

## CHAPTER 79

### GARNISHMENT AND LEVY — NOTICE TO DEBTOR

H.F. 569

**AN ACT** relating to notice of garnishment and levy to a judgment debtor.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 626.50, Code 2015, is amended to read as follows:

**626.50 Duty to levy — notice of ownership or exemption — notice to defendant.**

1. An officer is bound to levy an execution on any personal property in the possession of, or that the officer has reason to believe belongs to, the defendant, or on which the plaintiff directs the officer to levy, after having received written instructions for the levy from the plaintiff or the attorney who had the execution issued to the sheriff, unless the officer has received notice in writing under oath from some other person, or that person's agent or attorney, that the property belongs to the person, stating the nature of the person's interests in the property, how and from whom the person acquired the property, and the consideration paid for the property; or from the defendant, that the property is exempt from execution.

2. *a.* The officer making the levy in subsection 1 shall promptly serve written notice of the levy on the defendant. The notice shall be served in the same manner as provided for original notice.

*b.* ~~This section~~ subsection is not applicable to garnishment proceedings.

Sec. 2. Section 642.5, subsection 2, Code 2015, is amended to read as follows:

2. The sheriff shall append file the answers to the examination to the sheriff's return within seven business days of receiving the answers.

Sec. 3. Section 642.14, Code 2015, is amended to read as follows:

**642.14 Notice of garnishment proceedings.**

Judgment against the garnishee shall not be entered until notice as required by section 642.14A or 642.14B has been served upon the defendant in the main action ~~has had ten days' notice of the garnishment proceedings, to be served in the same manner as original notices. However, if the garnishment is to earnings owed such defendant by the garnishee, judgment may be entered if notice to the defendant is served with the notice of garnishment to the garnishee who shall deliver the notice to the defendant with the remainder of or in lieu of the defendant's earnings. The garnishee shall state in answer to the service of notice of garnishment whether or not service of notice was delivered to the defendant.~~

~~The notice required by this section shall contain the full text of section 630.3A.~~

Sec. 4. Section 642.14A, Code 2015, is amended to read as follows:

**642.14A Notice of garnishment and levy to defendant — non-employer garnishees.**

1. Within seven If the garnishment is to property other than earnings an employer owes a defendant, the judgment creditor shall serve upon a debtor who is a natural person not later than seven business days after execution is served upon a garnishee, the sheriff shall send the sheriff's filing of a garnishee's answers pursuant to section 642.5, subsection 2, which show that the garnishee is indebted to the defendant, a notice of garnishment and levy to the defendant in the main action informing notifying the defendant that certain real and personal property of the defendant may be exempt from execution or garnishment and that a hearing process is available for the defendant to claim such exemptions of the information required in subsection 3.

2. The notice required by this section shall be served by personal service or restricted certified mail and first class mail to the last known address of the defendant ~~and to the defendant's attorney. The judgment creditor shall provide the sheriff with the last known address of the defendant and the defendant's attorney if there is an attorney of record. Service shall not be made by a party to the action or an attorney for a party to the action. Service may be made by taking acknowledgment of service from the defendant. Proof of mailing or personal such service by the sheriff shall be by affidavit filed with the court.~~

3. The notice required by this section shall:

a. Inform the defendant that judgment has been entered in the main action and the defendant's funds or other property is subject to execution under the judgment.

b. Inform the defendant that the defendant has the right to claim funds or other property exempt from execution or garnishment and a right to be timely heard on those claims request and have a timely hearing before a judge to claim such exemptions.

c. Inform the defendant that if the defendant does not file a motion or other appropriate pleading to claim funds or other property exempt from execution or garnishment under state or federal law, the defendant may lose any such rights and the funds or other property may be applied to the judgment against the defendant.

d. Inform the defendant that state and federal laws may place limits on the amount of earnings that may be garnished annually and per pay period and limits on other funds and property that may be garnished or levied against.

e. Contain the full text of section 630.3A.

f. State that the defendant may wish to consult a lawyer for advice as to the meaning of the notice.

g. Inform the defendant that any garnishment for fines imposed on a defendant in a criminal case is subject to section 909.6, including the provision that any law which exempts a person's personal property from any lien or legal process is not applicable for such garnishment.

4. An additional court filing fee shall not be assessed for proceedings under this section.

Sec. 5. **NEW SECTION. 642.14B Notice to defendant — employer garnishees.**

If the garnishment is to earnings an employer owes a defendant, the employer shall deliver the notice of garnishment to the defendant with the remainder of or in lieu of the defendant's earnings. The garnishee shall state in answer to the sheriff's examination whether or not service of the notice of garnishment was delivered to the defendant. The notice required by this section shall contain the information required by section 642.14A, subsection 3, and shall be delivered by personal service, mail, or electronic means.

Sec. 6. **NEW SECTION. 642.25 Sheriff not an agent.**

The sheriff's actions under this chapter, including service of notice, shall not be construed to be that of an agent of any person or party in the proceedings.

Approved April 24, 2015