

NOTICE TO DEBTOR—HOW TO CLAIM EXEMPTIONS

The attached paper is a legal process which has been issued by the court clerk on request of a creditor who holds a judgment against you or claims that you owe him money or property. This allows the Sheriff either to take or to “levy upon” (make a list of) certain property in your possession for future sale.

The law provides that some types of property and funds (including some wages) cannot be taken by legal process. Such property is exempt. The Sheriff may not take or “levy on” certain property (§§ 34-26 and 34-27 of the Code of Virginia). Some of these items are:

The family Bible; wedding and engagement rings; family portraits and family heirlooms not to exceed \$5,000 in value; a lot in a burial ground; all wearing apparel of the householder not to exceed \$1,000 in value; all household furnishings including, but not limited to, beds, dressers, floor coverings, stoves, refrigerators, washing machines, dryers, sewing machines, pots and pans for cooking; plates, and eating utensils, not to exceed \$5,000 in value; all animals owned as pets, such as cats, dogs, birds, squirrels, rabbits and other pets not kept or raised for sale or profit; medically prescribed health aids; tools, books, instruments, implements, equipment and machines, including motor vehicles, vessels, and aircraft, which are necessary for use in the course of the householder’s occupation or trade not exceeding \$10,000 in value, except that a perfected security interest on such personal property shall have priority over the claim of exemption under this part (“occupation,” includes enrollment in any public or private elementary, secondary, or vocational school or institution of higher education); a motor vehicle, not held as exempt as necessary for use in the course of the householder’s occupation or trade owned by the householder not to exceed \$2,000 in value, except that a perfected security interest on the motor vehicle shall have priority over the claim of exemption under this part.

The value of an item claimed as exempt shall be the fair market value of the item less any prior security interest. The monetary limits, where provided, are applicable to the total value of property claimed as exempt.

Exemptions which may apply are listed on the other side of this form and the items listed above can be claimed under No. 12. Please read these carefully.

If you believe that any of your property that the Sheriff wants to take or “levy upon” is exempt, you should tell the Sheriff the property that you believe is exempt and which exemption applies. You should also identify any property which belongs to someone else and who is the owner of such property. A false statement may be punished as contempt under § 18.2-456(5) of the Code of Virginia.

If the Sheriff “levies on” or takes property that you believe is exempt, you should promptly (i) fill out the REQUEST FOR HEARING—EXEMPTION CLAIM form and (ii) deliver or mail the form to the clerk’s office of this court. If the attached paper is an Attachment Summons, you have a right to a prompt hearing within ten business days from the date that you file your request for a hearing with the court. In all other cases, you must *ask* for a prompt hearing before the “Return Date” on the attached papers. If the attached paper is a Writ of Fieri Facias, the property may be sold by the Sheriff before the “Return Date;” therefore, if you wish to claim an exemption, you should ask immediately for a prompt hearing on your claim. At a prompt hearing, the only thing that you may do is explain why your property is exempt. You should come to court ready to explain to the judge why your property is exempt, and you should bring any documents and witnesses which may help you prove to the judge why your property is exempt. If you do not come to court on the day and at the time set and prove that your property is exempt, you may lose some of your rights regarding your property.

If the Sheriff takes your property, you may post a bond to recover your property; however, once you post a bond, the creditor may post a bond to have the property kept from you. If you retain possession of any property “levied on,” *it is your responsibility not to sell, damage, or otherwise dispose of such property “levied on” until the proceedings are finished.*

If the attached paper is an Attachment Summons, a Warrant of Distress, an Order of Seizure in Distress, a Warrant in Detinue or an Order for Detinue Seizure, no judgment has been entered against you yet. On the “Return Date” shown on the attached paper, your case will be tried or scheduled for trial. At that time, you may tell the judge any defenses you may have to the creditor’s claims.

It may be helpful to you to *promptly* seek the advice of an attorney regarding this and other exemption rights.

THE REQUEST FOR HEARING—EXEMPTION CLAIM FORM IS PRINTED ON THE OTHER SIDE

REQUEST FOR HEARING – EXEMPTION CLAIM

Case No.

Commonwealth of Virginia

VA. CODE § 8.01-546.1

..... Court

..... V.

PLAINTIFF/JUDGMENT CREDITOR

DEFENDANT/JUDGMENT DEBTOR

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

MAJOR EXEMPTIONS UNDER FEDERAL AND STATE LAW —

[There is no exemption solely because you are having difficulty paying your bills.]

- 1. Social Security benefits and Supplemental Security Income (SSI) (42 U.S.C. § 407).
- 2. Veteran's benefits (38 U.S.C. § 5301)
- 3. Federal civil service retirement benefits (5 U.S.C. § 8346).
- 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)).

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

- 7. Seaman, master or fisherman's wages, except for child or spousal support and maintenance (46 U.S.C.A § 11109).
- 8. Unemployment compensation benefits (§ 60.2-600, Code of Virginia).

This exemption may not be applicable in child support cases (§ 60.2-608, Code of Virginia).

- 9. Portions or amounts of wages subject to garnishment (§ 34-29, Code of Virginia).
- 10. Public assistance payments (§ 63.1-88, Code of Virginia)
- 11. a. Homestead – \$5,000 worth of cash, personal articles or real property (§§ 34-4, Code of Virginia) [Attach list of items claimed].
- b. Property of disabled veterans – additional \$2,000 worth of cash, personal articles or real property (§ 34-4.1, Code of Virginia) [Attach list of items claimed].

Exemptions listed under 11 may not be claimed in certain cases such as payment of child or spousal support, or the purchase of the article which is being taken or levied on (§ 34-5, Code of Virginia).

- 12. Certain specific articles — see description on reverse side (§§ 34-26 and 34-27, Code of Virginia) [Attach list of articles claimed].
- 13. Workers' Compensation (§ 65.2-531, Code of Virginia).
- 14. Growing crops (§ 8.01-489, Code of Virginia).
- 15. Benefits from group life insurance policies (§ 38.2-3339, Code of Virginia).
- 16. Proceeds from industrial sick benefits insurance (§ 38.2-3549, Code of Virginia).
- 17. Assignments of certain salary and wages (§ 55-165, Code of Virginia).
- 18. Pre-need funeral contracts (§ 54.1-2823, Code of Virginia).
- 19. Benefits for victims of crime (§ 19.2-368.12, Code of Virginia).
- 20. Certain retirement benefits (§ 34-34, Code of Virginia)
- 21. Other (describe exemption): \$

I request a court hearing to decide the validity of my claim. Notice of the hearing should be given to me at:

..... ADDRESS

..... TELEPHONE NUMBER

The statements made in this request are true to the best of my knowledge and belief.

..... DATE

..... SIGNATURE OF DEFENDANT/JUDGMENT DEBTOR