

Senate Bill 255

By: Senators Stone of the 23rd, Bethel of the 54th, Millar of the 40th, Albers of the 56th, Ligon, Jr. of the 3rd and others

AS PASSED

**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:

17 **SECTION 1.**

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

21 "CHAPTER 4

22 ARTICLE 1

23 18-4-1.

24 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 five days;

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 five days and not later
277 than 15 days after the date of service of the summons, and the money or other property
278 subject to garnishment shall be paid to or delivered to the court concurrently with such
279 garnishee's answer. If the defendant does not have an active account with and is not the
280 owner of any money or other property in the possession of such financial institution, then
281 the garnishee may immediately file the garnishee's answer; provided, however, that such
282 garnishee's answer shall be filed not later than 15 days after the date of service of the
283 summons.

284 18-4-11.

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

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

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

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

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

303 (d) If the garnishee is unable to respond with the specific information required by this
304 Code section, the garnishee's inability shall be stated in the garnishee's answer, together

305 with all the facts plainly, fully, and distinctly set forth, so as to enable the court to give
306 judgment thereon.

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

309 18-4-12.

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

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

318 18-4-13.

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

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

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

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

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

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

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

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

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

336 (i) Defendant's attorney; or

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

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

341 (d) The garnishee shall provide the defendant, by regular mail at the defendant's last
342 address known to the garnishee, with the Notice to Defendant of Right Against
343 Garnishment of Money, Including Wages, and Other Property and the Defendant's Claim
344 Form that it received from the plaintiff as set forth in subsection (a) of Code Section
345 18-4-8.

346 18-4-14.

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

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

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

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

366 18-4-15.

367 (a) A garnishment proceeding is an action between the plaintiff and garnishee; provided,
368 however, that at any time before a judgment is entered or before money or other property
369 subject to garnishment is distributed, the defendant may become a party to the garnishment
370 by filing a claim with the clerk of court and may use the form set forth in Code Section
371 18-4-82. A defendant's claim shall assert the basis upon which he or she claims that his or
372 her money or other property is exempt from garnishment. Money or other property may

373 be exempt from garnishment for a variety of reasons, including, but not limited to, the
374 limitations on garnishment as provided in Code Sections 18-4-5 and 18-4-53, exemptions
375 as provided in Code Section 18-4-6, the plaintiff not having a judgment against the
376 defendant, the amount claimed due by the plaintiff being erroneous, such money or other
377 property being subject to a claim held by a third party that is superior to the judgment
378 described in the affidavit of garnishment, or other legal or statutory defenses. Even when
379 earnings are held at a financial institution, such money may be exempt from garnishment
380 due to the limitations on garnishment as provided in Code Sections 18-4-5 and 18-4-53,
381 exemptions as provided in Code Section 18-4-6, or other reasons.

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

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

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

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

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

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

408 18-4-16.

409 Within 20 days after the plaintiff has been served with the garnishee's answer, the plaintiff
410 may file a traverse stating that the garnishee's answer is untrue or legally insufficient. Such
411 statement places in issue all questions of law and fact concerning the garnishee's answer.
412 The form for a plaintiff's traverse is set forth in Code Section 18-4-87.

413 18-4-17.

414 At any time before judgment is entered on the garnishee's answer or money or other
415 property subject to garnishment is distributed, any person may file a third-party claim in
416 writing under oath stating that he or she has a claim superior to that of the plaintiff to the
417 money or other property in the hands of the garnishee subject to the process of
418 garnishment, and the third-party claimant shall be a party to all further proceedings upon
419 the garnishment. A third-party claimant shall serve his or her claim upon the plaintiff,
420 defendant, and garnishee. The form for a third-party claim is set forth in Code Section
421 18-4-88.

422 18-4-18.

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

432 18-4-19.

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

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

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

443 (1) That the plaintiff does not have a judgment against the defendant or that the plaintiff's
444 affidavit of garnishment is untrue or is legally insufficient, the garnishment case shall be
445 dismissed by the court, and any money or other property belonging to the defendant in
446 the possession of the court shall be restored to the defendant unless another claim or
447 traverse thereto has been filed;

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

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

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

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

470 18-4-20.

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

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

477 (2) If property is delivered to the court by the garnishee, the sheriff, marshal, constable,
478 or like officer of the court shall sell the property in the manner provided by law for the
479 sale of property levied under an execution, and the garnishee shall be automatically
480 discharged from further liability with respect to the summons of garnishment so
481 answered. The proceeds of such sale shall be paid or delivered to the plaintiff or the
482 plaintiff's attorney upon application; or

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

486 18-4-21.

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

495 18-4-22.

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

504 18-4-23.

505 (a) A garnishee may be relieved from liability for failure to file a garnishee answer if the
506 plaintiff failed to provide the information required by paragraph (2) of subsection (b) of
507 Code Section 18-4-7 that would reasonably enable the garnishee to respond properly to the
508 summons of garnishment and a good faith effort to locate the requested property was made
509 by the garnishee based on the information provided by the plaintiff. In determining
510 whether a garnishee may be relieved of liability, the court shall consider and compare the

511 accuracy and quantity of the information supplied by the plaintiff pursuant to paragraph (2)
 512 of subsection (b) of Code Section 18-4-7 with the manner in which such garnishee
 513 maintains and locates its records, the compliance by such garnishee with its own
 514 procedures, and the conformity of the record systems and procedures with reasonable
 515 commercial standards prevailing in the area in which such garnishee is located.

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

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

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

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

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

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

548 (C) A garnishee shall not be liable for failure to pay or deliver to the court money or
 549 other property in a fiduciary account that may be subject to garnishment by reason of
 550 the fact that a defendant is a fiduciary of the fiduciary account, unless the summons of
 551 garnishment is against the defendant in the defendant's capacity as a fiduciary of the
 552 fiduciary account or the summons of garnishment alleges that the fiduciary account is
 553 being used by the defendant for an improper or unlawful purpose.

554 18-4-24.

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

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

572 18-4-25.

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

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

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

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

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

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

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

586 (4) The garnishment is dismissed.

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

588 18-4-26.

589 (a) Money due officials or employees of a municipal corporation or county of this state or
 590 of the state government, or any department or institution thereof, as salary for services
 591 performed for or on behalf of the municipal corporation or county of this state or the state,
 592 or any department or institution thereof, shall be subject to garnishment, except that in no
 593 event shall the officials' or employees' salary for services performed for or on behalf of any
 594 municipal corporation or county of this state or the state, or any department or institution
 595 thereof, be garnisheed when the judgment serving as a basis for the issuance of the
 596 summons of garnishment arises out of the liability incurred in the scope of the officials' or
 597 employees' governmental employment while responding to an emergency. In such cases,
 598 the summons of garnishment shall be directed to such political entity and served upon the
 599 person authorized by law to draw the warrant on the treasury of the government or to issue
 600 a check for such salary due, or upon the chief administrative officer of the political
 601 subdivision, department, agency, or instrumentality; and such entity shall be required to
 602 respond to such summons in accordance with the mandate thereof and as provided by this
 603 chapter.

