

NEW SECTION. Sec. 10. Sections 1 through 9 of this act shall take effect January 1, 1989. The department of agriculture may immediately take such steps as are necessary to ensure that this act is implemented on that date.

Passed the Senate March 7, 1988.

Passed the House March 2, 1988.

Approved by the Governor March 23, 1988.

Filed in Office of Secretary of State March 23, 1988.

CHAPTER 231

[Substitute House Bill No. 1368]

ENFORCEMENT OF JUDGMENTS

AN ACT Relating to enforcement of judgments; amending RCW 6.13.080, 6.13.090, 6.15.010, 6.15.060, 6.17.100, 6.17.110, 6.17.130, 6.17.140, 6.17.160, 6.17.190, 6.21.020, 6.25.070, 6.25.120, 6.26.010, 6.26.020, 6.26.060, 6.27.080, 6.27.090, 6.27.100, 6.27.110, 6.27.130, 6.27.160, 6.27.180, 6.27.190, 6.27.200, 6.27.250, 6.27.270, 6.27.340, 6.27.350, and 6.12.090; reenacting and amending RCW 6.15.020; reenacting RCW 6.25.080 and 6.27.060; adding new sections to chapter 6.01 RCW; adding a new section to chapter 6.26 RCW; repealing RCW 6.08.010, 6.08.020, 6.08.030, 6.08.040, 6.08.050, 6.08.060, and 6.25.210; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 6.01 RCW to read as follows:

The term "certified mail," as used in this title, includes, for mailings to a foreign country, any form of mail that requires or permits a return receipt.

NEW SECTION. Sec. 2. A new section is added to chapter 6.01 RCW to read as follows:

If, before levying under a writ of attachment or execution, 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 or execution, a sheriff receives such notice, the sheriff shall give written notice of the attachment or execution, 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 shall release the property to the defendant.

Sec. 3. Section 1, chapter 10, Laws of 1982 as last amended by section 208, chapter 442, Laws of 1987 and RCW 6.13.080 are each amended to read as follows:

The homestead exemption is 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 (a) by ~~((purchase money))~~ security agreements describing as collateral the mobile home that is claimed as a homestead or (b) by mortgages or deeds of trust on the premises(;) that have been 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, 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 bankruptcy exemption provisions of 11 U.S.C. Sec. 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. 4. Section 30, chapter 260, Laws of 1984 as amended by section 209, chapter 442, Laws of 1987 and RCW 6.13.090 are each amended to read as follows:

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 from the time the judgment creditor records the judgment with the recording officer of the county where the property is located. However, if a judgment of a district court of this state has been transferred to a superior court, the judgment becomes a lien from the time of recording with such recording officer a duly certified abstract of the record of such judgment as it appears in the office of the clerk in which the transfer was originally filed.

Sec. 5. Section 253, page 178, Laws of 1854 as last amended by section 301, chapter 442, Laws of 1987 and RCW 6.15.010 are each amended to read as follows:

Except as provided in RCW 6.15.050, the following personal property shall be exempt from execution, attachment, and garnishment:

(1) All wearing apparel of every individual and family, but not to exceed seven hundred fifty dollars in value in furs, jewelry, and personal ornaments for any 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 individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

(a) The 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 the individual or community for three months;

(c) Other property, except personal earnings as provided under RCW ~~((6.15.060(+)))~~ 6.15.050(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

(d) One motor vehicle which is used for personal transportation, not to exceed one thousand two hundred dollars in value.

~~((4))~~ (4) 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;

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

(c) To any other 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.

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. 6. Section 1, page 88, Laws of 1890 as amended by section 1, chapter 64, Laws of 1987 and by section 302, chapter 442, Laws of 1987 and RCW 6.15.020 are each reenacted and amended to read as follows:

(1) 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, 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.

(2) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, or seizure by or under any legal process whatever: PROVIDED, That this subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order (as such term is defined in section 206(d) of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1056(d) or in section 401(a)(13) of the internal revenue code of 1954, as amended).

(3) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is subject to the provisions of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. Secs. ~~((101))~~ 1001 through 1461 or that is described in sections 401(a), 403(a), 403(b), 408, or 409 (as in effect before January 1, 1984) of the internal revenue code of 1954, as amended, or both: PROVIDED, That the term "employee benefit plan" shall not include any employee benefit plan that is excluded from the application of the federal employee retirement income security act of 1974, as amended, pursuant to section 4(b)(1) of that act, 29 U.S.C. Sec. 1003(b)(1).

