

The Senate Committee on Judiciary offered the following substitute to SB 255:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 18 of the Official Code of Georgia Annotated, relating to debtor and creditor,
2 so as to modernize, reorganize, and provide constitutional protections in garnishment
3 proceedings; to provide for definitions; to provide for an affidavit and summons of
4 garnishment, contents, and procedure for garnishment; to provide for property being subject
5 to and exempt from garnishment; to provide for a garnishee's answer to a summons of
6 garnishment; to provide for garnishee expenses; to provide for a defendant's and third party's
7 claim and plaintiff's traverse to a garnishment proceeding; to provide for procedure for
8 claims and traverses; to provide for default judgment and opening of default judgments; to
9 provide for procedures only applicable to financial institutions; to provide for release of
10 garnishment; to provide for continuing garnishments; to provide for continuing garnishment
11 for support of family members; to provide for and require the use of certain forms for
12 garnishment proceedings; to amend Code Sections 44-7-50 and 53-12-80 of the Official
13 Code of Georgia Annotated, relating to demand for possession and spendthrift provisions,
14 respectively, so as to correct cross-references; to provide for related matters; to provide for
15 an effective date; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

17 Title 18 of the Official Code of Georgia Annotated, relating to debtor and creditor, is
18 amended by repealing Chapter 4, relating to garnishment proceedings, and enacting a new
19 Chapter 4 to read as follows:
20

"CHAPTER 4

ARTICLE 1

21 18-4-1.

22 As used in this chapter, the term:

25 (1) 'Disposable earnings' means that part of the earnings of an individual remaining after
26 the deduction for federal income tax, state income tax, withholdings for the Federal
27 Insurance Contributions Act (FICA), and other mandatory deductions required by law.

28 (2) 'Earnings' means compensation paid or payable for personal services, whether
29 denominated as wages, salary, commission, fee, bonus, tips, overtime, or severance pay,
30 including recurring periodic payments from pensions or retirement plans, including, but
31 not limited to, the United States Department of Veterans Affairs, Railroad Retirement
32 Board, Keoghs, and individual retirement accounts.

33 (3) 'Entity' means a public corporation or a corporation, limited liability company,
34 partnership, limited partnership, professional corporation, firm, or other business
35 organization other than a natural person.

36 (4) 'Financial institution' means every federal or state chartered commercial or savings
37 bank, including savings and loan associations and cooperative banks, federal or state
38 chartered credit unions, benefit associations, insurance companies, safe-deposit
39 companies, trust companies, any money market mutual fund, or other organization held
40 out to the public as a place of deposit of funds or medium of savings or collective
41 investment.

42 (5) 'Garnishee answer' or 'garnishee's answer' means the response filed by a garnishee
43 responding to a summons of garnishment detailing the money or other property of the
44 defendant that is in the possession of the garnishee or declaring that the garnishee holds
45 no such money or other property of the defendant.

46 (6) 'Public corporation' means any department, agency, branch of government, or
47 political subdivision, as such term is defined in Code Section 50-15-1, or any public
48 board, bureau, commission, or authority created by the General Assembly.

49 18-4-2.

50 (a) The procedure in garnishment cases shall be uniform in all courts throughout this state
51 that have jurisdiction to preside over garnishment proceedings.

52 (b) In all cases when a money judgment was obtained in a court of this state or a federal
53 court or is being enforced in this state as provided in Article 5 of Chapter 12 of Title 9, the
54 'Uniform Foreign-Country Money Judgments Recognition Act,' or Article 6 of Chapter 12
55 of Title 9, the 'Uniform Enforcement of Foreign Judgments Law,' the plaintiff shall be
56 entitled to the process of garnishment.

57 (c) Except as otherwise provided in this chapter, Chapter 11 of Title 9 shall apply in
58 garnishment proceedings.

59 (d) Any affidavit, garnishee answer, or pleading required or permitted by this chapter shall
60 be amendable at any time before judgment is entered or before money or other property
61 subject to garnishment is distributed by the court.

62 18-4-3.

63 (a) The plaintiff, the plaintiff's attorney, or the plaintiff's agent shall make, on personal
64 knowledge or belief, an affidavit setting forth that the plaintiff has a judgment against a
65 named defendant, the amount remaining due on the judgment, the name of the court which
66 rendered the judgment, and the case number thereof.

67 (b) Upon the filing of the affidavit described in subsection (a) of this Code section with
68 the clerk of any court having jurisdiction to preside over garnishment proceedings, such
69 clerk shall cause a summons of garnishment to issue, provided that the plaintiff's affidavit
70 is:

71 (1) Made before any officer authorized to administer oaths, a notary public, such clerk,
72 or the deputy clerk of the court in which the garnishment is filed; and

73 (2) Submitted to and approved by any judge of the court in which the garnishment is
74 filed or submitted to and approved by any clerk or deputy clerk of such court if the court
75 has promulgated rules authorizing the clerk or deputy clerk of such court to review and
76 approve affidavits of garnishment.

77 (c) An affidavit of garnishment may be electronically submitted to the clerk or deputy
78 clerk of the court if the court has promulgated rules authorizing such submission.

79 (d) The form for an affidavit of garnishment is set forth in Code Section 18-4-71.

80 18-4-4.

81 (a) All obligations owed by the garnishee to the defendant at the time of service of the
82 summons of garnishment upon the garnishee and all obligations accruing from the
83 garnishee to the defendant throughout the garnishment period shall be subject to the
84 process of garnishment. No payment made by the garnishee to the defendant or on his or
85 her behalf, or by any arrangement between the defendant and the garnishee, after the date
86 of service of the summons of garnishment upon the garnishee shall defeat the lien of such
87 garnishment.

88 (b) All money or other property of the defendant in the possession or control of the
89 garnishee at the time of service of the summons of garnishment upon the garnishee or
90 coming into the possession or control of the garnishee throughout the garnishment period
91 shall be subject to the process of garnishment, provided that, in the case of collateral
92 securities in the hands of a creditor, such securities shall not be subject to garnishment so

93 long as there is an amount owed on the debt for which the securities were given as
 94 collateral.

95 (c) The garnishment period shall begin on the day of service of the summons of
 96 garnishment and, for:

97 (1) A continuing garnishment, shall include the next 179 days;

98 (2) Garnishments, other than a continuing garnishment or continuing garnishment for
 99 support, served on a financial institution, shall include the next 24 hours;

100 (3) A continuing garnishment for support, shall remain for so long as the defendant is
 101 employed by the garnishee and shall not terminate until the original arrearage is retired;
 102 and

103 (4) All other garnishments, shall include the next 29 days.

104 18-4-5.

105 (a)(1) Subject to the limitations set forth in Code Sections 18-4-6 and 18-4-53, the
 106 maximum part of disposable earnings for any work week which is subject to garnishment
 107 shall not exceed the lesser of:

108 (A) Twenty-five percent of the defendant's disposable earnings for that week; or

109 (B) The amount by which the defendant's disposable earnings for that week exceed
 110 \$217.00.

111 (2) In case of earnings for a period other than a week, a multiple of \$7.25 per hour shall
 112 be used.

113 (b) The limitation on garnishment set forth in subsection (a) of this Code section shall
 114 apply although the garnishee may receive a summons of garnishment in more than one
 115 garnishment case naming the same defendant unless the garnishee has received a summons
 116 of continuing garnishment for support as provided in Article 3 of this chapter.

117 (c) No employer shall discharge an employee by reason of the fact that such employee's
 118 earnings have been subjected to garnishment for any one obligation, even though more than
 119 one summons of garnishment may be served upon such employer with respect to the
 120 obligation.

121 18-4-6.

122 (a)(1) Certain earnings or property of the defendant may be exempt from the process of
 123 garnishment.

124 (2) Funds or benefits from an individual retirement account or from a pension or
 125 retirement program shall be exempt from the process of garnishment until paid or
 126 otherwise distributed to a member of such program or beneficiary thereof. Such funds
 127 or benefits, when paid or otherwise distributed to such member or beneficiary, shall be

128 exempt from the process of garnishment only to the extent of the limitations provided in
129 Code Section 18-4-5 for other disposable earnings, unless a greater exemption is
130 otherwise provided by law.

131 (3) Funds in an unfunded plan maintained by an employer primarily for the purpose of
132 providing deferred compensation for a select group of management or highly
133 compensated employees shall not be exempt from the process of garnishment.

134 (4) Exempt property shall not be considered disposable earnings for purposes of Code
135 Section 18-4-5 or subsection (b) of Code Section 18-4-53.

136 (b) Not later than ten days after the effective date of this Code section, the Attorney
137 General shall create and maintain on the Department of Law's website a list of exemptions
138 that a defendant may be allowed by law to claim in relation to a garnishment of his or her
139 earnings or property. The Attorney General shall revise such list when exemptions are
140 repealed, revised, or created by law. The Attorney General shall transmit a copy of such
141 list to each clerk of court in this state who issues summonses of garnishment and transmit
142 a revised list when a change is made to such list.

143 (c) Each clerk of court in this state who issues summonses of garnishment shall post and
144 update such list of exemptions as promulgated by the Attorney General and shall provide
145 such list to individuals upon request.

146 (d) A defendant may claim an exemption as provided in Code Section 18-4-15.

147 (e) The fact that an exemption is not identified by the Attorney General shall not preclude
148 a defendant from claiming an exemption.

149 18-4-7.

150 (a) The amount shown on the summons of garnishment shall not exceed the amount the
151 defendant owes the plaintiff pursuant to a judgment.

152 (b)(1) A summons of garnishment, or an attachment thereto, shall state on its face with
153 particularity all of the following information, to the extent reasonably available to the
154 plaintiff:

155 (A) The name of the defendant and, to the extent such would reasonably enable the
156 garnishee to properly respond to the summons of garnishment, all known
157 configurations, nicknames, aliases, former or maiden names, trade names, or variations
158 thereof;

159 (B) The service address and the current address of the defendant and, to the extent such
160 would reasonably enable the garnishee to properly respond to the summons of
161 garnishment and such is reasonably available to the plaintiff, the past addresses of the
162 defendant; and

163 (C) The social security number or federal tax identification number of the defendant;
 164 provided, however, that if such summons is filed with a court, the court filing shall be
 165 redacted in accordance with Code Section 9-11-7.1 or 15-10-54, as applicable. The
 166 defendant's full social security number or federal tax identification number shall be
 167 made known to the garnishee and defendant in accordance with Code Section 9-11-7.1
 168 or 15-10-54, as applicable, to the extent such information is reasonably available to the
 169 plaintiff.

170 (2) A summons of garnishment on a financial institution shall not be used for a
 171 continuing garnishment or continuing garnishment for support. A summons of
 172 garnishment on a financial institution, or an attachment thereto, shall also state with
 173 particularity the defendant's account, identification, or tracking numbers known to the
 174 plaintiff used by the garnishee in the identification or administration of the defendant's
 175 funds or property; provided, however, that if such summons is filed with a court, the court
 176 filing shall be redacted in accordance with Code Section 9-11-7.1 or 15-10-54, as
 177 applicable. The defendant's account, identification, or tracking numbers shall be made
 178 known to the garnishee and defendant in accordance with Code Section 9-11-7.1 or
 179 15-10-54, as applicable, to the extent such information is known to the plaintiff.

180 (3) A misspelling of any information required by this subsection, other than the surname
 181 of a natural person defendant, shall not invalidate a summons of garnishment, so long as
 182 such information is not misleading in a search of the garnishee's records.