604 (b) For purposes of this Code section only, the state and its political subdivisions,
 605 departments, agencies, and instrumentalities shall be deemed private persons; and
 606 jurisdiction for the purpose of issuing a summons of garnishment shall be restricted to a
 607 court located in the county in which the warrant is drawn on the treasury of the government
 608 or in which the check is issued for the salary due the official or employee of the state or its
 609 political subdivisions, departments, agencies, or instrumentalities.

610 ARTICLE 2

611 18-4-40.

612 (a) In addition to garnishment proceedings otherwise available under this chapter, in all
 613 cases when a money judgment was obtained in a court of this state or a federal court or is
 614 being enforced in this state as provided in Article 5 of Chapter 12 of Title 9, the 'Uniform
 615 Foreign-Country Money Judgments Recognition Act,' or Article 6 of Chapter 12 of Title 9,

616 the 'Uniform Enforcement of Foreign Judgments Law,' a plaintiff shall be entitled to the
 617 process of continuing garnishment against any garnishee who is an employer of the
 618 defendant against whom the judgment has been obtained.

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

621 18-4-41.

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

625 (b) Only one summons of continuing garnishment shall issue on one affidavit of
 626 continuing garnishment.

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

629 (d) The form for an affidavit of continuing garnishment is set forth in Code Section
 630 18-4-72. The form for a summons of continuing garnishment is set forth in Code Section
 631 18-4-78, and the optional attachment thereto is set forth in Code Section 18-4-79.

632 18-4-42.

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

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

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

641 (1) To file a first garnishee answer with the court issuing such summons not sooner than
 642 30 days and not later than 45 days after service of the summons of continuing
 643 garnishment, for the period of time from the date of service through and including the day
 644 of the first garnishee answer;

645 (2) To file subsequent garnishee answers with such court for the remaining period
 646 covered by the summons of continuing garnishment; and

647 (3) To accompany all such garnishee answers with any money subject to continuing
 648 garnishment.

649 (d)(1) Subsequent garnishee answers shall be filed not later than 45 days after the
 650 previous garnishee answer date stating what money of the defendant is subject to

651 continuing garnishment from the previous garnishee answer date through and including
652 the date on which the next garnishee answer is filed.

653 (2) Subsequent garnishee answers shall not be required on a summons of continuing
654 garnishment if the preceding garnishee answer filed states what money of the defendant
655 is subject to continuing garnishment from the previous garnishee answer date to and
656 including the one hundred seventy-ninth day after service of the summons of continuing
657 garnishment.

658 (3) Notwithstanding the other provisions of this subsection, the last garnishee answer
659 shall be filed not later than the one hundred ninety-fifth day after service of the summons
660 of continuing garnishment.

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

665 (f)(1) If the employment relationship between the garnishee and the defendant does not
666 exist at the time of service of the summons of continuing garnishment, the garnishee shall
667 state in the garnishee answer that such relationship does not exist and may immediately
668 file the garnishee's answer; provided, however, that such garnishee's answer shall be filed
669 not later than 45 days after service of the summons of continuing garnishment.

670 (2) When the defendant has been an employee of the garnishee, and if the defendant is
671 no longer employed by the garnishee, the garnishee may immediately file the garnishee's
672 answer; provided, however, that such garnishee's answer shall be filed not later than 45
673 days after service of the summons of continuing garnishment.

674 (3) If the employment relationship between the garnishee and the defendant terminates
675 on or after service of the summons of continuing garnishment, the garnishee shall state
676 in the garnishee answer that such relationship has been terminated, giving the date of
677 termination, and may immediately file the garnishee's answer; provided, however, that
678 such garnishee's answer shall be filed not later than 45 days after service of the summons
679 of continuing garnishment.

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

683 (g) When a garnishee answer is made pursuant to subsection (f) of this Code section, no
684 claim has been filed, and no traverse has been filed within 20 days after such garnishee
685 answer is filed, the garnishee shall be discharged from further liability and obligation in the
686 same manner as set forth under Code Section 18-4-20 for that summons with respect to the

687 period of continuing garnishment remaining after the employment relationship is
 688 terminated.

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

691 18-4-43.

692 (a) When a garnishee fails or refuses to file a garnishee answer at least once every 45 days,
 693 such garnishee shall automatically be in default. The default may be opened as provided
 694 in Code Section 18-4-21. If the case is still in default after the expiration of the period of
 695 15 days, judgment by default may be entered at any time thereafter against such garnishee
 696 for the amount remaining due on the judgment obtained against the defendant as shown in
 697 the plaintiff's affidavit of continuing garnishment.

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

700 ARTICLE 3

701 18-4-50.

702 As used in this article, the term:

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

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

710 (A) In a court of this state;

711 (B) In a court of another state which has been registered pursuant to Code Section
 712 19-11-77 under the 'Uniform Reciprocal Enforcement of Support Act' or as provided
 713 in Article 3 of Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act,' or
 714 Article 6 of Chapter 12 of Title 9, the 'Uniform Enforcement of Foreign Judgments
 715 Law';

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

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

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

722 18-4-51.

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

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

729 18-4-52.

730 (a) In addition to the information required by subsection (a) of Code Sections 18-4-3 and
731 18-4-41, the plaintiff shall attach a certified copy of the judgment to be enforced to the
732 affidavit of continuing garnishment for support and shall state the following in such
733 affidavit:

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

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

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

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

744 (b) Such affidavit may be amended from time to time by subsequent affidavits of any party
745 showing a modification or other amendment to the original judgment being enforced. Such
746 amended or subsequent affidavits shall include a certified copy of any such modification
747 or amendment and shall contain the information required by paragraphs (1) through (4) of
748 subsection (a) of this Code section.

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

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

753 18-4-53.

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

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

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

765 18-4-54.

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

775 (b) If the amount claimed as original arrearage as of the date of the making of the
776 plaintiff's affidavit of continuing garnishment for support is not satisfied by the money
777 payable into court under the initial garnishee answer, after application of the funds as set
778 forth in subsection (a) of this Code section, the garnishee shall file further garnishee
779 answers no later than 45 days after the previous garnishee answer date, stating the earnings
780 accrued and the basis of their accrual and tendering such money accruing in such period.
781 The amounts paid into court pursuant to subsequent garnishee answers, over and above the
782 periodic payment accruing within such period, shall be applied to the original arrearage
783 until the same is retired.

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

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

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

793 18-4-55.

794 The continuing garnishment for support described in this article shall attach for so long as
795 the defendant is employed by the garnishee and shall not terminate until the original
796 arrearage is retired and all support payments are current. The garnishee may rely upon the
797 information as to the termination date of the duty of support of any individual claimed in
798 the affidavit of continuing garnishment for support, the amount of the duty of support to
799 be paid, any sums paid by the defendant between the date of the filing of such affidavit and
800 the date of the initial garnishee answer, and the amount of the original arrearage existing
801 as of the date of such affidavit, unless the defendant files a claim against such affidavit or
802 the garnishee's answer and the court enters any finding otherwise.