Sec. 7. Section 346, page 88, Laws of 1869 as last amended by section 306, chapter 442, Laws of 1987 and RCW 6.15.060 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, property claimed exempt under RCW 6.15.010 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 6.15.010(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 and no objection is made by the creditor 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 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 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. The officer shall immediately advise the creditor, attorney, or agent of the exemption claim and, if no appraisal is required and no objection is made by the creditor 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 RCW 6.27.160.

(c) A debtor who claims as a homestead, under chapter 6.13 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 RCW 6.27.160 and shall give notice of the objection to the officer not later than seven days after the officer's giving notice of the exemption claim.

(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, or the agent or attorney of the creditor, demands an appraisal, two disinterested persons shall be chosen to appraise the property, one by the debtor and the other by the creditor, 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 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 attachment and be annexed to and made part of the return, and the property therein specified shall be exempt from levy and sale, but the other personal estate of the debtor shall remain subject to execution,

attachment, or garnishment. Each appraiser shall be entitled to 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.

(c) If, within seven days following the giving of notice to a creditor of an exemption claim, the officer has received no notice from the creditor of an objection to the claim or a demand for appraisal, the officer shall release the claimed property to the debtor.

Sec. 8. Section 4, chapter 329, Laws of 1981 as amended by section 410, chapter 442, Laws of 1987 and RCW 6.17.100 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 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 6.13.080 must comply with RCW 6.13.100 through 6.13.170.

(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 recorded by the judgment debtor. An examination of the debtor in supplemental proceedings on the points to be covered in the affidavit constitutes "due diligence."

(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 6.13 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. 9. Section 4, chapter 25, Laws of 1929 as last amended by section 411, chapter 442, Laws of 1987 and RCW 6.17.110 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 or to which it has been transferred, and shall be directed to the sheriff of the county in which the property is situated. 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:

(a) If the execution is against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of the debtor unless an affidavit has been filed with the court pursuant to RCW 6.17.100, in which case it shall require that the judgment be satisfied out of the real property of the debtor.

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

(c) If the execution 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 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. If the property described in the execution cannot be 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.

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

(e) If the nature of the case requires it, the execution may embrace two or more of the requirements of this section.

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

Sec. 10. Section 351, page 91, Laws of 1869 as last amended by section 413, chapter 442, Laws of 1987 and RCW 6.17.130 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 6.13.010, 6.13.030, and 6.13.040((;)) if real property is to be levied on, or copies of RCW 6.15.010((;)) and 6.15.060 if personal property is to be levied on, and shall at the time of service, or with the mailing, notify the judgment debtor of the date of sale. 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 6.13.010, 6.13.030, 6.13.040, 6.15.010, and 6.15.060 of the Revised Code of Washington, in the manner described in those statutes.

Sec. 11. Section 414, chapter 442, Laws of 1987 and RCW 6.17.140 are each amended to read as follows:

The sheriff shall, at a time as near before or after service of the writ on, or mailing of the writ to, 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 6.17.160.

(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.

Sec. 12. Section 13, page 42, Laws of 1886 as last amended by section 416, chapter 442, Laws of 1987 and RCW 6.17.160 are each amended to read as follows:

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

(1) Real property, including a vendee's interests under a real estate contract, shall be levied on by recording a copy of the writ, together with a description of the property attached, with the recording officer of the county in which the real estate is situated.

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

(3) 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, or mailing it to, the judgment debtor as required by RCW 6.17.130 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, or mailing the same to, the judgment debtor and the vendee under the contract in the manner as ~~((required by))~~ described in RCW 6.17.130.

(7) Other intangible personal property may be levied on by serving a copy of the writ on, or mailing it to, the judgment debtor in the manner as required by RCW 6.17.130, together with a description of the property. If the property is a claim on which suit has been commenced, a copy of the writ and of the description shall also be filed with the clerk of the court in which the suit is pending.

Sec. 13. Section 268, page 182, Laws of 1854 as last amended by section 419, chapter 442, Laws of 1987 and RCW 6.17.190 are each amended to read as follows:

(1) After levy of execution upon personal property, the sheriff may permit the judgment debtor to retain possession of the property or any part of it until the day of sale, upon the 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 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.

(2) 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.