183 (c) The form for a summons of garnishment is set forth in Code Section 18-4-74, and the
 184 optional attachment thereto is set forth in Code Section 18-4-75. The form for a summons
 185 of garnishment on a financial institution is set forth in Code Section 18-4-76, and the
 186 attachment thereto is set forth in Code Section 18-4-77. The form for a summons of
 187 garnishment on a financial institution shall not be used for a continuing garnishment or
 188 continuing garnishment for support.

189 (d) When a plaintiff uses the incorrect form for a summons of garnishment of any type, the
 190 garnishment shall not be valid and the garnishee shall be relieved of all liability.

191 18-4-8.

192 (a) The plaintiff shall serve the garnishee, as provided in Code Section 9-11-4, or, when
 193 the garnishment is filed in a magistrate court, the plaintiff may serve the garnishee by using
 194 the constable of the magistrate court in the manner set forth in Code Section 9-11-4, with
 195 a copy of the affidavit of garnishment, summons of garnishment, Notice to Defendant of
 196 Right Against Garnishment of Money, Including Wages, and Other Property, and
 197 Defendant's Claim Form. The plaintiff shall fill in the style of the case, except for the civil

198 action file number, and the garnishment court information on such notice and claim form.
 199 Such notice and claim form are set forth in Code Section 18-4-82.

200 (b)(1) Not more than three business days after service of the summons of garnishment
 201 on the garnishee, the plaintiff shall cause a copy of the affidavit of garnishment, a copy
 202 of the summons of garnishment, a copy of the Notice to Defendant of Right Against
 203 Garnishment of Money, Including Wages, and Other Property, and a copy of the
 204 Defendant's Claim Form as described in subsection (a) of this Code section, using one of
 205 the following methods:

206 (A)(i) To be sent to the defendant at the defendant's last known address by:

207 (I) Regular mail; and
 208 (II) Registered or certified mail or statutory overnight delivery, return receipt
 209 requested.

210 (ii) The return receipt indicating receipt by the defendant, the envelope bearing the
 211 official notification from the United States Postal Service of the defendant's refusal
 212 to accept delivery of such registered or certified mail, the envelope bearing the official
 213 notification from a commercial firm of the defendant's refusal to accept such statutory
 214 overnight delivery, or an official written notice from the United States Postal Service
 215 of the defendant's refusal to accept delivery of such registered or certified mail shall
 216 be filed with the clerk of the court in which the garnishment is pending.

217 (iii) The defendant's refusal to accept or failure to claim such registered or certified
 218 mail or statutory overnight delivery addressed to such defendant shall be deemed
 219 notice to such defendant;

220 (B)(i) To be delivered personally to the defendant by:

221 (I) An individual who is not a party and is not younger than 18 years of age;
 222 (II) An individual who has been appointed by the court to serve process or is a
 223 permanent process server;
 224 (III) The sheriff of the county where the action is brought or where the defendant
 225 is found or by such sheriff's deputy;
 226 (IV) The marshal or sheriff of the court or by such official's deputy;
 227 (V) The constable of the magistrate court, when the garnishment is filed in a
 228 magistrate court, or by the constable's deputy; or
 229 (VI) A certified process server as provided in Code Section 9-11-4.1.

230 (ii) A certification by the person making the delivery shall be filed with the clerk of
 231 the court in which the garnishment is pending; or

232 (C) To be sent to the defendant by regular mail at the address at which the defendant
 233 was served as shown on the return of service in the action resulting in the judgment
 234 when it shall appear by affidavit to the satisfaction of the clerk of the court that the

235 defendant resides out of this state, has departed this state, cannot, after due diligence,
 236 be found within this state, or has concealed his or her place of residence from the
 237 plaintiff. A certificate of such mailing shall be filed with the clerk of the court in which
 238 the garnishment is pending by the person mailing such notice.

239 (2) The methods of notification specified in this subsection shall be cumulative and may
 240 be used in any sequence or combination. When it appears that a plaintiff has reasonably,
 241 diligently, and in good faith attempted to use one method, another method thereafter may
 242 be utilized; for the time during which the attempt was being made, the time limit shall be
 243 tolled for the subsequent method.

244 (3) No money or other property paid or delivered to the court by the garnishee shall be
 245 distributed nor shall any judgment be rendered against the garnishee until:

246 (A) Ten days have elapsed from the date of compliance with at least one method of
 247 notification provided by this subsection; and

248 (B) If a garnishee answer was filed:

249 (i) Twenty days have elapsed from the filing of the garnishee's answer without a
 250 claim having been filed by any defendant or third party and without a traverse having
 251 been filed by the plaintiff; or

252 (ii) All traverses filed prior to the twenty-first day from the filing of the garnishee's
 253 answer have been adjudicated and all claims have been adjudicated.

254 18-4-9.

255 (a) Summonses of garnishment may issue from time to time until the judgment is paid or
 256 the garnishment proceeding is otherwise terminated.

257 (b) No new summons of garnishment on the same affidavit of garnishment shall be issued
 258 after two years from the date of the original filing of such affidavit. The garnishment
 259 proceeding based on such affidavit shall automatically stand dismissed unless there are
 260 funds remaining in the registry of the court or a new summons of garnishment has been
 261 issued in the preceding 30 days.

262 18-4-10.

263 (a) The summons of garnishment shall state that if the garnishee fails to file a garnishee's
 264 answer to such summons in a timely manner, a judgment by default shall be entered against
 265 the garnishee for the amount remaining due on a judgment as shown in the plaintiff's
 266 affidavit of garnishment.

267 (b) The summons of garnishment shall be directed to the garnishee, commanding the
 268 garnishee to respond and state what money or other property is subject to garnishment.
 269 Except as provided in subsection (c) of this Code section and Articles 2 and 3 of this

270 chapter, the garnishee's answer shall be filed with the court issuing the summons not sooner
271 than 30 days and not later than 45 days after service of the summons, and the money or
272 other property subject to garnishment shall be paid to or delivered to the court concurrently
273 with such garnishee's answer.

274 (c) When the garnishee is a financial institution and the garnishment is not a continuing
275 garnishment or continuing garnishment for support, such garnishee's answer shall be filed
276 with the court issuing the summons of garnishment not sooner than one day and not later
277 than ten days after service of the summons, and the money or other property subject to
278 garnishment shall be paid to or delivered to the court concurrently with such garnishee's
279 answer. If the defendant does not have an active account with and is not the owner of any
280 money or other property in the possession of such financial institution, then the garnishee
281 may immediately file the garnishee's answer; provided, however, that such garnishee's
282 answer shall be filed not later than ten days after service of the summons.

283 18-4-11.

284 (a) Within the time prescribed by Code Section 18-4-10, the garnishee shall file a
285 garnishee answer. Along with the garnishee's answer, the garnishee shall pay or deliver
286 to the court the money or other property admitted in the garnishee's answer to be subject
287 to garnishment.

288 (b) If in responding to the summons of garnishment the garnishee shall state that the
289 property of the defendant includes property in a safe-deposit box or similar property, the
290 garnishee shall respond to the court issuing the summons of garnishment as to the existence
291 of such safe-deposit box and shall restrict access to any contents of such safe-deposit box
292 until the earlier of:

293 (1) Further order of such court regarding the disposition of the contents of such
294 safe-deposit box; or

295 (2) The elapsing of 120 days from the date of filing of the garnishee answer unless such
296 time has been extended by the court.

297 (c) If the garnishee has been served with a summons in more than one garnishment case
298 involving the same defendant, the garnishee shall state in each garnishee answer that the
299 money or other property is being paid or delivered to a specifically named court subject to
300 the demands of other cases and shall give the numbers of all such cases in each garnishee
301 answer.

302 (d) If the garnishee is unable to respond with the specific information required by this
303 Code section, the garnishee's inability shall be stated in the garnishee's answer, together
304 with all the facts plainly, fully, and distinctly set forth, so as to enable the court to give
305 judgment thereon.

306 (e) The form for a garnishee answer is set forth in Code Section 18-4-84, and the form for
307 a financial institution garnishee answer is set forth in Code Section 18-4-85.

308 18-4-12.

309 (a) When a garnishment proceeding is filed in a court under any provision of this chapter
310 involving an entity as garnishee, the execution and filing of a garnishee answer may be
311 done by an entity's authorized officer or employee and shall not constitute the practice of
312 law. If a claim or traverse is filed to such entity's garnishee answer in a court of record, an
313 attorney shall be required to represent such entity in further garnishment proceedings.

314 (b) An entity's payment into court of any money or other property of the defendant, or
315 money or other property which is admitted to be subject to garnishment, may be done by
316 an entity's authorized officer or employee and shall not constitute the practice of law.

317 18-4-13.

318 (a) All garnishee answers shall, concurrently with filing, be served by the garnishee upon
319 the plaintiff or the plaintiff's attorney and the defendant or the defendant's attorney.

320 (b)(1) Service of the garnishee's answer upon the plaintiff shall be shown by the:

321 (A) Written acknowledgment of the plaintiff or the plaintiff's attorney; or

322 (B) Certificate of the garnishee or the garnishee's attorney, attached to the garnishee's
323 answer, that a copy of the garnishee's answer was mailed to the plaintiff or the
324 plaintiff's attorney.

325 (2) No service upon the plaintiff shall be required unless the name and address of the
326 plaintiff or the plaintiff's attorney shall legibly appear on the face of the summons of
327 garnishment.

328 (3) If the garnishee fails to serve the plaintiff, the plaintiff shall be allowed 20 days from
329 the time the plaintiff receives actual notice of the garnishee's answer to traverse the
330 garnishee's answer.

331 (c)(1) Service of the garnishee's answer upon the defendant shall be shown by the:

332 (A) Written acknowledgment of the defendant or the defendant's attorney; or

333 (B) Certificate of the garnishee or the garnishee's attorney, attached to the garnishee's
334 answer, that a copy of the garnishee's answer was mailed to the:

335 (i) Defendant's attorney; or

336 (ii) Defendant at the last address known to the garnishee.

337 (2) No service upon the defendant shall be required by a financial institution garnishee
338 if the defendant does not have an active account with and is not the owner of any money
339 or other property in the possession of such financial institution.

340 (d) The garnishee shall provide the defendant, by regular mail at the defendant's last
341 address known to the garnishee, with the Notice to Defendant of Right Against
342 Garnishment of Money, Including Wages, and Other Property and the Defendant's Claim
343 Form that it received from the plaintiff as set forth in subsection (a) of Code Section
344 18-4-8.

345 18-4-14.

346 (a) The garnishee shall be entitled to the garnishee's actual reasonable expenses, including
347 attorney's fees, in preparing and filing a garnishee's answer. The amount of expenses
348 incurred shall be taxed in the bill of costs and shall be paid by the party upon whom the
349 cost is cast, as costs are cast in other cases. The garnishee may deduct \$50.00 or 10 percent
350 of the amount paid into court, whichever is greater, not to exceed \$100.00, as reasonable
351 attorney's fees or expenses.

352 (b) If the garnishee can show that the garnishee's actual attorney's fees or expenses exceed
353 the amount provided for in subsection (a) of this Code section, the garnishee shall petition
354 the court for a hearing at the time of filing the garnishee's answer without deducting from
355 the amount paid into court. Upon hearing from the parties, the court may enter an order
356 for payment of actual attorney's fees or expenses proven by the garnishee to have been
357 incurred reasonably in preparing and filing the garnishee's answer.