803 ARTICLE 4

804 18-4-70.

805 (a) For the purpose of this chapter, the forms contained in this article shall be required to
806 be used; provided, however, that a party may use its own format so long as it contains all
807 of the information in the form. A defendant may use the form provided in Code Section
808 18-4-82 to file a claim or may use the defendant's own pleading. When a case involves
809 more than one plaintiff or defendant or necessitates the inclusion of additional information,
810 the form may be expanded to allow for the information pertaining to all parties and such
811 additional information to be displayed.

812 (b) The certificates of service provided within the forms in this article are included as
813 examples. A party may modify a certificate of service in accordance with the
814 circumstances of the case, including, but not limited to, transmission by e-mail as provided
815 in subsection (b) of Code Section 9-11-5 or by court rule.

816 (c) A court may combine multiple forms.

817 18-4-71.

818 'IN THE COURT OF COUNTY

819 STATE OF GEORGIA

820)

821 **Plaintiff:**)

822 _____)

823 Name)

824)

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

826 _____)

827 Name)

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

829 Street Address)

830 _____)

831 City State ZIP Code)

832 _____)

833 E-mail Address)

834 _____)

835 Phone Number)

836 _____)

837 Bar Number)

838)

839 **v.**)

840)

841 **Defendant:**)

842 _____)

843 Name)

844 _____)

845 Street Address)

846 _____)

847 City State ZIP Code)

848)

849 **Garnishee:**)

850 _____)

851 Name)

852 _____)

853 Street Address)

854 _____)

855 City State ZIP Code)

856

AFFIDAVIT OF GARNISHMENT

857 **Check this box if the Garnishee is a financial institution.**

858 **Check this box if garnishment is for the collection of child support or alimony. See**
859 **O.C.G.A. § 18-4-50, et seq.**

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

862 1. I am the (Plaintiff) (Attorney at Law for Plaintiff) (Agent for Plaintiff). [Circle one]

863 2. The Plaintiff obtained a judgment against the Defendant in Case Number _____
864 in the _____ Court of _____ County, _____,
865 State

866 and no agreement requires forbearance from the garnishment which is applied for
867 currently.

868 3. \$ _____ is the balance due, which consists of the sum of \$ _____
869 Principal, \$ _____ Postjudgment interest, and \$ _____ Other (e.g.,
870 prejudgment interest, attorney's fees, costs [exclusive of the cost of this action]).

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

872 This _____ day of _____, 20 _____.

873 _____
874 Affiant

875 _____
876 Print name of Affiant

877 Sworn to and subscribed before me this _____ day

878 of _____, 20 _____.

879 _____
880 Notary Public or Deputy Clerk of Court'

881 18-4-72.

882 **'IN THE COURT OF COUNTY**

883 **STATE OF GEORGIA**

884 _____)

885 **Plaintiff:** _____)

886 _____)

887 Name _____)

888)
889 **Plaintiff's contact information:**)
890 _____)
891 Name)
892 _____) **Civil Action File No.** _____
893 Street Address)
894 _____)
895 City State ZIP Code)
896 _____)
897 E-mail Address)
898 _____)
899 Phone Number)
900 _____)
901 Bar Number)
902)
903 **v.**)
904)
905 **Defendant:**)
906 _____)
907 Name)
908 _____)
909 Street Address)
910 _____)
911 City State ZIP Code)
912)
913 **Garnishee:**)
914 _____)
915 Name)
916 _____)
917 Street Address)
918 _____)
919 City State ZIP Code)

920 **AFFIDAVIT OF CONTINUING GARNISHMENT**

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

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

925 1. I am the (Plaintiff) (Attorney at Law for Plaintiff) (Agent for Plaintiff). [Circle one]

926 2. The Plaintiff obtained a judgment against the Defendant in Case Number
927 in the Court of County,
928 State

929 and no agreement requires forbearance from the garnishment which is applied for
930 currently.

931 3. \$ is the balance due, which consists of the sum of \$
932 Principal, \$ Postjudgment interest, and \$ Other (e.g.,
933 prejudgment interest, attorney's fees, costs [exclusive of the cost of this action]).

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

935 5. The Affiant believes that the Garnishee is an employer of the Defendant.

936 This day of , 20 .

937 _____
938 Affiant

939 _____
940 Print name of Affiant

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

943 _____
944 Notary Public or Deputy Clerk of Court'

945 18-4-73.

946 'IN THE COURT OF COUNTY
947 STATE OF GEORGIA

948 _____)

949 **Plaintiff:**)

950 _____)

951 Name)

952 _____)

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

954 _____)

955 Name)

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

957 Street Address)

958 _____)

959 City State ZIP Code)

960 _____)
 961 E-mail Address)
 962 _____)
 963 Phone Number)
 964 _____)
 965 Bar Number)
 966 _____)
 967 v.)
 968 _____)
 969 **Defendant:**)
 970 _____)
 971 Name)
 972 _____)
 973 Street Address)
 974 _____)
 975 City State ZIP Code)
 976 _____)
 977 **Garnishee:**)
 978 _____)
 979 Name)
 980 _____)
 981 Street Address)
 982 _____)
 983 City State ZIP Code)

984 **AFFIDAVIT OF CONTINUING GARNISHMENT FOR SUPPORT**

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

987 1. I am the (Plaintiff) (Attorney at Law for Plaintiff) (Agent for Plaintiff). [Circle one]
988 2. The Plaintiff obtained a judgment against the Defendant in Case Number _____
989 in the _____ Court of _____ County, _____
990 _____ State

991 and no agreement requires forbearance from the garnishment which is applied for
992 currently.

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

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

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

999 A. Periodic support is owed for one obligee, or the judgment sets forth a total
1000 amount of periodic support for multiple obligees as follows:

1001 \$ _____ is the total amount of periodic support due for _____,
1002 Name of obligee

1003 _____, and _____ . Such periodic
1004 Name of obligee Name of obligee

1005 support is payable on a _____ basis.
1006 E.g., weekly, monthly

1007 The termination date of the obligation for periodic support is _____.
1008 Date

1009 B. Periodic support is owed for multiple obligees, and the judgment sets forth a
1010 different amount of periodic support for each obligee as follows:

1011 \$ _____ is the total amount of periodic support due for _____,
1012 Name of obligee

1013 payable on a _____ basis, and the termination date of such
1014 E.g., weekly, monthly

1015 obligation is _____.
1016 Date

1017 \$ _____ is the total amount of periodic support due for _____,
1018 Name of obligee

1019 payable on a _____ basis, and the termination date of such
1020 E.g., weekly, monthly

1021 obligation is _____.
1022 Date

1023 \$ _____ is the total amount of periodic support due for _____,
1024 Name of obligee

1025 payable on a _____ basis, and the termination date of such
1026 E.g., weekly, monthly

1027 obligation is _____.
1028 Date

1029 4. Check this box and attach a certified copy of the judgment for support hereto.