Sec. 14. Section 1, chapter 35, Laws of 1935 as last amended by section 602, chapter 442, Laws of 1987 and RCW 6.21.020 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) The judgment creditor shall, not less than thirty days prior to the day of sale, 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. The judgment creditor shall file an affidavit with the court showing compliance with the requirements of this subsection.

(2) 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.

Sec. 15. Section 807, chapter 442, Laws of 1987 and RCW 6.25.070 are each amended to read as follows:

(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 6.25.030 (5) through (7) or in RCW 6.25.040(1) or, if attachment is necessary for the court to obtain jurisdiction of the action, the ground alleged is one appearing in RCW 6.25.030 (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))~~ A copy of the plaintiff's affidavit and a copy of the writ if already issued; (b) if the defendant is an individual, copies of homestead statutes, RCW 6.13.010, 6.13.030, and 6.13.040, if real property is to be attached, or copies of exemption statutes, RCW 6.15.010 and 6.15.060, 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))~~ or will issue a Writ of Attachment ~~((included with this notice))~~ against your property. 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 PROMPT HEARING. If notice of a hearing date and time is not served with this notice, you have a right to request the 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 6.13.010, 6.13.030, 6.13.040, 6.15.010, and 6.15.060 of the Revised Code of Washington, in the manner described in those statutes.

Sec. 16. Section 6, page 40, Laws of 1886 as last amended by section 133, chapter 202, Laws of 1987 and by section 808, chapter 442, Laws of 1987 and RCW 6.25.080 are each reenacted 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 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 thousand dollars, in the superior court, nor less than five hundred dollars in the 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 the action without delay and will pay all costs that may be adjudged to the defendant, and all damages that the defendant may sustain by reason of the writ of attachment or of additional writs issued as permitted under RCW 6.25.120, not exceeding the amount specified in such bond or undertaking, as the penalty thereof, should the same be wrongfully, oppressively or maliciously sued out.

(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, the writ of attachment shall issue without bond or undertaking by or on behalf of the plaintiff.

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

Sec. 17. Section 10, page 41, Laws of 1886 as amended by section 812, chapter 442, Laws of 1987 and RCW 6.25.120 are each amended to read as follows:

If issuance of a writ of attachment has been (~~issued~~) ordered by the court in a case, other writs of attachment may be issued in the same case from the court 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 has issued, it shall not be necessary for the plaintiff to file any further affidavit or bond unless the court otherwise directs, but the plaintiff shall be entitled to as many writs as may be necessary to secure the amount claimed.

Sec. 18. Section 901, chapter 442, Laws of 1987 and RCW 6.26.010 are each amended to read as follows:

Except as limited by RCW 6.27.040, relating to the state and other public entities, and RCW 6.27.330, 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~~) issued for a purpose other than garnishing a defendant's earnings as defined in RCW 6.27.010, (a) on the ground that an attachment has been issued in accordance with chapter 6.25 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 6.25.030 or 6.25.040; 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. 19. Section 3, chapter 264, Laws of 1969 ex. sess. as amended by section 902, chapter 442, Laws of 1987 and RCW 6.26.020 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 6.27.060 and shall execute and file with the clerk a bond with 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, or such other amount as the court shall fix, conditioned that the plaintiff will prosecute the suit without delay and pay all damages and costs that may be adjudged against him or her for wrongfully suing out such garnishment.

Sec. 20. Section 906, chapter 442, Laws of 1987 and RCW 6.26.060 are each amended to read as follows:

(1) When application is made for a prejudgment writ of garnishment, the court shall issue the writ in substantially the form prescribed in RCW 6.27.070(~~(, -7.33.120;)~~) and 6.27.100 directing that the garnishee withhold an amount as prescribed in RCW 6.27.090, 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 RCW 6.26.010(2)(c) 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 6.25.030 (5) through (7) or in RCW 6.25.040(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 6.25.030 (1) through (4) or in RCW 6.26.010(2)(a) or (b); 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))~~ a copy of plaintiff's affidavit and a copy of the writ if already issued, and (b) a copy of the following "Notice of Right to a Hearing" in substantially the following form or, if defendant is an individual, a copy of the claim form and the "Notice of Garnishment and of Your Rights" prescribed by RCW 6.27.140, in which the following notice is substituted for the first paragraph of said Notice:

NOTICE OF RIGHT TO HEARING

~~((The))~~ A writ of garnishment ~~((served with this Notice))~~ has been or will be 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 PROMPT HEARING. If notice of a hearing date and time is not served with this notice, you have the right to request the 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 6.15.010 of the Revised Code of Washington.