358 (c) In the event the garnishee makes the deduction permitted in subsection (a) of this Code
359 section but the costs are later cast upon the garnishee, the garnishee shall forthwith refund
360 to the defendant the funds deducted; if the costs are later cast against the plaintiff, the court
361 shall enter judgment in favor of the defendant and against the plaintiff for the amount of
362 the deductions made by the garnishee.

363 (d) Nothing in this Code section shall limit the reimbursement of costs incurred by a
364 financial institution as provided in Code Section 7-1-237.

365 18-4-15.

366 (a) A garnishment proceeding is an action between the plaintiff and garnishee; provided,
367 however, that at any time before a judgment is entered or before money or other property
368 subject to garnishment is distributed, the defendant may become a party to the garnishment
369 by filing a claim with the clerk of court and may use the form set forth in Code Section
370 18-4-82. A defendant's claim shall assert the basis upon which he or she claims that his or
371 her money or other property is exempt from garnishment. Money or other property may
372 be exempt from garnishment for a variety of reasons, including, but not limited to, the
373 limitations on garnishment as provided in Code Sections 18-4-5 and 18-4-53, exemptions
374 as provided in Code Section 18-4-6, the plaintiff not having a judgment against the

375 defendant, the amount claimed due by the plaintiff being erroneous, such money or other
376 property being subject to a claim held by a third party that is superior to the judgment
377 described in the affidavit of garnishment, or other legal or statutory defenses. Even when
378 earnings are held at a financial institution, such money may be exempt from garnishment
379 due to the limitations on garnishment as provided in Code Sections 18-4-5 and 18-4-53,
380 exemptions as provided in Code Section 18-4-6, or other reasons.

381 (b) The defendant shall serve a copy of his or her claim upon the plaintiff and garnishee.
382 The clerk of court shall transmit a copy of the defendant's claim to the plaintiff and
383 garnishee. If the defendant's claim alleges that money or other property in the possession
384 of the court may be subject to a claim held by a third party that is superior to the judgment
385 described in the affidavit of garnishment, the defendant shall serve a copy of his or her
386 claim upon the third party named in such claim.

387 (c) The defendant shall become a party to all proceedings by filing a claim pursuant to this
388 Code section.

389 (d) Upon the filing of the defendant's claim, a judge of the court in which the garnishment
390 is pending shall order a hearing to be held not more than ten days from the date the claim
391 is filed. The form for the order for such hearing is set forth in Code Section 18-4-83. Such
392 hearing shall be available to the defendant as a matter of right after filing his or her claim,
393 and no further summons of garnishment shall issue nor shall any money or other property
394 paid or delivered to the court as subject to garnishment be disbursed until the hearing shall
395 be held.

396 (e) The validity of the judgment upon which a garnishment is based shall only be
397 challenged in accordance with Chapter 11 of Title 9, and no such challenge shall be
398 entertained in the garnishment case. However, when the court finds that the defendant has
399 attacked the validity of the judgment upon which the garnishment is based in an
400 appropriate forum, the judge may order the garnishment be stayed until the validity of the
401 judgment has been determined in such forum.

402 (f) The filing of a claim by the defendant shall not relieve the garnishee of the duties of
403 filing a garnishee answer, of withholding money or other property subject to garnishment,
404 or of paying or delivering to the court any money or other property subject to garnishment.

405 (g) A party's failure to include the civil action file number on a defendant's claim shall not
406 affect the validity of such claim.

407 18-4-16.

408 Within 20 days after the plaintiff has been served with the garnishee's answer, the plaintiff
409 may file a traverse stating that the garnishee's answer is untrue or legally insufficient. Such

410 statement places in issue all questions of law and fact concerning the garnishee's answer.
411 The form for a plaintiff's traverse is set forth in Code Section 18-4-87.

412 18-4-17.

413 At any time before judgment is entered on the garnishee's answer or money or other
414 property subject to garnishment is distributed, any person may file a third-party claim in
415 writing under oath stating that he or she has a claim superior to that of the plaintiff to the
416 money or other property in the hands of the garnishee subject to the process of
417 garnishment, and the third-party claimant shall be a party to all further proceedings upon
418 the garnishment. A third-party claimant shall serve his or her claim upon the plaintiff,
419 defendant, and garnishee. The form for a third-party claim is set forth in Code Section
420 18-4-88.

421 18-4-18.

422 When money or other property in court is subject to a third-party claim or to more than one
423 garnishment case, the party with the oldest entered judgment shall have priority to such
424 money or other property and any interested party to any one of the garnishment cases may
425 make a motion to the court where such money or other property has been deposited for the
426 distribution of such money or other property. Each party of interest in each case and the
427 clerk of court shall be served with a copy of the motion. Upon hearing the motion, the
428 court shall enter an order directing that the clerk be paid the court cost of each garnishment
429 proceeding first, and all remaining money or other property shall be distributed in
430 accordance with the laws governing the relative priority of claims, judgments, and liens.

431 18-4-19.

432 (a) After the garnishee's answer is filed, the defendant's claim shall be tried first, the
433 plaintiff's traverse shall be tried second, and third-party claims shall be tried last; provided,
434 however, that the court shall retain the money or other property subject to garnishment until
435 the completion of the trial of all claims and traverses which are filed under this chapter.
436 The court may consolidate or bifurcate such actions for trial in the court's discretion.

437 (b) If a claim or traverse has been filed, all parties of record may introduce evidence to
438 establish their respective interests in the money or other property in court, and the court
439 shall direct that such money or other property be distributed in accordance with the laws
440 governing the relative priority of claims, judgments, and liens.

441 (c) When the defendant prevails upon the trial of his or her claim:

442 (1) That the plaintiff does not have a judgment against the defendant or that the plaintiff's
443 affidavit of garnishment is untrue or is legally insufficient, the garnishment case shall be

444 dismissed by the court, and any money or other property belonging to the defendant in
445 the possession of the court shall be restored to the defendant unless another claim or
446 traverse thereto has been filed;

447 (2) That the amount shown to be due on the plaintiff's affidavit of garnishment is
448 incorrect, the court may allow the summons of garnishment to be amended to the amount
449 proven to be owed, and if such amount is less than the amount shown to be due by the
450 plaintiff, any money or other property belonging to the defendant in the possession of the
451 court in excess of the amount due shall be restored to the defendant unless another claim
452 or traverse thereto has been filed;

453 (3) That the money or other property belonging to the defendant in the possession of the
454 court is exempt from garnishment, such exempt money or other property shall be restored
455 directly to the defendant. The court shall order such restoration within 48 hours; and

456 (4) Based on any legal or statutory defense or that money or other property in the
457 possession of the court may be subject to a claim held by a third party that is superior to
458 the judgment described in the affidavit of garnishment, the court shall determine the
459 disposition of the money or other property belonging to the defendant in the possession
460 of the court.

461 (d) On the trial of the plaintiff's traverse, if the court finds the garnishee has failed to
462 respond properly to the summons of garnishment, the court shall disallow any expenses
463 demanding by the garnishee and shall enter a judgment for any money or other property
464 paid or delivered to the court with the garnishee's answer, plus any money or other property
465 the court finds subject to garnishment which the garnishee has failed to pay or deliver to
466 the court; provided, however, that the total amount of such judgment shall not exceed the
467 amount shown to be due by the plaintiff, together with the costs of the garnishment
468 proceeding.

469 18-4-20.

470 When no claim has been filed and no traverse has been filed within 20 days after the
471 garnishee's answer is filed:

472 (1) If money is paid or delivered to the court by the garnishee, the clerk of the court shall
473 pay the money to the plaintiff or the plaintiff's attorney upon application, and the
474 garnishee shall be automatically discharged from further liability with respect to the
475 summons of garnishment so answered;

476 (2) If property is delivered to the court by the garnishee, the sheriff, marshal, constable,
477 or like officer of the court shall sell the property in the manner provided by law for the
478 sale of property levied under an execution, and the garnishee shall be automatically
479 discharged from further liability with respect to the summons of garnishment so

480 answered. The proceeds of such sale shall be paid or delivered to the plaintiff or the
481 plaintiff's attorney upon application; or

482 (3) If money or other property admitted to be subject to the garnishment is not paid or
483 delivered to the court, judgment shall be entered for the plaintiff and against the garnishee
484 for such money or other property and execution shall issue on the judgment.

485 18-4-21.

486 Except as provided in Code Section 18-4-22, when a garnishee fails or refuses to file a
487 garnishee answer by the forty-fifth day after service of the summons of garnishment, such
488 garnishee shall automatically be in default. The default may be opened as a matter of right
489 by the filing of a garnishee answer within 15 days of the day of default and payment of
490 costs. If the case is still in default after the expiration of the period of 15 days, judgment
491 by default may be entered at any time thereafter against such garnishee for the amount
492 remaining due on the judgment obtained against the defendant as shown in the plaintiff's
493 affidavit of garnishment.

494 18-4-22.

495 When a garnishee is a financial institution and fails or refuses to file a garnishee answer by
496 the tenth day after service of the summons of garnishment, such garnishee shall
497 automatically be in default. The default may be opened as a matter of right by the filing
498 of a garnishee answer within 15 days of the day of default and payment of costs. If the
499 case is still in default after the expiration of the period of 15 days, judgment by default may
500 be entered at any time thereafter against such garnishee for the amount remaining due on
501 the judgment obtained against the defendant as shown in the plaintiff's affidavit of
502 garnishment.

503 18-4-23.

504 (a) A garnishee may be relieved from liability for failure to file a garnishee answer if the
505 plaintiff failed to provide the information required by paragraph (2) of subsection (b) of
506 Code Section 18-4-7 that would reasonably enable the garnishee to respond properly to the
507 summons of garnishment and a good faith effort to locate the requested property was made
508 by the garnishee based on the information provided by the plaintiff. In determining
509 whether a garnishee may be relieved of liability, the court shall consider and compare the
510 accuracy and quantity of the information supplied by the plaintiff pursuant to paragraph (2)
511 of subsection (b) of Code Section 18-4-7 with the manner in which such garnishee
512 maintains and locates its records, the compliance by such garnishee with its own

513 procedures, and the conformity of the record systems and procedures with reasonable
 514 commercial standards prevailing in the area in which such garnishee is located.

515 (b) A garnishee and a plaintiff shall not be subject to liability to any party or nonparty to
 516 the garnishment at issue arising from the attachment of a lien or the freezing, payment, or
 517 delivery into court of money or other property reasonably believed to be that of the
 518 defendant if such attachment, freezing, payment, or delivery is reasonably required by a
 519 good faith effort to comply with the summons of garnishment. In determining whether
 520 such compliance by a garnishee is reasonable, the court shall consider and compare the
 521 accuracy and quantity of the information supplied by the plaintiff pursuant to paragraph (2)
 522 of subsection (b) of Code Section 18-4-7 with the manner in which such garnishee
 523 maintains and locates its records, the compliance by such garnishee with its own
 524 procedures, and the conformity of the record systems and procedures with reasonable
 525 commercial standards prevailing in the area in which such garnishee is located.

526 (c)(1) As used in this subsection, the term:

527 (A) 'Association account' means any account or safe-deposit box or similar property
 528 maintained by a corporation, statutory close corporation, limited liability company,
 529 partnership, limited partnership, limited liability partnership, foundation, trust, national,
 530 state, or local government or quasi-government entity, or other incorporated or
 531 unincorporated association.

