.

Sec. 1117. Section 35A.20.150, chapter 119, Laws of 1967 ex. sess. as amended by section 58, chapter 3, Laws of 1983 and RCW 35A.21.195 are each amended to read as follows:

A code city may exercise the power to bring an action or special proceeding at law as authorized by Title 4 RCW, chapters 7.24, 7.25, and 7.33 RCW (sections 1001 through 1035 of this 1987 act), and shall be subject to actions and process of law in accordance with procedures prescribed by law and rules of court.

Sec. 1118. Section 4, chapter 85, Laws of 1977 ex. sess. as last amended by section 403, chapter 305, Laws of 1986 and RCW 51.24.060 are each amended to read as follows:

(1) If the injured worker or beneficiary elects to seek damages from the third person, any recovery made shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the injured worker or beneficiary and the department and/or self-insurer;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award; PROVIDED, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department and/or self-insurer shall be paid the balance of the recovery made, but only to the extent necessary to reimburse the department and/or self-insurer for compensation and benefits paid;

(i) The department and/or self-insurer shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the worker or beneficiary to the extent of the benefits paid or payable under this title:

**PROVIDED**, That the department or self-insurer may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees.

(ii) The sum representing the department's and/or self-insurer's proportionate share shall not be subject to subsection (1) (d) and (e) of this section.

(d) Any remaining balance shall be paid to the injured worker or beneficiary;

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department and/or self-insurer for such injury until the amount of any further compensation and benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person;

(f) If the employer or a co-employee are determined under RCW 4.22.070 to be at fault, (c) and (e) of this subsection do not apply and benefits shall be paid by the department and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person.

(2) The recovery made shall be subject to a lien by the department and/or self-insurer for its share under this section.

(3) The department or self-insurer has sole discretion to compromise the amount of its lien. In deciding whether or to what extent to compromise its lien, the department or self-insurer shall consider at least the following:

(a) The likelihood of collection of the award or settlement as may be affected by insurance coverage, solvency, or other factors relating to the third person;

(b) Factual and legal issues of liability as between the injured worker or beneficiary and the third person. Such issues include but are not limited to possible contributory negligence and novel theories of liability; and

(c) Problems of proof faced in obtaining the award or settlement.

(4) In the case of an employer not qualifying as a self-insurer, the department shall make a retroactive adjustment to such employer's experience rating in which the third party claim has been included to reflect that portion of the award or settlement which is reimbursed for compensation and benefits paid and, if the claim is open at the time of recovery, applied against further compensation and benefits to which the injured worker or beneficiary may be entitled.

(5) In an action under this section, the self-insurer may act on behalf and for the benefit of the department to the extent of any compensation and benefits paid or payable from state funds.

(6) It shall be the duty of the person to whom any recovery is paid before distribution under this section to advise the department or self-insurer of the fact and amount of such recovery, the costs and reasonable attorneys'



fees associated with the recovery, and to distribute the recovery in compliance with this section.

(7) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by registered or certified mail, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such worker or beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the injured worker or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee of five dollars, which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the injured worker or beneficiary within three days of filing with the clerk.

(8) The director, or the director's designee, may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice and order to withhold and deliver property of any kind if he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property which is due, owing, or belonging to any worker or beneficiary upon whom a warrant has been served by the department for payments due to the state fund. The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy, or by any authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property which

may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount claimed by the director in the notice together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer to all exemptions provided for by chapter 7.33 RCW (sections 1001 through 1035 of this 1987 act) to which the wage earner may be entitled.

Sec. 1119. Section 35, chapter 43, Laws of 1972 ex. sess. as amended by section 11, chapter 9, Laws of 1986 and RCW 51.48.150 are each amended to read as follows:

The director or the director's designee is hereby authorized to issue to any person, firm, corporation, municipal corporation, political subdivision of the state, a public corporation, or any agency of the state, a notice and order to withhold and deliver property of any kind whatsoever when he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or any agency of the state, property which is or shall become due, owing, or belonging to any employer upon whom a notice of assessment has been served by the department for payments due to the state fund. The effect of a notice and order to withhold and deliver shall be continuous from the date such notice and order to withhold and deliver is first made until the liability out of which such notice and order to withhold and deliver arose is satisfied or becomes unenforceable because of lapse of time. The department shall release the notice and order to withhold and deliver when the liability out of which the notice and order to withhold and deliver arose is satisfied or becomes unenforceable by reason of lapse of time and shall notify the person against whom the notice and order to withhold and deliver was made that such notice and order to withhold and deliver has been released.

The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy, or by any duly authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation or any agency of the state upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with a notice and order to withhold and deliver, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the

director's duly authorized representative upon service of the notice to withhold and deliver which will be held in trust by the director for application on the employer's indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review, or in the alternative such party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. Should any party served and named in the notice to withhold and deliver fail to make answer to such notice and order to withhold and deliver, within the time prescribed herein, it shall be lawful for the court, after the time to answer such order has expired, to render judgment by default against the party named in the notice to withhold and deliver for the full amount claimed by the director in the notice to withhold and deliver together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, then the employer shall be entitled to assert in the answer to all exemptions provided for by chapter 7.33 RCW (sections 1001 through 1035 of this 1987 act) to which the wage earner may be entitled.

NEW SECTION. Sec. 1120. Section 233, page 173, Laws of 1854, section 321, page 65, Laws of 1877, section 306, Code of 1881, section 3, chapter 38, Laws of 1891 and RCW 4.64.040 are each repealed.

NEW SECTION. Sec. 1121. Parts I through X of this act shall each constitute a new chapter in Title 6 RCW, and the sections amended in each part of this act shall be recodified in the order they appear in this act. The code reviser shall correct all statutory references to these sections to reflect this recodification.

Passed the House April 25, 1987.

Passed the Senate April 25, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1112, Engrossed Substitute House Bill No. 927, entitled:

"AN ACT Relating to the enforcement of judgments."

Section 1112 is identical to section 118 of Senate Bill No. 5017. Since I have already signed Senate Bill No. 5017, section 1112 of this bill is duplicative. I have also noted that several sections of Engrossed Substitute House Bill No. 927 contain additional amendments to sections amended by Senate Bill No. 5017 and that Engrossed Substitute House Bill No. 927 repeals a section which was amended in Senate Bill No. 5017. I assume that the amendments made in Engrossed Substitute House Bill No. 927 reflect the intent of the legislature to make further changes to these sections.

With the exception of section 1112, Engrossed Substitute House Bill No. 927 is approved."