NEW SECTION. Sec. 21. A new section is added to chapter 6.26 RCW to read as follows:

If issuance of a writ of garnishment or of a writ of attachment has been ordered by the court in a case, other writs of garnishment to different garnishees may be issued in the same case under the circumstances and restrictions stated in RCW 6.25.120 for issuance of successive writs of attachment.

Sec. 22. Section 4, chapter 264, Laws of 1969 ex. sess. as last amended by section 133, chapter 202, Laws of 1987 and by section 1006, chapter 442, Laws of 1987 and RCW 6.27.060 are each reenacted to read as follows:

The judgment creditor as the plaintiff or someone in the judgment creditor's behalf shall apply for a writ of garnishment by affidavit, stating the following facts: (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 under that judgment; (3) 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; 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 district court the fee of two dollars.

Sec. 23. Section 1008, chapter 442, Laws of 1987 and RCW 6.27.080 are each amended to read as follows:

(1) 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)~~) shall identify either a particular branch of the financial institution or the financial institution as the garnishee defendant(~~(, and)~~). The head office of a financial institution shall be considered a separate branch for purposes of this section. The statement required by (~~(RCW 6.27.110(2))~~) subsection (2) of this section may be incorporated in the writ or served separately.

(2) Service shall be as required by RCW 6.27.110 (1) and (3) and shall be by certified mail, return receipt requested, directed to or by personal service, in the same manner as a summons in a civil action is served, on the manager, cashier, or assistant cashier of the financial institution, except that, if the financial institution, and not a branch, is named as garnishee defendant, service shall be either on the head office or on (~~(any other office)~~) the place designated by the financial institution for receipt of service of process. 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 federal tax identification number, or (c) 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 or property of the defendant in the possession of or under the control of the garnishee defendant that it fails to discover.

(~~(If the)~~) (3) A writ naming the financial institution as the garnishee defendant shall be effective only to attach deposits of the defendant in the

financial institution and compensation payable for personal services due the defendant from the financial institution. A writ naming a branch ((is named)) as garnishee defendant((, service shall be as required by RCW 6.27.110 and)) shall be effective only to attach the deposits, accounts, credits, or other personal property of the defendant (excluding compensation payable for personal services) in the possession or control of the particular branch to which the writ is directed and on which service is made.

A writ of garnishment is effective against property in the possession or control of a financial institution only if the writ of garnishment is directed to and names a branch as garnishee defendant.

Sec. 24. Section 9, chapter 264, Laws of 1969 ex. sess. as amended by section 1009, chapter 442, Laws of 1987 and RCW 6.27.090 are each amended to read as follows:

(1) The writ of garnishment shall set forth in the first paragraph the amount that garnishee is required to hold, which shall be an amount determined as follows: ((+)) (a)(i) If after judgment, the amount of the judgment remaining unsatisfied ((or if before judgment, the amount prayed for in the complaint, (2))) plus interest to the date of garnishment, as provided in RCW 4.56.110((; (3) plus whichever shall be greater of (a) fifty dollars, (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:)), plus taxable costs and attorney's fees, or (ii) if before judgment, the amount prayed for in the complaint plus estimated taxable costs of suit and attorneys' fees, together with, (b) whether before or after judgment, estimated costs of garnishment as provided in subsection (2) of this section. The court may, by order, set a higher amount to be held upon a showing of good cause by plaintiff.

(2) Costs recoverable in garnishment proceedings, to be estimated for purposes of subsection (1) of this section, include filing fee, service and affidavit fees, postage and costs of certified mail, answer fee or fees, and a garnishment attorney fee in the amount of the greater of fifty dollars or ten percent of (a) the amount of the judgment remaining unsatisfied or (b) the amount prayed for in the complaint. The garnishment attorney fee shall not exceed two hundred fifty dollars.