532 (B) 'Fiduciary account' means any account or safe-deposit box maintained by any party
 533 in a fiduciary capacity for any other party other than the defendant in garnishment.
 534 Without limiting the foregoing, such term shall include any trust account as defined in
 535 Code Section 7-1-810, any account created pursuant to a transfer governed by Code
 536 Section 44-5-119, and any agency account or safe-deposit box governed by a power of
 537 attorney or other written designation of authority.

538 (2)(A) A garnishee shall not be liable for failure to pay or deliver to the court money
 539 or other property in an association account that may be subject to garnishment by
 540 reason of the fact that a defendant is an authorized signer on such association account,
 541 unless the summons of garnishment alleges that the association account is being used
 542 by the defendant for an improper or unlawful purpose.

543 (B) A garnishee shall not be liable for failure to pay or deliver to the court money or
 544 other property in a fiduciary account that may be subject to garnishment if such
 545 fiduciary account specifically is exempted from garnishment as set forth in Code
 546 Section 18-4-6.

547 (C) A garnishee shall not be liable for failure to pay or deliver to the court money or
 548 other property in a fiduciary account that may be subject to garnishment by reason of
 549 the fact that a defendant is a fiduciary of the fiduciary account, unless the summons of

550 garnishment is against the defendant in the defendant's capacity as a fiduciary of the
551 fiduciary account or the summons of garnishment alleges that the fiduciary account is
552 being used by the defendant for an improper or unlawful purpose.

553 18-4-24.

554 (a) When a default judgment is rendered against a garnishee under Code Section 18-4-21,
555 18-4-22, or 18-4-43, the plaintiff shall serve the garnishee, as provided in Code Section
556 9-11-4, or, when the garnishment is filed in a magistrate court, the plaintiff may serve the
557 garnishee by using the constable of the magistrate court in the manner set forth in Code
558 Section 9-11-4, with a copy of such default judgment. On a motion filed not later than 90
559 days from the date the garnishee was served with such default judgment, the garnishee
560 may, upon payment of all accrued costs of court, have such default judgment modified so
561 that the amount of such default judgment shall be reduced to an amount equal to the greater
562 of \$50.00 or \$50.00 plus 100 percent of the amount by which the garnishee was indebted
563 to the defendant from the time of service of the summons of garnishment through and
564 including the last day on which a timely garnishee answer could have been made for all
565 money or other property belonging to the defendant which came into the garnishee's hands
566 from the time of service of the summons through and including the last day on which a
567 timely answer could have been made and less any exemption allowed the defendant.

568 (b) On the trial of a motion to modify a default judgment, the burden of proof shall be
569 upon any plaintiff who objects to the timeliness of the motion to establish that such motion
570 was not filed within the time provided for by this Code section.

571 18-4-25.

572 (a) A release of a summons of garnishment:

573 (1) Shall relieve the garnishee from any obligation to file a garnishee answer to any
574 summons of garnishment pending on the date of the release and shall authorize the
575 garnishee to pay or deliver to the defendant any money or other property in the
576 garnishee's possession belonging to the defendant; and

577 (2) Shall not operate as a dismissal of the garnishment proceeding.

578 (b) It shall be the duty of the clerk of the court in which garnishment proceedings are
579 pending to issue a release of garnishment if:

580 (1) The plaintiff or the plaintiff's attorney requests a release in writing;

581 (2) The amount shown to be due on the plaintiff's affidavit of garnishment together with
582 the costs of the garnishment proceeding are paid into court;

583 (3) A judge enters an order, after a hearing required by this chapter, directing that the
584 garnishment be released; or

585 (4) The garnishment is dismissed.

586 (c) The form for a release of garnishment is set forth in Code Section 18-4-89.

587 ARTICLE 2

588 18-4-40.

589 (a) In addition to garnishment proceedings otherwise available under this chapter, in all
590 cases when a money judgment was obtained in a court of this state or a federal court or is
591 being enforced in this state as provided in Article 5 of Chapter 12 of Title 9, the 'Uniform
592 Foreign-Country Money Judgments Recognition Act,' or Article 6 of Chapter 12 of Title 9,
593 the 'Uniform Enforcement of Foreign Judgments Law,' a plaintiff shall be entitled to the
594 process of continuing garnishment against any garnishee who is an employer of the
595 defendant against whom the judgment has been obtained.

596 (b) Unless otherwise specifically provided in this article, Article 1 of this chapter shall
597 apply to this article.

598 18-4-41.

599 (a) In addition to the information required by subsection (a) of Code Section 18-4-3, an
600 affidavit of continuing garnishment shall state that the plaintiff believes that the garnishee
601 is or may be an employer of the defendant and subject to continuing garnishment.

602 (b) Only one summons of continuing garnishment shall issue on one affidavit of
603 continuing garnishment.

604 (c) The plaintiff shall serve a summons of continuing garnishment and provide notice of
605 exemptions in the same manner as provided for in Code Section 18-4-8.

606 (d) The form for an affidavit of continuing garnishment is set forth in Code Section
607 18-4-72. The form for a summons of continuing garnishment is set forth in Code Section
608 18-4-78, and the optional attachment thereto is set forth in Code Section 18-4-79.

609 18-4-42.

610 (a) As used in this Code section, the term 'previous garnishee answer date' means the date
611 upon which the immediately preceding garnishee answer was filed.

612 (b) If the garnishee owes the defendant any sum for wages earned as the garnishee's
613 employee, the garnishee answer shall state specifically when the wages were earned by the
614 defendant, whether the wages were earned on a daily, weekly, or monthly basis, the rate
615 of pay and hours worked, and the basis for computation of earnings.

616 (c) The summons of continuing garnishment shall be directed to the garnishee,
617 commanding the garnishee:

- 618 (1) To file a first garnishee answer with the court issuing such summons not sooner than
619 30 days and not later than 45 days after service of the summons of continuing
620 garnishment, for the period of time from the date of service through and including the day
621 of the first garnishee answer;
- 622 (2) To file subsequent garnishee answers with such court for the remaining period
623 covered by the summons of continuing garnishment; and
- 624 (3) To accompany all such garnishee answers with any money subject to continuing
625 garnishment.
- 626 (d)(1) Subsequent garnishee answers shall be filed not later than 45 days after the
627 previous garnishee answer date stating what money of the defendant is subject to
628 continuing garnishment from the previous garnishee answer date through and including
629 the date on which the next garnishee answer is filed.
- 630 (2) Subsequent garnishee answers shall not be required on a summons of continuing
631 garnishment if the preceding garnishee answer filed states what money of the defendant
632 is subject to continuing garnishment from the previous garnishee answer date to and
633 including the one hundred seventy-ninth day after service of the summons of continuing
634 garnishment.
- 635 (3) Notwithstanding the other provisions of this subsection, the last garnishee answer
636 shall be filed not later than the one hundred ninety-fifth day after service of the summons
637 of continuing garnishment.
- 638 (e) The summons of continuing garnishment shall state that if the garnishee fails to file a
639 garnishee's answer to such summons in a timely manner, a judgment by default shall be
640 entered against the garnishee for the amount remaining due on a judgment as shown in the
641 plaintiff's affidavit of continuing garnishment.
- 642 (f)(1) If the employment relationship between the garnishee and the defendant does not
643 exist at the time of service of the summons of continuing garnishment, the garnishee shall
644 state in the garnishee answer that such relationship does not exist and may immediately
645 file the garnishee's answer; provided, however, that such garnishee's answer shall be filed
646 not later than 45 days after service of the summons of continuing garnishment.
- 647 (2) When the defendant has been an employee of the garnishee, and if the defendant is
648 no longer employed by the garnishee, the garnishee may immediately file the garnishee's
649 answer; provided, however, that such garnishee's answer shall be filed not later than 45
650 days after service of the summons of continuing garnishment.
- 651 (3) If the employment relationship between the garnishee and the defendant terminates
652 on or after service of the summons of continuing garnishment, the garnishee shall state
653 in the garnishee answer that such relationship has been terminated, giving the date of
654 termination, and may immediately file the garnishee's answer; provided, however, that

655 such garnishee's answer shall be filed not later than 45 days after service of the summons
 656 of continuing garnishment.

657 (4) Upon the termination of employment of the defendant by the garnishee, the garnishee
 658 shall be required to file a final garnishee answer stating the date of the defendant's
 659 termination.

660 (g) When a garnishee answer is made pursuant to subsection (f) of this Code section, no
 661 claim has been filed, and no traverse has been filed within 20 days after such garnishee
 662 answer is filed, the garnishee shall be discharged from further liability and obligation in the
 663 same manner as set forth under Code Section 18-4-20 for that summons with respect to the
 664 period of continuing garnishment remaining after the employment relationship is
 665 terminated.

666 (h) The form for a garnishee's answer to a continuing garnishment is set forth in Code
 667 Section 18-4-86.

668 18-4-43.

669 (a) When a garnishee fails or refuses to file a garnishee answer at least once every 45 days,
 670 such garnishee shall automatically be in default. The default may be opened as provided
 671 in Code Section 18-4-21. If the case is still in default after the expiration of the period of
 672 15 days, judgment by default may be entered at any time thereafter against such garnishee
 673 for the amount remaining due on the judgment obtained against the defendant as shown in
 674 the plaintiff's affidavit of continuing garnishment.

675 (b) A garnishee may obtain relief from a default judgment upon the same conditions as
 676 provided in Code Section 18-4-24.

677 ARTICLE 3

678 18-4-50.

679 As used in this article, the term:

680 (1) 'Earnings' shall have the same meaning as set forth in Code Section 18-4-1 and shall
 681 include disability or retirement benefits that are received from the Social Security
 682 Administration pursuant to Title II of the federal Social Security Act, disability benefits
 683 that are received pursuant to the federal Veterans' Benefits Act of 2010, 38 U.S.C.
 684 Section 101, et seq., workers' compensation benefits, whether temporary or permanent,
 685 and unemployment insurance benefits.

686 (2) 'Judgment' means an order for periodic support obtained:

687 (A) In a court of this state;

688 (B) In a court of another state which has been registered pursuant to Code Section
 689 19-11-77 under the 'Uniform Reciprocal Enforcement of Support Act' or as provided
 690 in Article 3 of Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act,' or
 691 Article 6 of Chapter 12 of Title 9, the 'Uniform Enforcement of Foreign Judgments
 692 Law';

693 (C) By a final administrative order for support issued by the Department of Human
 694 Services; or

695 (D) By a final administrative order issued by a governmental agency of another state.

696 (3) 'Periodic support' means money required to be paid regularly on a daily, weekly,
 697 monthly, or other similar specified frequency for the support of a minor child of the
 698 defendant or a spouse or former spouse of the defendant.

699 18-4-51.

700 (a) In addition to garnishment proceedings otherwise available under this chapter, in all
 701 cases when a judgment was obtained or is being enforced, a plaintiff shall be entitled to the
 702 process of continuing garnishment for support against any garnishee who is an employer
 703 of the defendant against whom the judgment has been obtained.

704 (b) Unless otherwise specifically provided in this article, Articles 1 and 2 of this chapter
 705 shall apply to this article.

706 18-4-52.