1030 5. Upon the Affiant's personal knowledge or belief, the sum stated herein is unpaid.

1031 6. The Affiant believes that the Garnishee is an employer of the Defendant.

1032 This _____ day of _____, 20 _____.

1033 _____
1034 Affiant

1035 _____
1036 Print name of Affiant

1037 Sworn to and subscribed before me this _____ day
 1038 of _____, 20 _____.
 1039 _____
 1040 Notary Public or Deputy Clerk of Court'

1041 18-4-74.

1042 **'IN THE COURT OF COUNTY**
 1043 **STATE OF GEORGIA**

1044 _____)

1045 **Plaintiff:** _____)

1046 _____)

1047 Name _____)

1048 _____)

1049 **Plaintiff's contact information:** _____)

1050 _____)

1051 Name _____)

1052 _____) **Civil Action File No.** _____

1053 Street Address _____)

1054 _____)

1055 City State ZIP Code _____)

1056 _____)

1057 E-mail Address _____)

1058 _____)

1059 Phone Number _____)

1060 _____)

1061 Bar Number _____)

1062 _____)

1063 **v.** _____)

1064 _____)

1065 **Defendant:** _____) **Garnishment Court information:**

1066 _____) _____

1067 Name _____) Street Address _____

1068 _____) _____, Georgia

1069 Street Address _____) City ZIP Code _____

1070 _____) _____

1071 City State ZIP Code _____) Phone Number _____

1072 _____)

1073 **Garnishee:** _____)

1074 _____)

1075 Name _____)

1108 such Court regarding the disposition of such contents or 120 days from the date of filing
1109 your answer to this summons unless such time has been extended by the Court, whichever
1110 is sooner.

1111 Should you fail to file a Garnishee Answer as required by this summons, a judgment by
1112 default will be rendered against you for the amount remaining due on a judgment as shown
1113 in the Plaintiff's Affidavit of Garnishment.

1114 WITNESS, the Honorable _____, Judge of said Court.
1115 This _____ day of _____, 20_____.

1116 _____, Clerk of Court

1117 By: _____

1118 Deputy Clerk, _____ Court'

1119 18-4-75.

1120 'IN THE COURT OF _____ COUNTY
1121 STATE OF GEORGIA

1122 _____)
1123 _____)
1124 **Plaintiff**)
1125 _____)
1126 **v.**) **Civil Action File No.** _____
1127 _____)
1128 _____)
1129 **Defendant**)
1130 _____)
1131 _____)
1132 **Garnishee**)

1133 **ATTACHMENT FOR SUMMONS OF GARNISHMENT**

1134 Other known names of the Defendant:

1135 _____
1136 _____
1137 _____

1138 Current and past addresses of the Defendant:

1139 _____

1140 _____
 1141 _____
 1142 Social security number or federal tax identification number of the Defendant:
 1143 _____
 1144 _____
 1145 _____

THIS PLEADING SHALL NOT BE FILED WITH THE COURT'

1147 18-4-76.

1148 **'IN THE COURT OF COUNTY**
 1149 **STATE OF GEORGIA**

1150 _____)
 1151 **Plaintiff:**)
 1152 _____)
 1153 Name)
 1154 _____)
 1155 **Plaintiff's contact information:**)
 1156 _____)
 1157 Name)
 1158 _____) **Civil Action File No.** _____
 1159 Street Address)
 1160 _____)
 1161 City State ZIP Code)
 1162 _____)
 1163 E-mail Address)
 1164 _____)
 1165 Phone Number)
 1166 _____)
 1167 Bar Number)
 1168 _____)
 1169 **v.**)
 1170 _____)

1171 **Defendant:**) **Garnishment Court information:**
 1172 _____) _____
 1173 Name) Street Address
 1174 _____) _____, Georgia
 1175 Street Address) City ZIP Code

1176 _____)
 1177 City State ZIP Code) Phone Number
 1178 _____)
 1179 **Garnishee:**)
 1180 _____)
 1181 Name)
 1182 _____)
 1183 Street Address)
 1184 _____)
 1185 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:

1194 Total amount claimed due by the Plaintiff \$ _____
 1195 Plus court costs due on this summons \$ _____
 1196 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, including property in safe-deposit
boxes or similar property that you hold, belonging to the Defendant named above
beginning on the day of service of this summons and including the next five days. You are
FURTHER COMMANDED to file your answer, in writing, not sooner than five days and
not later than 15 days after 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

1207 of making such answer. Your answer shall state what money, including wages, or other
 1208 property, except what is known to be exempt, belonging to the Defendant you hold
 1209 beginning on the day of service of this summons and including the next five days. Money,
 1210 including wages, or other property admitted in an answer to be subject to garnishment must
 1211 be paid or delivered to the Court concurrently with your answer.

1212 If, in answering this summons, you state that the property of the Defendant includes
 1213 property in a safe-deposit box or similar property, you shall answer to the Court issuing this
 1214 summons as to the existence of such safe-deposit box or similar property and shall restrict
 1215 access to any contents of such safe-deposit box or similar property until further order of
 1216 such Court regarding the disposition of such contents or 120 days from the date of filing
 1217 your answer to this summons unless such time has been extended by the Court, whichever
 1218 is sooner.

1219 Should you fail to file a Garnishee Answer as required by this summons, a judgment by
 1220 default will be rendered against you for the amount remaining due on the judgment as
 1221 shown in the Plaintiff's Affidavit of Garnishment.

1222 WITNESS, the Honorable _____, Judge of said Court.

1223 This _____ day of _____, 20_____.

1224 _____, Clerk of Court

1225 By: _____

1226 Deputy Clerk, _____ Court'

1227 18-4-77.

1228 'IN THE _____ COURT OF _____ COUNTY

1229 STATE OF GEORGIA

1230 _____)

1231 _____)

1232 **Plaintiff**)

1233 _____)

1234 **v.**) **Civil Action File No.** _____

1235 _____)

1236 _____)

1237 **Defendant**)

1238)
 1239)
 1240 Garnishee)

1241 **ATTACHMENT FOR SUMMONS OF GARNISHMENT**
 1242 **ON A FINANCIAL INSTITUTION**

1243 Other known names of the Defendant:
 1244 _____
 1245 _____
 1246 _____

1247 Current and past addresses of the Defendant:
 1248 _____
 1249 _____
 1250 _____

1251 Social security number or federal tax identification number of the Defendant:
 1252 _____
 1253 _____
 1254 _____

1255 Account or identification numbers of accounts of the Defendant used by the Garnishee:
 1256 _____
 1257 _____
 1258 _____

1259 Other allegations pursuant to O.C.G.A. § 18-4-23:
 1260 _____
 1261 _____
 1262 _____

1263 **THIS PLEADING SHALL NOT BE FILED WITH THE COURT'**

1264 18-4-78.