Sec. 25. Section 11, chapter 264, Laws of 1969 ex. sess. as last amended by section 1010, chapter 442, Laws of 1987 and RCW 6.27.100 are each amended to read as follows:

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 6.27.340: AND PROVIDED FURTHER, That if the writ is not directed to an employer for the

purpose of garnishing a defendant's earnings, the paragraph relating to the earnings exemption may be omitted:

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

..... ,	
Plaintiff,	No.
vs.	
..... ,	WRIT OF
Defendant	GARNISHMENT
..... ,	
Garnishee Defendant	

THE STATE OF WASHINGTON TO:
Garnishee
Defendant

AND TO:
Defendant

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

Balance on Judgment or Amount of Claim	\$
Interest under Judgment from to	\$
((Allowed)) <u>Taxable Costs and Attorneys' Fees</u>	\$
Estimated Garnishment Costs:		
<u>Filing Fee</u>	\$
<u>Service and Affidavit Fees</u>	\$
<u>Postage and Costs of Certified Mail</u>	\$
((Attorney's Fee	\$	50.00)
Answer Fee or Fees	\$
((Other)) <u>Garnishment Attorney Fee</u>	\$

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court or by this writ, not to pay any debt, whether ~~((wages))~~ earnings 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 FURTHER COMMANDED to answer this writ by filling in the attached form according to the instructions 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 the plaintiff's attorney, and one copy to the defendant, in the envelopes provided.

If, at the time this writ was served, you owed the defendant any earnings (that is, wages, salary, commission, bonus, or other compensation for personal services or any periodic payments pursuant to a pension or retirement program), 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)~~) a minimum amount determined by reference to the employee's pay period, 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.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph 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.

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. 26. Section 13, chapter 264, Laws of 1969 ex. sess. as last amended by section 1011, chapter 442, Laws of 1987 and RCW 6.27.110 are each amended to read as follows:

(1) Service of the writ of garnishment on the garnishee is invalid unless the writ is served together with: (a) Four answer forms as prescribed in RCW 6.27.190; (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 the plaintiff has no attorney), and the defendant; and (c) cash or a check made payable to the garnishee in the amount of ten dollars.

(2) Except as provided in RCW 6.27.080 for service on a bank, savings and loan association, or credit union, the writ of garnishment 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 day set forth on the return receipt. In the alternative, the writ shall be served by the sheriff of the county in which the garnishee lives or has its place of business or by any person qualified to serve process in the same manner as a summons in a civil action is served~~((: PROVIDED, HOWEVER, That a writ directed to a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, as garnishee, shall be served by mail directed to, or by service on, the manager or other officer or cashier or assistant cashier of such bank or association at its office or branch 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 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 writ was accompanied by answer forms, addressed envelopes, and cash or a check as required by this section, and noting thereon fees for making the service. If service is made by any person other than a sheriff, such person shall file ((a signed return)) an affidavit including the same information and~~((shall also attach to the return an affidavit))~~ showing qualifications to make such service. If a writ of garnishment is served by mail, the person making the mailing shall file ((a signed return)) an affidavit 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 to the affidavit.

Sec. 27. Section 32, chapter 264, Laws of 1969 ex. sess. as amended by section 1013, chapter 442, Laws of 1987 and RCW 6.27.130 are each amended to read as follows:

(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 cause to be mailed to the judgment debtor, by certified mail, addressed to the last known post office address of the judgment debtor, (a) a copy of the writ and a copy of the judgment 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 RCW 6.27.140. In the alternative, 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.

(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 or affidavit of service or mailing required by subsection (3) of this section, and (b) if the 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 appears with respect to the mailing or service, the court, in its discretion, on motion of the judgment debtor promptly made and supported by affidavit showing that the judgment debtor has suffered substantial injury from the plaintiff's failure to mail or otherwise to serve such copies, may set aside the garnishment and award to the judgment debtor an amount equal to the damages suffered 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)~~) an affidavit 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)~~) an affidavit 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.

Sec. 28. Section 1016, chapter 442, Laws of 1987 and RCW 6.27.160 are each amended to read as follows:

(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 RCW 6.27.140 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 except that the time shall be extended to allow a declaration mailed or delivered to the clerk within twenty-one days after service of the writ on the garnishee if service on the garnishee is delayed more than seven days after the date of the writ.

[NAME OF COURT]

.....
Plaintiff

No.