707 (a) In addition to the information required by subsection (a) of Code Sections 18-4-3 and
 708 18-4-41, the plaintiff shall attach a certified copy of the judgment to be enforced to the
 709 affidavit of continuing garnishment for support and shall state the following in such
 710 affidavit:

711 (1) That the defendant is in arrears on the obligation of support in an amount equal to or
 712 in excess of one month's obligation as decreed in such judgment;

713 (2) The amount of arrearage which exists under such judgment as of the date of the
 714 execution of the affidavit;

715 (3) The amount of support due under the judgment for each obligee named therein,
 716 taking into account the possible attainment of majority or emancipation or death of any
 717 minor child named in such judgment; and

718 (4) The date of the termination of the obligation of support of each obligee named in the
 719 judgment, based upon the terms of such judgment, or, as to any obligee who is a minor
 720 child, the date each such obligee shall attain the age of 18 years.

721 (b) Such affidavit may be amended from time to time by subsequent affidavits of any party
 722 showing a modification or other amendment to the original judgment being enforced. Such

723 amended or subsequent affidavits shall include a certified copy of any such modification
724 or amendment and shall contain the information required by paragraphs (1) through (4) of
725 subsection (a) of this Code section.

726 (c) The plaintiff shall serve the summons of continuing garnishment for support and
727 provide notice of exemptions in the same manner as provided for in Code Section 18-4-8.

728 (d) The form for an affidavit of continuing garnishment for support is set forth in Code
729 Section 18-4-73.

730 18-4-53.

731 (a) A summons of continuing garnishment for support shall contain a notice to the
732 garnishee that such garnishment is based on a judgment governed by this article. The form
733 for a summons of continuing garnishment for support is set forth in Code Section 18-4-80,
734 and the optional attachment thereto is set forth in Code Section 18-4-81.

735 (b) Subject to the limitations set forth in Code Section 18-4-6, the maximum part of
736 disposable earnings for any work week which shall be subject to continuing garnishment
737 for support shall not exceed 50 percent of the defendant's disposable earnings for that week.

738 (c) Funds or benefits from an individual retirement account or from a pension or retirement
739 program shall not be exempt from the process of continuing garnishment for support except
740 as provided in subsection (b) of this Code section for other disposable earnings, unless a
741 greater exemption is otherwise provided by law.

742 18-4-54.

743 (a) The money paid into court with the initial garnishee answer, after deduction for costs,
744 shall be first applied to the support payment required to be paid on a periodic basis that has
745 accrued on a daily basis, by converting the periodic amount to an annual amount and
746 dividing by 365, from the date of the plaintiff's affidavit of continuing garnishment for
747 support to the date of the initial garnishee answer. All sums in excess of such payment
748 shall be applied to the original arrearage. As used in this subsection, the term 'original
749 arrears' means the sum of arrears existing as of the date of the making of the plaintiff's
750 affidavit of continuing garnishment for support, plus any amounts includable pursuant to
751 subsection (c) of this Code section.

752 (b) If the amount claimed as original arrearage as of the date of the making of the
753 plaintiff's affidavit of continuing garnishment for support is not satisfied by the money
754 payable into court under the initial garnishee answer, after application of the funds as set
755 forth in subsection (a) of this Code section, the garnishee shall file further garnishee
756 answers no later than 45 days after the previous garnishee answer date, stating the earnings
757 accrued and the basis of their accrual and tendering such money accruing in such period.

758 The amounts paid into court pursuant to subsequent garnishee answers, over and above the
759 periodic payment accruing within such period, shall be applied to the original arrearage
760 until the same is retired.

761 (c) If the money paid into court pursuant to any garnishee answer is less than the sums due
762 under the support requirement accruing over the same period of time, after allowance for
763 any costs deductible from same, the resulting difference shall be added to the amount due
764 as original arrearage until the same is retired by subsequent payments.

765 (d) The garnishee shall file additional garnishee answers until the original arrearage is
766 retired and all support payments are current.

767 (e) Upon the termination of employment of the defendant by the garnishee, the garnishee
768 shall be required to file a final garnishee answer stating the date of the defendant's
769 termination.

770 18-4-55.

771 The continuing garnishment for support described in this article shall attach for so long as
772 the defendant is employed by the garnishee and shall not terminate until the original
773 arrearage is retired and all support payments are current. The garnishee may rely upon the
774 information as to the termination date of the duty of support of any individual claimed in
775 the affidavit of continuing garnishment for support, the amount of the duty of support to
776 be paid, any sums paid by the defendant between the date of the filing of such affidavit and
777 the date of the initial garnishee answer, and the amount of the original arrearage existing
778 as of the date of such affidavit, unless the defendant files a claim against such affidavit or
779 the garnishee's answer and the court enters any finding otherwise.

780 ARTICLE 4

781 18-4-70.

782 (a) For the purpose of this chapter, the forms contained in this article shall be required to
783 be used; provided, however, that a party may use its own format so long as it contains all
784 of the information in the form. A defendant may use the form provided in Code Section
785 18-4-82 to file a claim or may use the defendant's own pleading. When a case involves
786 more than one plaintiff or defendant or necessitates the inclusion of additional information,
787 the form may be expanded to allow for the information pertaining to all parties and such
788 additional information to be displayed.

789 (b) The certificates of service provided within the forms in this article are included as
790 examples. A party may modify a certificate of service in accordance with the

791 circumstances of the case, including, but not limited to, transmission by e-mail as provided
 792 in subsection (b) of Code Section 9-11-5 or by court rule.
 793 (c) A court may combine multiple forms.

794 18-4-71.

795 IN THE COURT OF COUNTY
 796 STATE OF GEORGIA

797)

798 **Plaintiff:**)

799 _____)

800 Name)

801)

802 **Plaintiff's contact information:**)

803 _____)

804 Name)

805 _____)

806 Street Address)

807 _____)

808 City State ZIP Code)

809 _____)

810 E-mail Address)

811 _____)

812 Phone Number)

Civil Action File No. _____

813 _____)

814 Bar Number)

815)

816 **v.**)

817)

818 **Defendant:**)

819 _____)

820 Name)

821 _____)

822 Street Address)

823 _____)

824 City State ZIP Code)

825)

826 **Garnishee:**)

827 _____)

828 Name)

858 18-4-72.

859 'IN THE COURT OF COUNTY

860 STATE OF GEORGIA

861)

862 **Plaintiff:**)

863 _____)

864 Name)

865)

866 **Plaintiff's contact information:**)

867 _____)

868 Name)

869 _____) **Civil Action File No.** _____

870 Street Address)

871 _____)

872 City State ZIP Code)

873 _____)

874 E-mail Address)

875 _____)

876 Phone Number)

877 _____)

878 Bar Number)

879)

880 **v.**)

881)

882 **Defendant:**)

883 _____)

884 Name)

885 _____)

886 Street Address)

887 _____)

888 City State ZIP Code)

889)

890 **Garnishee:**)

891 _____)

892 Name)

893 _____)

894 Street Address)

895 _____)

896 City State ZIP Code)

AFFIDAVIT OF CONTINUING GARNISHMENT

DO NOT USE THIS FORM FOR A CONTINUING GARNISHMENT FOR CHILD SUPPORT OR ALIMONY. SEE O.C.G.A. § 18-4-73.

Personally appeared _____, who on oath says:
(Print name)

- 1. I am the (Plaintiff) (Attorney at Law for Plaintiff) (Agent for Plaintiff). [Circle one]
- 2. The Plaintiff obtained a judgment against the Defendant in Case Number _____ in the _____ Court of _____ County, _____ State and no agreement requires forbearance from the garnishment which is applied for currently.
- 3. \$ _____ is the balance due, which consists of the sum of \$ _____ Principal, \$ _____ Postjudgment interest, and \$ _____ Other (e.g., prejudgment interest, attorney's fees, costs [exclusive of the cost of this action]).
- 4. Upon the Affiant's personal knowledge or belief, the sum stated herein is unpaid.
- 5. The Affiant believes that the Garnishee is an employer of the Defendant.

This _____ day of _____, 20_____.

Affiant

Print name of Affiant

Sworn to and subscribed before me this _____ day of _____, 20_____.

Notary Public or Deputy Clerk of Court'

18-4-73.

'IN THE COURT OF COUNTY STATE OF GEORGIA

_____))
Plaintiff: _____))
_____))
Name _____))

929)
 930 **Plaintiff's contact information:**)
 931 _____)
 932 Name)
 933 _____)
 934 Street Address)
 935 _____)
 936 City State ZIP Code)
 937 _____)
 938 E-mail Address)
 939 _____)
 940 Phone Number)
 941 _____)
 942 Bar Number)

Civil Action File No. _____

943)
944 **v.**)

945)
 946 **Defendant:**)
 947 _____)
 948 Name)
 949 _____)
 950 Street Address)
 951 _____)
 952 City State ZIP Code)

953)
 954 **Garnishee:**)
 955 _____)
 956 Name)
 957 _____)
 958 Street Address)
 959 _____)
 960 City State ZIP Code)

961 **AFFIDAVIT OF CONTINUING GARNISHMENT FOR SUPPORT**

962 Personally appeared _____, who on oath says:
963 (Print name)

- 964 1. I am the (Plaintiff) (Attorney at Law for Plaintiff) (Agent for Plaintiff). [Circle one]
 965 2. The Plaintiff obtained a judgment against the Defendant in Case Number _____
 966 in the _____ Court of _____ County, _____
 967 State _____

968 and no agreement requires forbearance from the garnishment which is applied for
 969 currently.

970 3. The Affiant states that the Defendant is in arrears on the obligation for support in an
 971 amount equal to or in excess of one month's obligation as decreed in the judgment for
 972 support and provides the following information:

973 \$ _____ is the amount of arrearage which exists under the judgment as of the
 974 execution of this affidavit.

975 **Check one of the boxes below and complete the requested information:**

976 A. Periodic support is owed for one obligee, or the judgment sets forth a total
 977 amount of periodic support for multiple obligees as follows:

978 \$ _____ is the total amount of periodic support due for _____,
 979 Name of obligee

980 _____, and _____ . Such periodic
 981 Name of obligee Name of obligee

982 support is payable on a _____ basis.

983 E.g., weekly, monthly

984 The termination date of the obligation for periodic support is _____.
 985 Date

986 B. Periodic support is owed for multiple obligees, and the judgment sets forth a
 987 different amount of periodic support for each obligee as follows:

988 \$ _____ is the total amount of periodic support due for _____,
 989 Name of obligee

990 payable on a _____ basis, and the termination date of such
 991 E.g., weekly, monthly

992 obligation is _____.

993 Date

994 \$ _____ is the total amount of periodic support due for _____,
 995 Name of obligee

996 payable on a _____ basis, and the termination date of such
 997 E.g., weekly, monthly

998 obligation is _____.

999 Date

1000 \$ _____ is the total amount of periodic support due for _____,
 1001 Name of obligee

1002 payable on a _____ basis, and the termination date of such
 1003 E.g., weekly, monthly

1004 obligation is _____.

1005 Date

1006 4. Check this box and attach a certified copy of the judgment for support hereto.

1007 5. Upon the Affiant's personal knowledge or belief, the sum stated herein is unpaid.

1008 6. The Affiant believes that the Garnishee is an employer of the Defendant.

1009 This _____ day of _____, 20____.

1010 _____
1011 Affiant

1012 _____
1013 Print name of Affiant

1014 Sworn to and subscribed before me this _____ day
1015 of _____, 20____.

1016 _____
1017 Notary Public or Deputy Clerk of Court'

1018 18-4-74.

