

LEGISLATIVE BILL 1085

Approved by the Governor April 12, 2010

Introduced by Lautenbaugh, 18.

FOR AN ACT relating to civil procedure; to amend section 25-1011, Reissue Revised Statutes of Nebraska; to change provisions relating to garnishment; to eliminate obsolete provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 25-1011, Reissue Revised Statutes of Nebraska, is amended to read:

25-1011 (1) The summons and order of garnishment and the interrogatories in duplicate, a notice to judgment debtor form, and a request for hearing form shall be served upon the garnishee in the manner provided for service of a summons in a civil action.

(2) The judgment creditor or his or her agent or attorney shall send to the judgment debtor by certified mail to the last-known address of the judgment debtor a copy of the summons and order of garnishment, a notice to judgment debtor form, and a request for hearing form within ~~three~~ seven business days ~~of~~ after issuance by the court and shall certify in writing to the court the date of the mailing.

(3) The Supreme Court by rule of court shall promulgate uniform garnishment forms for use in all courts in this state. ~~Until the forms are promulgated, garnishments shall continue in the courts by use of the existing forms.~~ The forms shall include the summons and order of garnishment, the garnishment interrogatories, a notice to judgment debtor form, and a request for hearing form.

(4) The notice to judgment debtor form shall include the following information:

(a) That certain funds are exempt from garnishment if such funds are from certain government benefits and other sources;

(b) That wages are exempt up to a certain level and the amount that can be garnished varies if the judgment debtor is the head of a family;

(c) That if the judgment debtor believes the court should not allow a garnishment either because the funds sought are exempt or because the amount is not owed on the judgment, the judgment debtor is entitled to a hearing within ten days ~~of~~ after a request by the judgment debtor to determine such issues; and

(d) That if the judgment debtor wishes a hearing as prescribed in subdivision (c) of this subsection, the judgment debtor shall make a request by filling out the request for hearing form and file the form with the court within three business days ~~of~~ after receipt of the notice to judgment debtor form by the judgment debtor.

(5) If the judgment debtor in a garnishment proceeding requests a hearing, the court shall grant the hearing within ten days of the request.

Sec. 2. Original section 25-1011, Reissue Revised Statutes of Nebraska, is repealed.