1265 **'IN THE COURT OF COUNTY**
 1266 **STATE OF GEORGIA**

1267)
 1268 **Plaintiff:**)
 1269 _____)
 1270 Name)

1271)	
1272	<u>Plaintiff's contact information:</u>)	
1273	_____)	
1274	<u>Name</u>)	
1275	_____)	<u>Civil Action File No.</u> _____
1276	<u>Street Address</u>)	
1277	_____)	
1278	<u>City</u> <u>State</u> <u>ZIP Code</u>)	
1279	_____)	
1280	<u>E-mail Address</u>)	
1281	_____)	
1282	<u>Phone Number</u>)	
1283	_____)	
1284	<u>Bar Number</u>)	
1285)	
1286	v.)	
1287)	
1288	<u>Defendant:</u>)	<u>Garnishment Court information:</u>
1289	_____)	_____
1290	<u>Name</u>)	<u>Street Address</u>
1291	_____)	_____, Georgia
1292	<u>Street Address</u>)	<u>City</u> <u>ZIP Code</u>
1293	_____)	_____
1294	<u>City</u> <u>State</u> <u>ZIP Code</u>)	<u>Phone Number</u>
1295)	
1296	<u>Garnishee:</u>)	
1297	_____)	
1298	<u>Name</u>)	
1299	_____)	
1300	<u>Street Address</u>)	
1301	_____)	
1302	<u>City</u> <u>State</u> <u>ZIP Code</u>)	

1303 **SUMMONS OF CONTINUING GARNISHMENT**

1304 **TO THE ABOVE-NAMED GARNISHEE:**

1305	<u>Total amount claimed due by the Plaintiff</u>	\$	_____
1306	<u>Plus court costs due on this summons</u>	\$	_____
1307	<u>Total garnishment claim</u>	\$	_____

1308 COURT OF JUDGMENT

1309 JUDGMENT CASE NO.

1310 **YOU ARE HEREBY COMMANDED** to immediately hold all money, including wages,
 1311 and other property, except what is known to be exempt, belonging to the Defendant or
 1312 obligations owed to the Defendant named above beginning on the day of service of this
 1313 summons and including the next 179 days. You are **FURTHER COMMANDED** to file
 1314 your answer, in writing, not later than 45 days from the date you were served with this
 1315 summons, with the Clerk of this Court and serve a copy of your answer upon the Plaintiff
 1316 or Plaintiff's Attorney named above and the Defendant named above, or the Defendant's
 1317 Attorney, if known, at the time of making such answer. Your answer shall state what
 1318 money, including wages, or other property, except what is known to be exempt, belonging
 1319 to the Defendant or obligations owed to the Defendant you hold or owe beginning on the
 1320 day of service of this summons and between the time of such service and the time of
 1321 making your first answer. Thereafter, you are required to file further answers no later than
 1322 45 days after your last answer. Every further answer shall state what money, including
 1323 wages, and other property, except what is known to be exempt, belonging to the Defendant
 1324 or obligations owed to the Defendant you hold or owe at and from the time of the last
 1325 answer to the time of the current answer. The last answer required by this summons shall
 1326 be filed no later than the 195th day after you receive this summons. Money, including
 1327 wages, or other property admitted in an answer to be subject to continuing garnishment
 1328 must be paid or delivered to the Court concurrently with each answer.

1329 Should you fail to file Garnishee Answers as required by this summons, a judgment by
 1330 default will be rendered against you for the amount remaining due on a judgment as shown
 1331 in the Plaintiff's Affidavit of Continuing Garnishment.

1332 WITNESS, the Honorable _____, Judge of said Court.

1333 This _____ day of _____, 20_____.

1334 _____, Clerk of Court

1335 By: _____

1336 Deputy Clerk, _____ Court'

1337 18-4-79.

1338 'IN THE COURT OF COUNTY

1339 STATE OF GEORGIA

1340)

1341)

1342 Plaintiff)

1343)

1344 v.) Civil Action File No.

1345)

1346)

1347 Defendant)

1348)

1349)

1350 Garnishee)

1351 ATTACHMENT FOR SUMMONS

1352 OF CONTINUING GARNISHMENT

1353 Other known names of the Defendant:

1354 _____

1355 _____

1356 _____

1357 Current and past addresses of the Defendant:

1358 _____

1359 _____

1360 _____

1361 Social security number or federal tax identification number of the Defendant:

1362 _____

1363 _____

1364 _____

1365 THIS PLEADING SHALL NOT BE FILED WITH THE COURT'

1366 18-4-80.

1367 'IN THE COURT OF COUNTY

1368 STATE OF GEORGIA

1369)

1370 **Plaintiff:**)

1371 _____)

1372 Name)

1373)

1374 **Plaintiff's contact information:**)

1375 _____)

1376 Name)

1377 _____) **Civil Action File No.** _____

1378 Street Address)

1379 _____)

1380 City State ZIP Code)

1381 _____)

1382 E-mail Address)

1383 _____)

1384 Phone Number)

1385 _____)

1386 Bar Number)

1387)

1388 v.)

1389)

1390 **Defendant:**) **Garnishment Court information:**

1391 _____) _____

1392 Name) Street Address

1393 _____) _____, Georgia

1394 Street Address) City ZIP Code

1395 _____) _____

1396 City State ZIP Code) Phone Number

1397)

1398 **Garnishee:**)

1399 _____)

1400 Name)

1401 _____)

1402 Street Address)

1403 _____)

1404 City State ZIP Code)

1405 **SUMMONS OF CONTINUING GARNISHMENT FOR SUPPORT**
 1406 **GOVERNED BY ARTICLE 3 OF CHAPTER 4 OF TITLE 18**

1407 **TO THE ABOVE-NAMED GARNISHEE:**

1408 Total amount claimed due by the Plaintiff \$ _____
 1409 Plus court costs due on this summons \$ _____
 1410 Total garnishment claim \$ _____

1411 **COURT OF JUDGMENT** _____

1412 **JUDGMENT CASE NO.** _____

1413 **YOU ARE HEREBY COMMANDED** to immediately hold all money, including wages,
 1414 and other property, except what is known to be exempt, belonging to the Defendant or
 1415 obligations owed to the Defendant named above beginning on the day of service of this
 1416 summons until the original arrearage is retired and all periodic support payments are
 1417 current or until the termination of the garnishment. You are **FURTHER COMMANDED**
 1418 to file your answer, in writing, not later than 45 days from the date you were served with
 1419 this summons, with the Clerk of this Court and serve a copy of your answer upon the
 1420 Plaintiff or Plaintiff's Attorney named above and the Defendant named above, or the
 1421 Defendant's Attorney, if known, at the time of making such answer. Your answer shall
 1422 state what money, including wages, or other property, except what is known to be exempt,
 1423 belonging to the Defendant or obligations owed to the Defendant you hold or owe
 1424 beginning on the day of service of this summons and between the time of such service and
 1425 the time of making your first answer. Thereafter, you are required to file further answers
 1426 no later than 45 days after your last answer. Every further answer shall state what money,
 1427 including wages, and other property, except what is known to be exempt, belonging to the
 1428 Defendant or obligations owed to the Defendant you hold or owe at and from the time of
 1429 the last answer to the time of the current answer. **YOU MUST FILE ADDITIONAL**
 1430 **ANSWERS UNTIL THE ORIGINAL ARREARAGE IS RETIRED AND ALL PERIODIC**
 1431 **SUPPORT PAYMENTS ARE CURRENT.** Money, including wages, or other property
 1432 admitted in an answer to be subject to continuing garnishment must be paid or delivered
 1433 to the Court concurrently with each answer. The Plaintiff and the Defendant are required
 1434 by law to serve you with a copy of any amendment or modification to the original
 1435 judgment.