1019 'IN THE COURT OF COUNTY
1020 STATE OF GEORGIA

1021 _____)

1022 **Plaintiff:**)

1023 _____)

1024 Name)

1025 _____)

1026 **Plaintiff's contact information:**)

1027 _____)

1028 Name)

1029 _____) **Civil Action File No.** _____

1030 Street Address)

1031 _____)

1032 City State ZIP Code)

1033 _____)

1034 E-mail Address)

1035 _____)

1036 Phone Number)

1037 _____)

1038 Bar Number)

1039 _____)

1040 **v.**)

1041 _____)

1042 **Defendant:**) **Garnishment Court information:**

1043 _____) _____

1044 Name) Street Address

1045 _____) _____, Georgia
 1046 Street Address) City ZIP Code
 1047 _____) _____
 1048 City State ZIP Code) Phone Number
 1049 _____)
 1050 **Garnishee:**)
 1051 _____)
 1052 Name)
 1053 _____)
 1054 Street Address)
 1055 _____)
 1056 City State ZIP Code)

1057 **SUMMONS OF GARNISHMENT**

1058 **Check this box if this is a garnishment for child support or alimony. If this is**
 1059 **intended to be a continuing garnishment for support, use the form set forth in**
 1060 **O.C.G.A. § 18-4-80.**

1061 **TO THE ABOVE-NAMED GARNISHEE:**

1062 Total amount claimed due by the Plaintiff \$ _____
 1063 Plus court costs due on this summons \$ _____
 1064 Total garnishment claim \$ _____

1065 **COURT OF JUDGMENT** _____

1066 **JUDGMENT CASE NO.** _____

1067 **YOU ARE HEREBY COMMANDED** to immediately hold all money, including wages,
 1068 and other property, except what is known to be exempt, including property in safe-deposit
 1069 boxes or similar property that you hold, belonging to the Defendant or obligations owed
 1070 to the Defendant named above beginning on the day of service of this summons and
 1071 including the next 29 days. You are **FURTHER COMMANDED** to file your answer, in
 1072 writing, not sooner than 30 days and not later than 45 days from the date you were served
 1073 with this summons, with the Clerk of this Court and serve a copy of your answer upon the
 1074 Plaintiff or Plaintiff's Attorney named above and the Defendant named above, or the
 1075 Defendant's Attorney, if known, at the time of making such answer. Your answer shall
 1076 state what money, including wages, or other property, except what is known to be exempt,
 1077 belonging to the Defendant or obligations owed to the Defendant you hold beginning on
 1078 the day of service of this summons and including the next 29 days. Money, including

1079 wages, or other property admitted in an answer to be subject to garnishment must be paid
1080 or delivered to the Court concurrently with your answer.

1081 If, in answering this summons, you state that the property of the Defendant includes
1082 property in a safe-deposit box or similar property, you shall answer to the Court issuing this
1083 summons as to the existence of such safe-deposit box or similar property and shall restrict
1084 access to any contents of such safe-deposit box or similar property until further order of
1085 such Court regarding the disposition of such contents or 120 days from the date of filing
1086 your answer to this summons unless such time has been extended by the Court, whichever
1087 is sooner.

1088 Should you fail to file a Garnishee Answer as required by this summons, a judgment by
1089 default will be rendered against you for the amount remaining due on a judgment as shown
1090 in the Plaintiff's Affidavit of Garnishment.

1091 WITNESS, the Honorable _____, Judge of said Court.

1092 This _____ day of _____, 20_____.

1093 _____, Clerk of Court

1094 By: _____

1095 Deputy Clerk, _____ Court'

1096 18-4-75.

1097 'IN THE COURT OF _____ COUNTY
1098 STATE OF GEORGIA

1099)	
1100	_____)	
1101	<u>Plaintiff</u>)	
1102)	
1103	<u>v.</u>)	<u>Civil Action File No.</u> _____
1104)	
1105	_____)	
1106	<u>Defendant</u>)	
1107)	
1108	_____)	
1109	<u>Garnishee</u>)	

1110

ATTACHMENT FOR SUMMONS OF GARNISHMENT

1111

Other known names of the Defendant:

1112

1113

1114

1115

Current and past addresses of the Defendant:

1116

1117

1118

1119

Social security number or federal tax identification number of the Defendant:

1120

1121

1122

1123

THIS PLEADING SHALL NOT BE FILED WITH THE COURT'

1124

18-4-76.

1125

'IN THE COURT OF COUNTY

1126

STATE OF GEORGIA

1127

)

1128

Plaintiff:

)

1129

)

1130

Name

)

1131

)

1132

Plaintiff's contact information:

)

1133

)

1134

Name

)

1135

)

Civil Action File No.

1136

Street Address

)

1137

)

1138

City State ZIP Code

)

1139

)

1140

E-mail Address

)

1141

)

1142

Phone Number

)

1143

)

1144

Bar Number

)

1145)
 1146 **v.**)
 1147)
 1148 **Defendant:**) **Garnishment Court information:**
 1149 _____) _____
 1150 Name) Street Address
 1151 _____) _____, Georgia
 1152 Street Address) City ZIP Code
 1153 _____) _____
 1154 City State ZIP Code) Phone Number
 1155)
 1156 **Garnishee:**)
 1157 _____)
 1158 Name)
 1159 _____)
 1160 Street Address)
 1161 _____)
 1162 City State ZIP Code)

SUMMONS OF GARNISHMENT ON A FINANCIAL INSTITUTION

**DO NOT USE THIS FORM IF THIS IS A CONTINUING GARNISHMENT
(SEE O.C.G.A. §§ 18-4-72 and 18-4-78) OR CONTINUING GARNISHMENT FOR
CHILD SUPPORT OR ALIMONY (SEE O.C.G.A. §§ 18-4-73 and 18-4-80).**

**Check this box if other allegations are made against a nonjudgment Defendant
pursuant to O.C.G.A. § 18-4-23.**

Check this box if this is a garnishment for child support or alimony.

TO THE ABOVE-NAMED GARNISHEE:

1171 Total amount claimed due by the Plaintiff \$ _____
 1172 Plus court costs due on this summons \$ _____
 1173 Total garnishment claim \$ _____

COURT OF JUDGMENT

JUDGMENT CASE NO.

1176 **YOU ARE HEREBY COMMANDED** to immediately hold all money, including wages,
 1177 and other property, except what is known to be exempt, including property in safe-deposit
 1178 boxes or similar property that you hold, belonging to the Defendant named above
 1179 beginning on the day of service of this summons and including the next 24 hours. You are
 1180 **FURTHER COMMANDED** to file your answer, in writing, not sooner than one day and
 1181 not later than ten days from the date you were served with this summons, with the Clerk
 1182 of this Court and serve a copy of your answer upon the Plaintiff or Plaintiff's Attorney
 1183 named above and the Defendant named above, or the Defendant's Attorney, if known, at
 1184 the time of making such answer. Your answer shall state what money, including wages,
 1185 or other property, except what is known to be exempt, belonging to the Defendant you hold
 1186 beginning on the day of service of this summons and including the next 24 hours. Money,
 1187 including wages, or other property admitted in an answer to be subject to garnishment must
 1188 be paid or delivered to the Court concurrently with your answer.

1189 If, in answering this summons, you state that the property of the Defendant includes
 1190 property in a safe-deposit box or similar property, you shall answer to the Court issuing this
 1191 summons as to the existence of such safe-deposit box or similar property and shall restrict
 1192 access to any contents of such safe-deposit box or similar property until further order of
 1193 such Court regarding the disposition of such contents or 120 days from the date of filing
 1194 your answer to this summons unless such time has been extended by the Court, whichever
 1195 is sooner.

1196 Should you fail to file a Garnishee Answer as required by this summons, a judgment by
 1197 default will be rendered against you for the amount remaining due on the judgment as
 1198 shown in the Plaintiff's Affidavit of Garnishment.

1199 WITNESS, the Honorable _____, Judge of said Court.

1200 This _____ day of _____, 20_____.

1201 _____, Clerk of Court

1202 By: _____

1203 Deputy Clerk, _____ Court'

1204 18-4-77.

1205 IN THE COURT OF COUNTY

1206 STATE OF GEORGIA

1207)

1208)

1209 Plaintiff)

1210)

1211 v.) Civil Action File No.

1212)

1213)

1214 Defendant)

1215)

1216)

1217 Garnishee)

1218 ATTACHMENT FOR SUMMONS OF GARNISHMENT

1219 ON A FINANCIAL INSTITUTION

1220 Other known names of the Defendant:

1221 _____

1222 _____

1223 _____

1224 Current and past addresses of the Defendant:

1225 _____

1226 _____

1227 _____

1228 Social security number or federal tax identification number of the Defendant:

1229 _____

1230 _____

1231 _____

1232 Account or identification numbers of accounts of the Defendant used by the Garnishee:

1233 _____

1234 _____

1235 _____

1236 Other allegations pursuant to O.C.G.A. § 18-4-23:

1237 _____

1238 _____

1239 _____

THIS PLEADING SHALL NOT BE FILED WITH THE COURT'

18-4-78.

'IN THE COURT OF COUNTY

STATE OF GEORGIA

Plaintiff:

Name

Plaintiff's contact information:

Name

Street Address

City State ZIP Code

E-mail Address

Phone Number

Bar Number

v.

Defendant:

Name

Street Address

City State ZIP Code

Garnishee:

Name

Street Address

City State ZIP Code

Civil Action File No. _____

Garnishment Court information:

Street Address

_____, Georgia

City ZIP Code

Phone Number

1280

SUMMONS OF CONTINUING GARNISHMENT

1281

TO THE ABOVE-NAMED GARNISHEE:

1282

Total amount claimed due by the Plaintiff \$ _____

1283

Plus court costs due on this summons \$ _____

1284

Total garnishment claim \$ _____

1285

COURT OF JUDGMENT

1286

JUDGMENT CASE NO.

1287

YOU ARE HEREBY COMMANDED to immediately hold all money, including wages, and other property, except what is known to be exempt, belonging to the Defendant or obligations owed to the Defendant named above beginning on the day of service of this summons and including the next 179 days. You are **FURTHER COMMANDED** to file your answer, in writing, not later than 45 days from the date you were served with this summons, with the Clerk of this Court and serve a copy of your answer upon the Plaintiff or Plaintiff's Attorney named above and the Defendant named above, or the Defendant's Attorney, if known, at the time of making such answer. Your answer shall state what money, including wages, or other property, except what is known to be exempt, belonging to the Defendant or obligations owed to the Defendant you hold or owe beginning on the day of service of this summons and between the time of such service and the time of making your first answer. Thereafter, you are required to file further answers no later than 45 days after your last answer. Every further answer shall state what money, including wages, and other property, except what is known to be exempt, belonging to the Defendant or obligations owed to the Defendant you hold or owe at and from the time of the last answer to the time of the current answer. The last answer required by this summons shall be filed no later than the 195th day after you receive this summons. Money, including wages, or other property admitted in an answer to be subject to continuing garnishment must be paid or delivered to the Court concurrently with each answer.

1306

Should you fail to file Garnishee Answers as required by this summons, a judgment by default will be rendered against you for the amount remaining due on a judgment as shown in the Plaintiff's Affidavit of Continuing Garnishment.