.....
Defendant

CLAIM OF EXEMPTION

.....
Garnishee

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 delivered or 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. 29. Section 17, chapter 264, Laws of 1969 ex. sess. as amended by section 1018, chapter 442, Laws of 1987 and RCW 6.27.180 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,)~~) or by the clerk of the court out of which the writ was issued, conditioned that 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 under the writ shall be vacated: **PROVIDED**, That the garnishee shall not be thereby deprived from recovering any costs in said proceeding, to which the garnishee would otherwise be entitled under 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. 30. Section 15, chapter 264, Laws of 1969 ex. sess. as amended by section 1019, chapter 442, Laws of 1987 and RCW 6.27.190 are each amended to read as follows:

The answer of the garnishee shall be signed by the garnishee or 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 court that issued the writ, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant. The answer shall be made on a form substantially as appears in this section, served on the garnishee with the writ, with ~~((exempt))~~ minimum exemption amounts for ~~((relevant))~~ the different pay periods filled in by the plaintiff before service of the answer forms(~~(, except))~~: **PROVIDED**, That, if the garnishment is for a continuing lien, the answer forms shall be as prescribed in RCW 6.27.340 and 6.27.350: AND PROVIDED FURTHER, That if the writ is not directed to an employer for the purpose of

garnishing the defendant's wages, paragraphs relating to the earnings exemptions may be omitted.

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

.....

NO.

Plaintiff

vs.

ANSWER
TO WRIT OF,
GARNISHMENT

.....

Defendant

.....

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, leaving \$..... that garnishee holds under the writ. The exempt amount is calculated as follows:

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

If the title of this writ indicates that this is a garnishment under a child support judgment, enter forty percent of disposable ((wages)) earnings: \$..... . 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)) earnings: \$..... . 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.

Minimum exempt 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 Date
Garnishee Defendant

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

.....
.....
Address of Garnishee

Sec. 31. Section 19, chapter 264, Laws of 1969 ex. sess. as last amended by section 1020, chapter 442, Laws of 1987 and RCW 6.27.200 are each amended to read as follows:

If the garnishee fails to answer the writ within the time prescribed in the writ, after the time to answer the writ has expired and after required returns or affidavits 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 the plaintiff's unpaid judgment against the defendant with all accruing interest and costs as prescribed in RCW 6.27.090: **PROVIDED**, That upon motion by the garnishee at any time (~~(prior to issuance of a writ of execution)~~) within seven days following service on, or mailing to, the garnishee defendant of a copy of a writ of execution or a writ of garnishment under such judgment, 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 6.27.350, 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 6.27.090, 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. 32. Section 20, chapter 264, Laws of 1969 ex. sess. as amended by section 1025, chapter 442, Laws of 1987 and RCW 6.27.250 are each amended to read as follows:

(1) If it appears from the answer of the garnishee or if it is otherwise made to appear 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 or affidavit 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 exceeds the amount of the plaintiff's claim or judgment against the defendant with accruing interest and costs and attorney's fees as prescribed in RCW 6.27.090, in which case it shall be for the amount of such claim or judgment, with said interest, costs, 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 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 or affidavit 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 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 pays the sum at the time specified in the order, the payment shall operate as a discharge, otherwise judgment shall be entered against the garnishee for the amount of such indebtedness, which judgment shall have the same force and effect, and be enforced in the same manner as other judgments entered against garnishees as provided in this chapter: PROVIDED, That if judgment is rendered in favor of the principal defendant, or if any judgment rendered against the principal defendant is satisfied prior to the date of payment specified in an order of payment entered under this subsection, the garnishee shall not be required to make the payment, nor shall any judgment in such case be entered against the garnishee.

Sec. 33. Section 22, chapter 264, Laws of 1969 ex. sess. as amended by section 1027, chapter 442, Laws of 1987 and RCW 6.27.270 are each amended to read as follows:

If it appears from the garnishee's answer or otherwise that the garnishee had possession or control, when the writ was served, of any personal property or effects of the defendant liable to execution, and if the required return or affidavit 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. If a judgment has been rendered in favor of the plaintiff against the defendant, such personal property or effects may be sold in the same manner as any other property is sold upon an execution issued on said judgment. If judgment has not been rendered in the principal action, the sheriff shall retain possession of the personal property or effects until the rendition of judgment therein, and, if judgment is thereafter rendered in favor of the plaintiff, said personal property or effects, or sufficient of them to satisfy such judgment, may be sold in the same manner as other property is sold on execution, by virtue of an execution issued on the judgment in the principal action. If judgment is rendered in the action against the plaintiff and in favor of the defendant, such effects and personal property shall be returned to the defendant by the sheriff: PROVIDED, HOWEVER, That 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 the same manner as sales upon execution are made, and the proceeds of such sale shall be paid to the clerk of the court that issued the writ, and the same disposition shall be made of the proceeds at the termination of the action as would have been made of the personal property or effects under the provisions of this section in case the sale had not been made.