1436 Should you fail to file Garnishee Answers as required by this summons, a judgment by
1437 default will be rendered against you for the amount remaining due on a judgment as shown
1438 in the Plaintiff's Affidavit of Continuing Garnishment.

1439 WITNESS, the Honorable _____, Judge of said Court.

1440 This _____ day of _____, 20_____.

1441 _____, Clerk of Court

1442 By: _____

1443 Deputy Clerk, _____ Court'

1444 18-4-81.

1445 'IN THE COURT OF COUNTY

1446 STATE OF GEORGIA

1447 _____)

1448 _____)

1449 Plaintiff)

1450 _____)

1451 v.) Civil Action File No. _____

1452 _____)

1453 _____)

1454 Defendant)

1455 _____)

1456 _____)

1457 Garnishee)

1458 ATTACHMENT FOR SUMMONS OF
1459 CONTINUING GARNISHMENT FOR SUPPORT

1460 Other known names of the Defendant:

1461 _____

1462 _____

1463 _____

1464 Current and past addresses of the Defendant:

1465 _____

1466 _____

1467 _____

1468 Social security number or federal tax identification number of the Defendant:
 1469 _____
 1470 _____
 1471 _____

1472 **THIS PLEADING SHALL NOT BE FILED WITH THE COURT'**

1473 18-4-82.

1474 **'IN THE COURT OF COUNTY**
 1475 **STATE OF GEORGIA**

1476)

1477 **Plaintiff:**)

1478 _____)

1479 Name)

1480)

1481 **Plaintiff's contact information:**)

1482 _____)

1483 Name)

1484 _____) **Civil Action File No.** _____

1485 Street Address)

1486 _____)

1487 City State ZIP Code)

1488 _____)

1489 E-mail Address)

1490 _____)

1491 Phone Number)

1492 _____)

1493 Bar Number)

1494)

1495 **v.**)

1496)

1497 **Defendant:**)

1498 _____)

1499 Name)

1500 _____)

1501 Street Address)

1502 _____)

1503 City State ZIP Code)

1504)
 1505 **Garnishee:**)
 1506 _____)
 1507 Name)
 1508 _____)
 1509 Street Address)
 1510 _____)
 1511 City State ZIP Code)

1512 **NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT**
 1513 **OF MONEY, INCLUDING WAGES, AND OTHER PROPERTY**

1514 You received this notice because money, including wages, and other property belonging
 1515 to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY
 1516 BE ABLE TO KEEP YOUR MONEY, INCLUDING WAGES, OR OTHER PROPERTY.
 1517 **READ THIS NOTICE CAREFULLY.**

1518 State and federal law protects some money, including wages, from garnishment even if it
 1519 is in a bank. Some common exemptions are benefits from social security, supplemental
 1520 security income, unemployment, workers' compensation, the Veterans' Administration,
 1521 state pension, retirement funds, and disability income. This list of exemptions does not
 1522 include all possible exemptions. A more detailed list of exemptions is available at the
 1523 Clerk of Court's office located at _____ (Name of Court),
 1524 _____ (Address), _____ (City), Georgia
 1525 _____ (ZIP Code), and on the website for the Attorney General (www.law.ga.gov).

1526 Garnishment of your earnings from your employment is limited to the lesser of 25 percent
 1527 of your disposable earnings for a week or the amount by which your disposable earnings
 1528 for a week exceed \$217.00. More than 25 percent of your disposable earnings may be
 1529 taken from your earnings for the payment of child support or alimony or if a Chapter 13
 1530 bankruptcy allows a higher amount.

1531 **TO PROTECT YOUR MONEY, INCLUDING WAGES, AND OTHER PROPERTY**
 1532 **FROM BEING GARNISHED, YOU MUST:**

- 1533 1. Complete the Defendant's Claim Form as set forth below; and
- 1534 2. File this completed claim form with the Clerk of Court's office located at
 1535 _____ (Name of Court), _____ (Address),
 1536 _____ (City), Georgia _____ (ZIP Code).

1537 FILE YOUR COMPLETED CLAIM FORM AS SOON AS POSSIBLE. You may lose
 1538 your right to claim an exemption if you do not file your claim form within 20 days after the
 1539 Garnishee's Answer is filed or if you do not mail or deliver a copy of your completed claim
 1540 form to the Plaintiff and the Garnishee at the addresses listed on this notice.

1541 The Court will schedule a hearing within ten days from when it receives your claim form.
 1542 The Court will mail you the time and date of the hearing at the address that you provide on
 1543 your claim form. You may go to the hearing with or without an attorney. You will need
 1544 to give the Court documents or other proof that your money is exempt.

1545 The Clerk of Court cannot give you legal advice. IF YOU NEED LEGAL ASSISTANCE,
 1546 YOU SHOULD SEE AN ATTORNEY. If you cannot afford a private attorney, legal
 1547 services may be available.

1548 **DEFENDANT'S CLAIM FORM**

1549 **I CLAIM EXEMPTION from garnishment. Some of my money or property held by**
 1550 **the garnishee is exempt because it is: (check all that apply)**

- 1551 1. Social security benefits.
- 1552 2. Supplemental security income benefits.
- 1553 3. Unemployment benefits.
- 1554 4. Workers' compensation.
- 1555 5. Veterans' benefits.
- 1556 6. State pension benefits.
- 1557 7. Disability income benefits.
- 1558 8. Money that belongs to a joint account holder.
- 1559 9. Child support or alimony.
- 1560 10. Exempt wages, retirement, or pension benefits.
- 1561 11. Other exemptions as provided by law.

1562 Explain: _____
 1563 _____

1564 **I further state: (check all that apply)**

- 1565 1. The Plaintiff does not have a judgment against me.
- 1566 2. The amount shown due on the Plaintiff's Affidavit of Garnishment is incorrect.
- 1567 3. The Plaintiff's Affidavit of Garnishment is untrue or legally insufficient.