1309

WITNESS, the Honorable _____, Judge of said Court.

1310

This _____ day of _____, 20_____.

1311 _____, Clerk of Court

1312 By: _____

1313 Deputy Clerk, _____ Court'

1314 18-4-79.

1315 **'IN THE COURT OF COUNTY**

1316 **STATE OF GEORGIA**

1317 _____)

1318 _____)

1319 **Plaintiff**)

1320 _____)

1321 **v.**) **Civil Action File No.** _____

1322 _____)

1323 _____)

1324 **Defendant**)

1325 _____)

1326 _____)

1327 **Garnishee**)

1328 **ATTACHMENT FOR SUMMONS**

1329 **OF CONTINUING GARNISHMENT**

1330 Other known names of the Defendant:

1331 _____

1332 _____

1333 _____

1334 Current and past addresses of the Defendant:

1335 _____

1336 _____

1337 _____

1338 Social security number or federal tax identification number of the Defendant:

1339 _____

1340 _____

1341 _____

THIS PLEADING SHALL NOT BE FILED WITH THE COURT'

18-4-80.

'IN THE COURT OF COUNTY

STATE OF GEORGIA

Plaintiff:

Name

Plaintiff's contact information:

Name

Street Address

City State ZIP Code

E-mail Address

Phone Number

Bar Number

v.

Defendant:

Name

Street Address

City State ZIP Code

Garnishee:

Name

Street Address

City State ZIP Code

Civil Action File No. _____

Garnishment Court information:

Street Address

_____, Georgia
City ZIP Code

Phone Number

SUMMONS OF CONTINUING GARNISHMENT FOR SUPPORT
GOVERNED BY ARTICLE 3 OF CHAPTER 4 OF TITLE 18

TO THE ABOVE-NAMED GARNISHEE:

Total amount claimed due by the Plaintiff	\$ _____
Plus court costs due on this summons	\$ _____
Total garnishment claim	\$ _____

COURT OF JUDGMENT

JUDGMENT CASE NO.

YOU ARE HEREBY COMMANDED to immediately hold all money, including wages, and other property, except what is known to be exempt, belonging to the Defendant or obligations owed to the Defendant named above beginning on the day of service of this summons until the original arrearage is retired and all periodic support payments are current or until the termination of the garnishment. You are **FURTHER COMMANDED** to file your answer, in writing, not later than 45 days from the date you were served with this summons, with the Clerk of this Court and serve a copy of your answer upon the Plaintiff or Plaintiff's Attorney named above and the Defendant named above, or the Defendant's Attorney, if known, at the time of making such answer. Your answer shall state what money, including wages, or other property, except what is known to be exempt, belonging to the Defendant or obligations owed to the Defendant you hold or owe beginning on the day of service of this summons and between the time of such service and the time of making your first answer. Thereafter, you are required to file further answers no later than 45 days after your last answer. Every further answer shall state what money, including wages, and other property, except what is known to be exempt, belonging to the Defendant or obligations owed to the Defendant you hold or owe at and from the time of the last answer to the time of the current answer. **YOU MUST FILE ADDITIONAL ANSWERS UNTIL THE ORIGINAL ARREARAGE IS RETIRED AND ALL PERIODIC SUPPORT PAYMENTS ARE CURRENT.** Money, including wages, or other property admitted in an answer to be subject to continuing garnishment must be paid or delivered to the Court concurrently with each answer. The Plaintiff and the Defendant are required by law to serve you with a copy of any amendment or modification to the original judgment.

1413 Should you fail to file Garnishee Answers as required by this summons, a judgment by
1414 default will be rendered against you for the amount remaining due on a judgment as shown
1415 in the Plaintiff's Affidavit of Continuing Garnishment.

1416 WITNESS, the Honorable _____, Judge of said Court.

1417 This _____ day of _____, 20_____.

1418 _____, Clerk of Court

1419 By: _____

1420 Deputy Clerk, _____ Court'

1421 18-4-81.

1422 'IN THE COURT OF COUNTY

1423 STATE OF GEORGIA

1424 _____)

1425 _____)

1426 **Plaintiff**)

1427 _____)

1428 **v.**) **Civil Action File No.** _____

1429 _____)

1430 _____)

1431 **Defendant**)

1432 _____)

1433 _____)

1434 **Garnishee**)

1435 **ATTACHMENT FOR SUMMONS OF**
1436 **CONTINUING GARNISHMENT FOR SUPPORT**

1437 Other known names of the Defendant:

1438 _____

1439 _____

1440 _____

1441 Current and past addresses of the Defendant:

1442 _____

1443 _____

1444 _____

1445 Social security number or federal tax identification number of the Defendant:
 1446 _____
 1447 _____
 1448 _____

1449 **THIS PLEADING SHALL NOT BE FILED WITH THE COURT'**

1450 18-4-82.

1451 **'IN THE COURT OF COUNTY**
 1452 **STATE OF GEORGIA**

1453 _____)

1454 **Plaintiff:**)

1455 _____)

1456 Name)

1457 _____)

1458 **Plaintiff's contact information:**)

1459 _____)

1460 Name)

1461 _____)

1462 Street Address)

1463 _____)

1464 City State ZIP Code)

1465 _____)

1466 E-mail Address)

1467 _____)

1468 Phone Number)

1469 _____)

1470 Bar Number)

1471 _____)

1472 v.)

1473 _____)

1474 **Defendant:**)

1475 _____)

1476 Name)

1477 _____)

1478 Street Address)

1479 _____)

1480 City State ZIP Code)

1481 _____)

Civil Action File No. _____

1482 **Garnishee:**)
 1483 _____)
 1484 Name)
 1485 _____)
 1486 Street Address)
 1487 _____)
 1488 City State ZIP Code)

1489 **NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT**
 1490 **OF MONEY, INCLUDING WAGES, AND OTHER PROPERTY**

1491 You received this notice because money, including wages, and other property belonging
 1492 to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY
 1493 BE ABLE TO KEEP YOUR MONEY, INCLUDING WAGES, OR OTHER PROPERTY.
 1494 **READ THIS NOTICE CAREFULLY.**

1495 State and federal law protects some money, including wages, from garnishment even if it
 1496 is in a bank. Some common exemptions are benefits from social security, supplemental
 1497 security income, unemployment, workers' compensation, the Veterans' Administration,
 1498 state pension, retirement funds, and disability income. This list of exemptions does not
 1499 include all possible exemptions. A more detailed list of exemptions is available at the
 1500 Clerk of Court's office located at _____ (Name of Court),
 1501 _____ (Address), _____ (City), Georgia
 1502 _____ (ZIP Code), and on the website for the Attorney General (www.law.ga.gov).

1503 Garnishment of your earnings from your employment is limited to the lesser of 25 percent
 1504 of your disposable earnings for a week or the amount by which your disposable earnings
 1505 for a week exceed \$217.00. More than 25 percent of your disposable earnings may be
 1506 taken from your earnings for the payment of child support or alimony or if a Chapter 13
 1507 bankruptcy allows a higher amount.

1508 **TO PROTECT YOUR MONEY, INCLUDING WAGES, AND OTHER PROPERTY**
 1509 **FROM BEING GARNISHED, YOU MUST:**

- 1510 1. Complete the Defendant's Claim Form as set forth below; and
- 1511 2. File this completed claim form with the Clerk of Court's office located at
 1512 _____ (Name of Court), _____ (Address),
 1513 _____ (City), Georgia _____ (ZIP Code).

1514 FILE YOUR COMPLETED CLAIM FORM AS SOON AS POSSIBLE. You may lose
 1515 your right to claim an exemption if you do not file your claim form within 20 days after the
 1516 Garnishee's Answer is filed or if you do not mail or deliver a copy of your completed claim
 1517 form to the Plaintiff and the Garnishee at the addresses listed on this notice.

1518 The Court will schedule a hearing within ten days from when it receives your claim form.
 1519 The Court will mail you the time and date of the hearing at the address that you provide on
 1520 your claim form. You may go to the hearing with or without an attorney. You will need
 1521 to give the Court documents or other proof that your money is exempt.

1522 The Clerk of Court cannot give you legal advice. IF YOU NEED LEGAL ASSISTANCE,
 1523 YOU SHOULD SEE AN ATTORNEY. If you cannot afford a private attorney, legal
 1524 services may be available.

1525 DEFENDANT'S CLAIM FORM

1526 **I CLAIM EXEMPTION from garnishment. Some of my money or property held by**
 1527 **the garnishee is exempt because it is: (check all that apply)**

- 1528 1. Social security benefits.
- 1529 2. Supplemental security income benefits.
- 1530 3. Unemployment benefits.
- 1531 4. Workers' compensation.
- 1532 5. Veterans' benefits.
- 1533 6. State pension benefits.
- 1534 7. Disability income benefits.
- 1535 8. Money that belongs to a joint account holder.
- 1536 9. Child support or alimony.
- 1537 10. Exempt wages, retirement, or pension benefits.
- 1538 11. Other exemptions as provided by law.

1539 Explain: _____

1541 **I further state: (check all that apply)**

- 1542 1. The Plaintiff does not have a judgment against me.
- 1543 2. The amount shown due on the Plaintiff's Affidavit of Garnishment is incorrect.
- 1544 3. The Plaintiff's Affidavit of Garnishment is untrue or legally insufficient.

1545 Send the notice of the hearing on my claim to me at:
 1546 Address: _____
 1547 Phone Number: _____
 1548 E-mail Address: _____

1549 The statements made in this claim form are true to the best of my knowledge and belief.

1550 _____, 20____
 1551 Defendant's signature Date
 1552 _____
 1553 Print name of Defendant

1554 **CERTIFICATE OF SERVICE**

1555 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the
 1556 Garnishee in the foregoing matter with a copy of this pleading by depositing it in the
 1557 United States Mail in a properly addressed envelope with adequate postage thereon.

1558 This _____ day of _____, 20____.

1559 _____
 1560 Defendant or Defendant's Attorney'

1561 18-4-83.

1562 **'IN THE COURT OF COUNTY**
 1563 **STATE OF GEORGIA**

1564 _____)
 1565 _____)
 1566 **Plaintiff**)
 1567 _____)
 1568 **v.**) **Civil Action File No.** _____
 1569 _____)
 1570 _____)
 1571 **Defendant**)
 1572 _____)
 1573 _____)
 1574 **Garnishee**)

1575

ORDER FOR HEARING ON DEFENDANT'S CLAIM

1576

It is hereby ordered that a hearing be held upon the Defendant's claim before this court on

1577

the _____ day of _____, 20____, at _____ : ____ . M., and that the Clerk of Court shall

1578

transmit a copy of the Defendant's Claim Form and this order to the Plaintiff, the

1579

Defendant, and the Garnishee.

1580

This _____ day of _____, 20____.

1581

Judge,

1582

1583

Court of _____ County

1584

CERTIFICATE OF SERVICE

1585

This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney, the

1586

Defendant, and the Garnishee in the foregoing matter with a copy of this pleading by

1587

depositing it in the United States Mail in a properly addressed envelope with adequate

1588

postage thereon.

1589

This _____ day of _____, 20____.

1590

Deputy Clerk of Court'

1591

1592

18-4-84.