Sec. 34. Section 6, chapter 61, Laws of 1970 ex. sess. as amended by section 1033, chapter 442, Laws of 1987 and RCW 6.27.340 are each amended to read as follows:

(1) Service of a writ for a continuing lien shall comply fully with RCW 6.27.110.

(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 6.27.100:

"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 with the writ 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 6.27.190:

"If you are withholding the defendant's nonexempt ((wages)) earnings 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. 35. Section 7, chapter 61, Laws of 1970 ex. sess. as amended by section 1034, chapter 442, Laws of 1987 and RCW 6.27.350 are each amended to read as follows:

(1) Where the garnishee's answer to a garnishment for a continuing lien reflects that the defendant is employed by 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 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 on or before sixty days after the effective date of the writ, whichever occurs first, except that such lien on subsequent earnings shall terminate sooner if the employment relationship is terminated 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 6.27.110, and four additional copies of the answer form (~~(conspicuously marked at the top)~~) prescribed in RCW 6.27.190, (a) with a statement in substantially the following form added as the first paragraph: "ANSWER THE SECOND PART OF THIS FORM WITH RESPECT TO THE TOTAL AMOUNT OF ((WAGES)) EARNINGS 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((-))" and (b) with the following lines substituted for the first sentence of the form prescribed in RCW 6.27.190:

Amount due and owing stated in first answer	\$.....
Amount accrued since first answer	\$.....

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

Sec. 36. Section 1, chapter 53, Laws of 1899 and RCW 61.12.090 are each amended to read as follows:

A decree of foreclosure of mortgage or other lien may be enforced by execution as an ordinary judgment or decree for the payment of money. The execution shall contain a description of the property described in the decree. The sheriff shall endorse upon the execution the time when he receives it, and he shall thereupon forthwith proceed to sell such property, or so much thereof as may be necessary to satisfy the judgment, interest and costs upon giving the notice prescribed in RCW ~~((6-21-020))~~ 6.21.030.

NEW SECTION. Sec. 37. The following acts or parts of acts are each repealed:

(1) Section 1, page 377, Laws of 1854, section 1, page 328, Laws of 1860, section 331, page 84, Laws of 1869, section 339, page 70, Laws of 1877, section 335, Code of 1881, section 27, chapter 81, Laws of 1971 and RCW 6.08.010;

(2) Section 2, page 378, Laws of 1854, section 332, page 85, Laws of 1869, section 340, page 71, Laws of 1877, section 336, Code of 1881 and RCW 6.08.020;

(3) Section 4, page 378, Laws of 1854, section 334, page 85, Laws of 1869, section 342, page 71, Laws of 1877, section 338, Code of 1881, section 4, chapter 8, Laws of 1957 and RCW 6.08.030;

(4) Section 5, page 378, Laws of 1854, section 335, page 85, Laws of 1869, section 343, page 71, Laws of 1877, section 339, Code of 1881 and RCW 6.08.040;

(5) Section 6, page 378, Laws of 1854, section 336, page 85, Laws of 1869, section 334, page 71, Laws of 1877, section 340, Code of 1881 and RCW 6.08.050;

(6) Section 3, page 378, Laws of 1854, section 33, page 85, Laws of 1869, section 341, page 71, Laws of 1877, section 337, Code of 1881, section 6, chapter 9, Laws of 1957 and RCW 6.08.060; and

(7) Section 821, chapter 442, Laws of 1987 and RCW 6.25.210.

NEW SECTION. Sec. 38. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 39. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 10, 1988.

Passed the Senate March 9, 1988.

Approved by the Governor March 23, 1988.

Filed in Office of Secretary of State March 23, 1988.

CHAPTER 232

[Engrossed House Bill No. 1585]

JUVENILE DEPENDENCY PROCEEDINGS—COURT APPOINTED GUARDIAN AD LITEM OR ATTORNEYS

AN ACT Relating to juvenile dependency proceedings; amending RCW 13.34.100, 13.04.021, and 26.12.060; reenacting and amending RCW 26.44.053; and declaring an emergency.

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

Sec. 1. Section 38, chapter 291, Laws of 1977 ex. sess. as amended by section 43, chapter 155, Laws of 1979 and RCW 13.34.100 are each amended to read as follows:

The court(~~(, at any stage of a proceeding under this chapter, may)) shall appoint an attorney and/or a guardian ad litem for a child who is a~~