

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

2018 AUG 10 PM 2: 26

OFFICE OF THE CLERK

IN THE MATTER OF
ORDER APPROVING NOTICE OF
PREJUDGMENT REMEDIES

GENERAL ORDER
NO. 2018-03

Pursuant to 28 U.S.C. § 3101(d)(1) of the Federal Debt Collection Procedures Act of 1990, I have reviewed the attached "Notice of Prejudgment Remedies [Attachment, Garnishment, Receivership, Sequestration]" and hereby approve the attached "Notice of Prejudgment Remedies [Attachment, Garnishment, Receivership, Sequestration]" for use in the District of Nebraska.

DATED: This 10th day of August, 2018.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

United States of America,

Plaintiff,

vs.

Defendant(s).

CASE NUMBER

NOTICE OF PREJUDGMENT REMEDIES

[Attachment, Garnishment, Receivership, Sequestration]

You are hereby notified that this [property] is being taken by the United States Government ("the Government"), which says that [name of debtor] owes it a debt of \$ [amount] for [reason for debt] and has filed a lawsuit to collect this debt. The Government says it must take this property at this time because [recite the pertinent ground or grounds from section 3101(b)]. The Government wants to make sure [name of debtor] will pay if the court determines that this money is owed.

In addition, you are hereby notified that there are exemptions under the law which may protect some of the property from being taken by the Government if [name of debtor] can show that the exemptions apply. Attached is a summary of the major exemptions which apply in the State of Nebraska.

If you are [name of debtor] and you disagree with the reason the Government gives for taking your property now, or if you think you do not owe the money to the Government that it says you do, or if you think the property the Government is taking qualifies under an exemption, you have a right to ask the court to return your property to you.

If you want a hearing, you must promptly notify the court. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the Court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

At the hearing you may explain to the judge why you think you do not owe the money to the Government, why you disagree with the reason the Government says it must take your property at this time, or why you believe the property the Government has

taken is exempt or belongs to someone else. You may make any or all of these explanations as you see fit.

If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.

Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but may be able to refer you to other sources of information.

DATED: This ____ day of _____, ____

CLERK, UNITED STATES DISTRICT COURT

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

United States of America,

Plaintiff,

vs.

Defendant(s).

CASE NUMBER

REQUEST FOR HEARING

- I do request a hearing because: _____.
- I disagree with the reason that the Government gives for taking my property.
- I do not owe the money to the Government as it says I do.
- The property that the Government is taking is exempt.

Defendant's Name [Print]

Address: _____

Defendant's Signature

Date

Telephone No. _____
[Include Area Code]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

United States of America,

Plaintiff,

vs.

Defendant(s).

CASE NUMBER

**NOTICE TO DEFENDANT DEBTOR ON
HOW TO CLAIM EXEMPTIONS**

The attached pre-judgment or post-judgment process has been issued on request of the United States of America.

The law provides that certain property and wages cannot be taken. Such property is said to be exempted. This Notice lists the exemptions under federal law and Nebraska state law. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should (i) select either the Federal Bankruptcy Code exemptions or the state law exemptions, (ii) fill out the claim for exemption form, and (iii) deliver or mail the form to the clerk's office of this court and counsel for the United States. You have a right to a hearing within five business days, or as soon as practicable, from the date you file your claim with the court.

If the United States of America as creditor is asking that your wages be withheld, the method of computing the amount of wages which are exempt from garnishment by law is indicated on the Claim for Exemption Form which is attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld, you may file a claim for exemption.

If you request a hearing, you should come to court ready to explain why your property is exempted, and you should bring any documents which may help to prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

**CLAIM FOR EXEMPTION FORM
MAJOR EXEMPTIONS UNDER FEDERAL LAW**

I, _____, claim that the exemption(s) which are checked below apply in this case:

A. MAJOR EXEMPTIONS UNDER FEDERAL LAW

- 1. Social Security benefits and Supplemental Security income (42 U.S.C. § 407).
- 2. Veterans benefits (38 U.S.C. § 3101).
- 2a. Members of armed services (10 U.S.C. § 1440, 38 U.S.C. § 562).
- 3. Federal civil service retirement benefits (5 U.S.C. § 8346 and 22 U.S.C. § 4060(c)).
- 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- 6. Black lung benefits (30 U.S.C. §§ 931(b)(2)(F) and 932(a)).
- 6a. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C. §§ 1108-1109(a-c)).

Exemptions listed 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

- 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. §§ 231(m), 352(e)).
- 7. Compensation for war risk hazards (42 U.S.C. § 1717).
- 8. Bankruptcy Code (Title 11, United States Code) which generally provides exemptions for:

(a) \$23,675 in equity in a residence.

Address of Residence:
Fair Market Value: \$
Liens: \$
Equity: \$

(b) \$3,775 in equity in a motor vehicle.

Property Claimed:
Fair Market Value

(c)___ \$1,600 in jewelry.

Property Claimed:
Fair Market Value: \$

(d)___ \$12,625 in personal property, with no single item worth more than \$600.