1593

'IN THE COURT OF _____ COUNTY

1594

STATE OF GEORGIA

1595

)

1596

)

1597

Plaintiff

)

1598

)

1599

v.) **Civil Action File No.** _____

1600

)

1601

)

1602

Defendant

)

1603

)

1604

)

1605

Garnishee

)

1606

GARNISHEE ANSWER

1607

1. At the time of service or from the time of service to the time of this Garnishee Answer, the Garnishee had in its possession the following described property of the Defendant:

1608

1609

1610

1611

1612

1613

2. At the time of service or from the time of service to the time of this Garnishee Answer, all obligations accruing from the Garnishee to the Defendant are in the amount of \$ _____.

1614

1615

1616

3. \$ _____ is the amount herewith paid into court.

1617

4. The Garnishee further states: _____.

1618

1619

1620

1621

Garnishee,
Garnishee's Attorney, or
officer or employee of an entity Garnishee

1622

CERTIFICATE OF SERVICE

1623

1624

1625

1626

This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by depositing it in the United States Mail in a properly addressed envelope with adequate postage thereon.

1627

This _____ day of _____, 20 _____.

1628

1629

1630

1631

Garnishee,
Garnishee's Attorney, or
officer or employee of an entity Garnishee'

1632

18-4-85.

1633

'IN THE COURT OF COUNTY

1634

STATE OF GEORGIA

1635

)

1636

)

1637

Plaintiff

)

1638)
 1639 **v.**) **Civil Action File No.** _____
 1640)
 1641 _____)
 1642 **Defendant**)
 1643)
 1644 _____)
 1645 **Garnishee**

FINANCIAL INSTITUTION GARNISHEE ANSWER

1. At the time of service of the Summons of Garnishment on a Financial Institution and including the next 24 hours, the Garnishee had in its possession the following described money and property of the Defendant:

2. \$ _____ is the amount herewith paid into court.

3. **Check this box if the Defendant is not presently an account holder of the Garnishee.**

4. The Garnishee further states: _____.

 Garnishee,
 Garnishee's Attorney, or
 officer or employee of an entity Garnishee

CERTIFICATE OF SERVICE

This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by depositing it in the United States Mail in a properly addressed envelope with adequate postage thereon.

This _____ day of _____, 20__.

Garnishee,

1669
1670

Garnishee's Attorney, or
officer or employee of an entity Garnishee'

1671

18-4-86.

1672

'IN THE COURT OF COUNTY

1673

STATE OF GEORGIA

1674

)

1675

)

1676

Plaintiff

)

1677

)

1678

v.

)

Civil Action File No.

1679

)

1680

)

1681

Defendant

)

1682

)

1683

)

1684

Garnishee

)

1685

GARNISHEE ANSWER TO CONTINUING GARNISHMENT

1686

1. From the time of service of the Summons of Continuing Garnishment, if this is the first Garnishee Answer to such summons, otherwise from the time of the last Garnishee Answer to the Summons of Continuing Garnishment until the time of this Garnishee Answer, the Garnishee had in the Garnishee's possession the following described property of the Defendant:

1691

1692

1693

1694

2. From the time of service of the Summons of Continuing Garnishment, if this is the first Garnishee Answer to such summons, otherwise from the time of the last Garnishee Answer to the Summons of Continuing Garnishment until the time of this Garnishee Answer, all obligations accruing from the Garnishee to the Defendant are in the amount of \$ _____.

1699

3. \$ _____ of the amount named in paragraph 2 were wages earned at the rate of \$ _____ per _____ for the period beginning _____, 20 _____, _____ Date

1702

through the time of making this Garnishee Answer. The amount of wages which is subject to this garnishment is computed as follows:

1703

\$ _____ Gross earnings

1704

1705 \$ _____ Total social security and withholding tax and other mandatory deductions
1706 required by law

1707 \$ _____ Total disposable earnings

1708 \$ _____ Amount of wages subject to garnishment.

1709 4. \$ _____ is the amount herewith paid into court.

1710 **5. Check this box if the Defendant is not presently employed by the Garnishee.**

1711 **6. Check this box if the Defendant was employed by the Garnishee on or after**
1712 **service of the Summons of Continuing Garnishment but was terminated as of**

1713 _____, 20____.

1714 **Date**

1715 **7. Check this box if this is the last Garnishee Answer this Garnishee is required**
1716 **to file to the presently pending Summons of Garnishment in the above-styled case.**

1717 8. The Garnishee further states: _____.

1718 _____
1719 Garnishee,
1720 Garnishee's Attorney, or
1721 officer or employee of an entity Garnishee

1722 **CERTIFICATE OF SERVICE**

1723 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the
1724 Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by
1725 depositing it in the United States Mail in a properly addressed envelope with adequate
1726 postage thereon.

1727 This _____ day of _____, 20____.

1728 _____
1729 Garnishee,
1730 Garnishee's Attorney, or
1731 officer or employee of an entity Garnishee'

1732 18-4-87.

1733 **'IN THE COURT OF COUNTY**

1734 **STATE OF GEORGIA**

1735 _____)

1736 _____)

1737 **Plaintiff**)

1738 _____)

1739	v.)	Civil Action File No. _____
1740)	
1741)	
1742	<u>Defendant</u>)	
1743)	
1744)	
1745	<u>Garnishee</u>)	

1746 **PLAINTIFF'S TRAVERSE**

1747 Now comes the Plaintiff in the above-styled case and traverses the Garnishee Answer by
 1748 saying the same is untrue or legally insufficient. The Plaintiff further states:
 1749 _____
 1750 _____.

1751 _____
 1752 Plaintiff or Plaintiff's Attorney

1753 **CERTIFICATE OF SERVICE**

1754 This is to certify that I have this day served the Defendant and the Garnishee in the
 1755 foregoing matter with a copy of this pleading by depositing it in the United States Mail in
 1756 a properly addressed envelope with adequate postage thereon.

1757 This _____ day of _____, 20__.

1758 _____
 1759 Plaintiff or Plaintiff's Attorney'

1760 18-4-88.

1761 **'IN THE COURT OF COUNTY**
 1762 **STATE OF GEORGIA**

1763)	
1764)	
1765	<u>Plaintiff</u>)	
1766)	
1767	v.)	Civil Action File No. _____
1768)	

1769 _____)
 1770 **Defendant**)
 1771)
 1772 _____)
 1773 **Garnishee**)

1774 **THIRD-PARTY CLAIM**

1775 Personally appeared _____, who on oath says that he or she
 1776 (Print name)

1777 has a claim superior to that of the Plaintiff to the money or other property in the hands of
 1778 the Garnishee subject to the process of garnishment.

1779 The Affiant further states: (check applicable box and complete the information requested)

1780 The Affiant obtained a judgment against the Defendant in the _____ Court of
 1781 _____ County, _____, in Case Number _____
 1782 _____ State

1783 on _____, and the unpaid balance of such judgment is in the amount of
 1784 Date
 1785 \$ _____.

1786 _____ or

1787 The basis of the Affiant's claim is _____
 1788 _____.

1789 This _____ day of _____, 20 _____.

1790 _____
 1791 _____ Affiant

1792 _____
 1793 _____ Print name of Affiant

1794 Sworn to and subscribed before me this _____ day
 1795 of _____, 20 _____.

1796 _____
 1797 Notary Public or Deputy Clerk of Court

1798 **CERTIFICATE OF SERVICE**

1799 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney, the
 1800 Defendant, and the Garnishee in the foregoing matter with a copy of this pleading by

1801 depositing it in the United States Mail in a properly addressed envelope with adequate
1802 postage thereon.

1803 This _____ day of _____, 20__.

1804 _____
1805 Third-party Claimant or Third-party Claimant's Attorney'

1806 18-4-89.

1807 'IN THE COURT OF _____ COUNTY
1808 STATE OF GEORGIA

1809)	
1810	_____)	
1811	<u>Plaintiff</u>)	
1812)	
1813	<u>v.</u>)	<u>Civil Action File No.</u> _____
1814)	
1815	_____)	
1816	<u>Defendant</u>)	
1817)	
1818	_____)	
1819	<u>Garnishee</u>)	

1820 **RELEASE OF GARNISHMENT**

1821 To: _____
1822 Garnishee

1823 This is to notify you that you have been released from filing a Garnishee Answer to any
1824 and all Summons of Garnishment or Summons of Continuing Garnishment pending as of
1825 this date in the above-styled case.

1826 This release authorizes you to pay or deliver to the Defendant in garnishment any money
1827 or other property in your possession belonging to the Defendant.

1828 This release does not terminate the garnishment proceedings, nor does this release relieve
1829 you of any obligation placed on you by the service of a Summons of Garnishment
1830 subsequent to this date.

1831 This day of _____, 20 .

1832 _____
1833 Clerk,
1834 _____ Court of _____ County

1835 **CERTIFICATE OF SERVICE**

1836 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney, the
1837 Defendant, and the Garnishee in the foregoing matter with a copy of this pleading by
1838 depositing it in the United States Mail in a properly addressed envelope with adequate
1839 postage thereon.

1840 This day of _____, 20 .

1841 _____
1842 Deputy Clerk of Court"

1843 **SECTION 3.**

1844 Code Section 44-7-50 of the Official Code of Georgia Annotated, relating to demand for
1845 possession, is amended by revising subsection (a) as follows:

1846 "(a) In all cases where a tenant holds possession of lands or tenements over and beyond
1847 the term for which they were rented or leased to the tenant or fails to pay the rent when it
1848 becomes due and in all cases where lands or tenements are held and occupied by any tenant
1849 at will or sufferance, whether under contract of rent or not, when the owner of the lands or
1850 tenements desires possession of the lands or tenements, the owner may, individually or by
1851 an agent, attorney in fact, or attorney at law, demand the possession of the property so
1852 rented, leased, held, or occupied. If the tenant refuses or fails to deliver possession when
1853 so demanded, the owner or the agent, attorney at law, or attorney in fact of the owner may
1854 immediately go before the judge of the superior court, the judge of the state court, or the
1855 clerk or deputy clerk of either court, or the judge or the clerk or deputy clerk of any other
1856 court with jurisdiction over the subject matter, or a magistrate in the district where the land
1857 lies and make an affidavit under oath to the facts. The affidavit may likewise be made
1858 before a notary public, subject to the same requirements for judicial approval specified in
1859 Code Section ~~18-4-61~~, relating to garnishment affidavits 18-4-3."

1860

SECTION 4.

1861

Code Section 53-12-80 of the Official Code of Georgia Annotated, relating to spendthrift provisions, is amended by revising subsection (d) as follows:

1862

1863

1864

1865

1866

"(d) A spendthrift provision shall not be valid as to the following claims against a beneficiary's right to a current distribution to the extent the distribution would be subject to garnishment under Article 2 1 of Chapter 4 of Title 18 if the distribution were disposable earnings:

1867

(1) Alimony or child support;

1868

(2) Taxes or other governmental claims;

1869

(3) Tort judgments;

1870

(4) Judgments or orders for restitution as a result of a criminal conviction of the beneficiary; or

1871

1872

(5) Judgments for necessities.

1873

1874

1875

The ability of a creditor or assignee to reach a beneficiary's interest under this subsection shall not apply to the extent that it would disqualify the trust as a special needs trust established pursuant to 42 U.S.C. Sections 1396p(d)(4)(A) or 1396p(d)(4)(C)."

1876

SECTION 5.

1877

1878

This Act shall become effective 30 days after its approval by the Governor or 30 days after its becoming law without such approval.

1879

SECTION 6.

1880

All laws and parts of laws in conflict with this Act are repealed.