1568 Send the notice of the hearing on my claim to me at:

1569 Address: _____

1570 Phone Number: _____

1571 E-mail Address: _____

1572 The statements made in this claim form are true to the best of my knowledge and belief.

1573 _____, 20

1574 Defendant's signature Date

1575 _____

1576 Print name of Defendant

1577 **CERTIFICATE OF SERVICE**

1578 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the
1579 Garnishee in the foregoing matter with a copy of this pleading by depositing it in the
1580 United States Mail in a properly addressed envelope with adequate postage thereon.

1581 This _____ day of _____, 20 _____.

1582 _____
1583 Defendant or Defendant's Attorney'

1584 18-4-83.

1585 **'IN THE COURT OF COUNTY**

1586 **STATE OF GEORGIA**

1587 _____)

1588 _____)

1589 **Plaintiff**)

1590 _____)

1591 **v.**) **Civil Action File No.** _____

1592 _____)

1593 _____)

1594 **Defendant**)

1595 _____)

1596 _____)

1597 **Garnishee**)

1598 **ORDER FOR HEARING ON DEFENDANT'S CLAIM**

1599 It is hereby ordered that a hearing be held upon the Defendant's claim before this court on
1600 the _____ day of _____, 20____, at _____ : ____ . M., and that the Clerk of Court shall
1601 transmit a copy of the Defendant's Claim Form and this order to the Plaintiff, the
1602 Defendant, and the Garnishee.

1603 This _____ day of _____, 20____.

1604 _____
1605 Judge,
1606 _____ Court of _____ County

1607 **CERTIFICATE OF SERVICE**

1608 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney, the
1609 Defendant, and the Garnishee in the foregoing matter with a copy of this pleading by
1610 depositing it in the United States Mail in a properly addressed envelope with adequate
1611 postage thereon.

1612 This _____ day of _____, 20____.

1613 _____
1614 Deputy Clerk of Court'

1615 18-4-84.

1616 **'IN THE COURT OF _____ COUNTY**
1617 **STATE OF GEORGIA**

1618 _____)
1619 _____)
1620 **Plaintiff**)
1621 _____)
1622 **v.**) **Civil Action File No. _____**
1623 _____)
1624 _____)
1625 **Defendant**)
1626 _____)
1627 _____)
1628 **Garnishee**)

1629

GARNISHEE ANSWER

1630

1. At the time of service or from the time of service to the time of this Garnishee

1631

Answer, the Garnishee had in its possession the following described property of the

1632

Defendant:

1633

1634

1635

1636

2. At the time of service or from the time of service to the time of this Garnishee

1637

Answer, all obligations accruing from the Garnishee to the Defendant are in the amount

1638

of \$ _____.

1639

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

1640

4. The Garnishee further states: _____.

1641

1642

Garnishee,

1643

Garnishee's Attorney, or

1644

officer or employee of an entity Garnishee

1645

CERTIFICATE OF SERVICE

1646

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

1647

Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by

1648

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

1649

postage thereon.

1650

This _____ day of _____, 20 _____.

1651

1652

Garnishee,

1653

Garnishee's Attorney, or

1654

officer or employee of an entity Garnishee'

1655 18-4-85.

1656 IN THE COURT OF COUNTY

1657 STATE OF GEORGIA

1658)

1659)

1660 Plaintiff)

1661)

1662 v.) Civil Action File No.

1663)

1664)

1665 Defendant)

1666)

1667)

1668 Garnishee

1669 FINANCIAL INSTITUTION GARNISHEE ANSWER

1670 1. At the time of service of the Summons of Garnishment on a Financial Institution and
1671 including the next five days, the Garnishee had in its possession the following described
1672 money and property of the Defendant:

1673 _____
1674 _____
1675 _____

1676 2. \$ _____ is the amount herewith paid into court.

1677 3. Check this box if the Defendant is not presently an account holder of the
1678 Garnishee.

1679 4. The Garnishee further states: _____.

1680 _____
1681 Garnishee,
1682 Garnishee's Attorney, or
1683 officer or employee of an entity Garnishee

1684 CERTIFICATE OF SERVICE

1685 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the
1686 Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by

1687 depositing it in the United States Mail in a properly addressed envelope with adequate
1688 postage thereon.

1689 This _____ day of _____, 20 _____.

1690 _____
1691 _____ Garnishee,
1692 _____ Garnishee's Attorney, or
1693 _____ officer or employee of an entity Garnishee'

1694 18-4-86.

1695 'IN THE COURT OF _____ COUNTY
1696 STATE OF GEORGIA

1697 _____)
1698 _____)
1699 Plaintiff)
1700 _____)
1701 v.) Civil Action File No. _____
1702 _____)
1703 _____)
1704 Defendant)
1705 _____)
1706 _____)
1707 Garnishee)

1708 GARNISHEE ANSWER TO CONTINUING GARNISHMENT

1709 1. From the time of service of the Summons of Continuing Garnishment, if this is the
1710 first Garnishee Answer to such summons, otherwise from the time of the last Garnishee
1711 Answer to the Summons of Continuing Garnishment until the time of this Garnishee
1712 Answer, the Garnishee had in the Garnishee's possession the following described property
1713 of the Defendant:

1714 _____
1715 _____
1716 _____

1717 2. From the time of service of the Summons of Continuing Garnishment, if this is the
1718 first Garnishee Answer to such summons, otherwise from the time of the last Garnishee
1719 Answer to the Summons of Continuing Garnishment until the time of this Garnishee

1720 Answer, all obligations accruing from the Garnishee to the Defendant are in the amount
1721 of \$ _____.

1722 3. \$ _____ of the amount named in paragraph 2 were wages earned at the rate of
1723 \$ _____ per _____ for the period beginning _____, 20 _____,
1724 _____
Date

1725 through the time of making this Garnishee Answer. The amount of wages which is
1726 subject to this garnishment is computed as follows:

1727 \$ _____ Gross earnings

1728 \$ _____ Total social security and withholding tax and other mandatory deductions
1729 required by law

1730 \$ _____ Total disposable earnings

1731 \$ _____ Amount of wages subject to garnishment.

1732 4. \$ _____ is the amount herewith paid into court.

1733 **5. Check this box if the Defendant is not presently employed by the Garnishee.**

1734 **6. Check this box if the Defendant was employed by the Garnishee on or after**
1735 **service of the Summons of Continuing Garnishment but was terminated as of**
1736 _____, 20 _____.
1737 Date

1738 **7. Check this box if this is the last Garnishee Answer this Garnishee is required**
1739 **to file to the presently pending Summons of Garnishment in the above-styled case.**

1740 8. The Garnishee further states: _____.

1741 _____
1742 Garnishee,
1743 Garnishee's Attorney, or
1744 officer or employee of an entity Garnishee

1745 **CERTIFICATE OF SERVICE**

1746 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the
1747 Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by
1748 depositing it in the United States Mail in a properly addressed envelope with adequate
1749 postage thereon.