Property Claimed:
Fair Market Value: \$

(e)___ In addition, a debtor who does not own a residence or who has less than the full exemption amount in equity in a residence may exempt \$1,250 plus up to \$11,850 of any unused amount of the residential exemption in any property. Additional exemptions or limited exemptions apply to such items as insurance contracts, pensions, and various benefits such as Social Security.

Property Claimed:
Fair Market Value: \$

B. MAJOR EXEMPTIONS UNDER NEBRASKA STATE LAW

NOTE: If you select the exemptions available under state law, the law of the state where you have been domiciled for the greater part of the last 180 days governs your rights.

___9.	<p>Homestead or Residential Property: \$60,000.00 in a dwelling located on up to 160 acres if the land is not in an incorporated city or village, or 2 contiguous lots in an incorporated city or village.</p> <p>Address of Residence: Fair Market Value: \$ Liens: \$ Equity: \$</p>	(Neb. Rev. Stat. § 40-101, -102, -103, -111, -112, -113, -115 and -116)
___10.	<p>Personal Property: Debtors may exempt \$5,000 in personal property except for wages; \$3,000 in household goods; \$5,000 in equipment and tools used for support; \$5,000 in a motor vehicle; and the immediate personal possessions, clothing, and professionally prescribed health aids of the debtor or his or her family.</p> <p>Property Claimed: Fair Market Value: \$</p>	(Neb. Rev. Stat. §§ 25-1552 and -1556)

___ 11.	<p>Wages: If the debtor is not the head of a family, the lesser of 25% of weekly disposable earnings or the amount by which weekly disposable earnings exceed 30 times the federal minimum wage is non-exempt. If the debtor is the head of a family, 15% of weekly disposable earnings is non-exempt.</p> <p>Amount Claimed: \$</p>	(Neb. Rev. Stat. § 25-1558)
___ 12.	<p>Workers' Compensation: Exempt (with exceptions).</p> <p>Amount Claimed: \$</p>	(Neb. Rev. Stat. §§ 48-108 and -149)
___ 13.	<p>Public assistance: All exempt.</p> <p>Amount Claimed: \$</p>	(Neb. Rev. Stat. § 68-1013)
___ 14.	<p>Unemployment Compensation: Exempt, as long as funds are not commingled, but not exempt from debts for necessities furnished while the debtor was unemployed or from child or spousal support claims.</p> <p>Amount Claimed: \$</p>	(Neb. Rev. Stat. § 48-647)
___ 15.	<p>Insurance Benefits: Annuity Contract benefits, life insurance proceeds, or any accident or health insurance benefits are exempt from the insured's debts and, if the beneficiary is related to the insured, the beneficiary's as well, unless the claimant has a written assignment to the contrary. The exemption does not apply to loan values or cash values in excess of \$100,000 of matured or unmatured life insurance contract and all proceeds, cash values or benefits accruing under all annuity contracts owned by the debtor. However, the exemption does not apply if the life insurance or annuity contracts were established or the values were increased within three years prior to entry of a money judgment against the debtor.</p> <p>Amount Claimed: \$</p>	(Neb. Rev. Stat. § 44-371)
___ 16.	<p>Partnership Property: A partner's interest in specific partnership property is exempt, except in a claim against the partnership.</p> <p>Property Claimed: Fair Market Value: \$</p>	(Neb. Rev. Stat. §§ 67-411, 67-412, 67-419, 67-427)
___ 17.	<p>Cemeteries and Burial Funds: Land used for cemetery purposes, individual plots, perpetual care funds, vaults and tombs.</p> <p>Amount Claimed: \$</p>	(Neb. Rev. Stat. § 12-506, -511, -517, -520 and -620)

___ 18.	Pensions and Retirement Benefits: Benefits under various employee retirement systems are exempt. Disabled soldiers', sailors', and marines' pensions are exempt, although only \$2,000 worth of property purchased exclusively with those pension funds is exempt. An interest held under tax-qualified stock bonus, pension, profit sharing, or similar plan is exempt to the extent necessary for the support of debtor and dependents unless established or increased by debtor or insider employer within 2 years of bankruptcy or entry of a money judgment. Amount Claimed: \$	(Neb. Rev. Stat. § 23-2322, 25-1559 and 1563.01)
___ 19.	Claims for Negligence or Tortious Conduct: Proceeds of lump-sum settlement or structured settlement providing periodic payments for personal injuries or death. Amount Claimed: \$	(Neb. Rev. Stat. § 25-1563.02)
___ 20.	Benefits Received from Fraternal Benefit Societies: Up to \$100,000 in loan values or cash value of matured or unmatured life insurance contracts and in all proceeds, cash values, or benefits accruing under all annuity contracts owned by the debtor. Such amounts are not exempt if the contracts were established or increased within three years prior to entry of a money judgment against the debtor. Amount Claimed: \$	(Neb. Rev. Stat. § 44-1089)
___ 21.	Federal or state earned income tax credit refunds: The full amount of any federal or state earned income tax credit refund is exempt. Amount claimed: \$	(Neb. Rev. Stat. § 25-1553)

The statements made in this Claim of Exemptions and Request for Hearing are made and declared under penalty of perjury that they are true and correct. I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail

at: _____ (address)

and telephonically at: _____ (phone number)

Debtor's printed or typed name: _____

Signature of debtor: _____

Date: _____