1750 This _____ day of _____, 20 _____.

1751 _____
1752 Garnishee,
1753 Garnishee's Attorney, or
1754 officer or employee of an entity Garnishee'

1755 18-4-87.

1756 'IN THE COURT OF COUNTY

1757 STATE OF GEORGIA

1758)

1759)

1760 Plaintiff)

1761)

1762 v.) Civil Action File No.

1763)

1764)

1765 Defendant)

1766)

1767)

1768 Garnishee)

1769 PLAINTIFF'S TRAVERSE

1770 Now comes the Plaintiff in the above-styled case and traverses the Garnishee Answer by
1771 saying the same is untrue or legally insufficient. The Plaintiff further states:

1772 _____
1773 _____.

1774 _____
1775 Plaintiff or Plaintiff's Attorney

1776 CERTIFICATE OF SERVICE

1777 This is to certify that I have this day served the Defendant and the Garnishee in the
1778 foregoing matter with a copy of this pleading by depositing it in the United States Mail in
1779 a properly addressed envelope with adequate postage thereon.

1780 This _____ day of _____, 20 .

1781 _____
1782 Plaintiff or Plaintiff's Attorney'

1783 18-4-88.

1784 'IN THE COURT OF COUNTY

1785 STATE OF GEORGIA

1786)

1787)

1788 Plaintiff)

1789)

1790 v.) Civil Action File No.

1791)

1792)

1793 Defendant)

1794)

1795)

1796 Garnishee)

1797 THIRD-PARTY CLAIM

1798 Personally appeared _____, who on oath says that he or she
1799 (Print name)

1800 has a claim superior to that of the Plaintiff to the money or other property in the hands of
1801 the Garnishee subject to the process of garnishment.

1802 The Affiant further states: (check applicable box and complete the information requested)

1803 The Affiant obtained a judgment against the Defendant in the _____ Court of
1804 _____ County, _____, in Case Number _____
1805 _____ State

1806 on _____, and the unpaid balance of such judgment is in the amount of
1807 _____ Date

1808 \$ _____.

1809 _____ or

1810 The basis of the Affiant's claim is _____

1811 _____.

1812 This _____ day of _____, 20 _____.

1813 _____
1814 Affiant

1815 _____
1816 Print name of Affiant

1817 Sworn to and subscribed before me this _____ day
 1818 of _____ , 20 _____ .
 1819 _____
 1820 Notary Public or Deputy Clerk of Court

1821 **CERTIFICATE OF SERVICE**

1822 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney, the
 1823 Defendant, and the Garnishee in the foregoing matter with a copy of this pleading by
 1824 depositing it in the United States Mail in a properly addressed envelope with adequate
 1825 postage thereon.

1826 This _____ day of _____ , 20 _____ .

1827 _____
 1828 Third-party Claimant or Third-party Claimant's Attorney'

1829 18-4-89.

1830 **'IN THE COURT OF COUNTY**

1831 **STATE OF GEORGIA**

1832 _____)
 1833 _____)
 1834 **Plaintiff**)
 1835 _____)
 1836 **v.**) **Civil Action File No.** _____
 1837 _____)
 1838 _____)
 1839 **Defendant**)
 1840 _____)
 1841 _____)
 1842 **Garnishee**)

1843 **RELEASE OF GARNISHMENT**

1844 To: _____
 1845 Garnishee

1846 This is to notify you that you have been released from filing a Garnishee Answer to any
1847 and all Summons of Garnishment or Summons of Continuing Garnishment pending as of
1848 this date in the above-styled case.

1849 This release authorizes you to pay or deliver to the Defendant in garnishment any money
1850 or other property in your possession belonging to the Defendant.

1851 This release does not terminate the garnishment proceedings, nor does this release relieve
1852 you of any obligation placed on you by the service of a Summons of Garnishment
1853 subsequent to this date.

1854 This day of _____, 20 .

1855 _____
1856 Clerk,
1857 _____ Court of _____ County

1858 **CERTIFICATE OF SERVICE**

1859 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney, the
1860 Defendant, and the Garnishee in the foregoing matter with a copy of this pleading by
1861 depositing it in the United States Mail in a properly addressed envelope with adequate
1862 postage thereon.

1863 This day of _____, 20 .

1864 _____
1865 Deputy Clerk of Court

1866 **SECTION 3.**

1867 Code Section 44-7-50 of the Official Code of Georgia Annotated, relating to demand for
1868 possession, is amended by revising subsection (a) as follows:

1869 "(a) In all cases where a tenant holds possession of lands or tenements over and beyond
1870 the term for which they were rented or leased to the tenant or fails to pay the rent when it
1871 becomes due and in all cases where lands or tenements are held and occupied by any tenant
1872 at will or sufferance, whether under contract of rent or not, when the owner of the lands or
1873 tenements desires possession of the lands or tenements, the owner may, individually or by
1874 an agent, attorney in fact, or attorney at law, demand the possession of the property so

1875 rented, leased, held, or occupied. If the tenant refuses or fails to deliver possession when
 1876 so demanded, the owner or the agent, attorney at law, or attorney in fact of the owner may
 1877 immediately go before the judge of the superior court, the judge of the state court, or the
 1878 clerk or deputy clerk of either court, or the judge or the clerk or deputy clerk of any other
 1879 court with jurisdiction over the subject matter, or a magistrate in the district where the land
 1880 lies and make an affidavit under oath to the facts. The affidavit may likewise be made
 1881 before a notary public, subject to the same requirements for judicial approval specified in
 1882 Code Section ~~18-4-61, relating to garnishment affidavits~~ 18-4-3."

1883 **SECTION 4.**

1884 Code Section 53-12-80 of the Official Code of Georgia Annotated, relating to spendthrift
 1885 provisions, is amended by revising subsection (d) as follows:

1886 "(d) A spendthrift provision shall not be valid as to the following claims against a
 1887 beneficiary's right to a current distribution to the extent the distribution would be subject
 1888 to garnishment under Article ~~2~~ 1 of Chapter 4 of Title 18 if the distribution were disposable
 1889 earnings:

- 1890 (1) Alimony or child support;
 1891 (2) Taxes or other governmental claims;
 1892 (3) Tort judgments;
 1893 (4) Judgments or orders for restitution as a result of a criminal conviction of the
 1894 beneficiary; or
 1895 (5) Judgments for necessities.

1896 The ability of a creditor or assignee to reach a beneficiary's interest under this subsection
 1897 shall not apply to the extent that it would disqualify the trust as a special needs trust
 1898 established pursuant to 42 U.S.C. Sections 1396p(d)(4)(A) or 1396p(d)(4)(C)."

1899 **SECTION 5.**

1900 This Act shall become effective 30 days after its approval by the Governor or 30 days after
 1901 its becoming law without such approval.

1902 **SECTION 6.**

1903 All laws and parts of laws in conflict with this Act are repealed.