

TITLE 11
ENFORCEMENT OF JUDGMENTS IN CIVIL ACTIONS

CHAPTER 2
PROPERTY SUBJECT TO EXECUTION -- EXEMPTIONS

11-201. PROPERTY LIABLE TO SEIZURE. All goods, chattels, moneys and other property, both real and personal, or any interest therein of the judgment debtor, not exempt by law or by court order, and all property and rights of property, seized and held under attachment in the action, are liable to execution. Shares and interest in any corporation or company, and debts and credits, and all other property both real and personal, or any interest in either real or personal property, and all other property not capable of manual delivery, may be attached on execution in like manner as upon writs of attachment. Gold dust must be returned by the officer as so much money collected, at its current value, without exposing the same to sale. Until a levy, property is not affected by the execution.

[(11-201) C.C.P. 1881, sec. 437; R.S., R.C., & C.L., sec. 4477; C.S., sec. 6917; I.C.A., sec. 8-201; am. 2017, ch. 303, sec. 4, p. 800.]

11-203. CLAIM OF EXEMPTION BY DEFENDANT OR THIRD PARTY CLAIM -- MOTION TO CONTEST CLAIM AND HEARING -- HOLDING AND RELEASE OF PROPERTY BY SHERIFF. The following procedures shall apply to a claim by the defendant or the defendant's representative that property levied upon is exempt and to any claim by a third party that property levied upon is his property or that he has a security interest therein. The defendant or the defendant's representative shall complete the claim of exemption form as provided in section [11-707](#), Idaho Code. A third party claimant shall prepare a written claim setting forth the grounds upon which he claims the property, and in the case of a secured party, also stating the dollar amount of the claim. Except as provided in subsection (h) of this section, a claim of exemption or third party claim may be filed only if property has been levied upon.

(a) The claim of exemption or third party claim shall be delivered or mailed to the sheriff within fourteen (14) days after the date the sheriff hand delivers or mails the documents required to be served upon the defendant and third parties under section [11-709](#), Idaho Code. If the claim is mailed, it must be received by the sheriff within the fourteen (14) day period. In computing the fourteen (14) day period, intervening weekends and legal holidays shall be counted, but if the last day of the period falls on a weekend or legal holiday, the period shall be deemed to run until the close of business of the first business day following the weekend or holiday.

Within one (1) business day after receiving a claim, the sheriff shall deliver or mail a copy thereof to the plaintiff or other person in whose favor the writ of execution runs. The sheriff may provide notification of the claim by telephone but must also mail a copy of the claim within one (1) business day as herein provided.

(b) The plaintiff or other person in whose favor the writ of execution runs shall have five (5) business days after the date a copy of the claim is delivered or mailed to him by the sheriff within which to file a motion with the court stating the grounds upon which he contests the claim of exemption or third party claim. When the motion is filed, the plaintiff shall lodge with the court a copy of the claim to which the motion pertains. Hearing on the motion shall be set for a date within not less than five (5) nor more than

twelve (12) days after the filing date of the motion and may be continued only at the request of the defendant. A copy of the motion and notice of hearing shall be delivered or mailed to the defendant or third party claimant on the date the motion is filed. The prevailing party at the hearing may be awarded costs pursuant to the Idaho rules of civil procedure.

Within the period for filing a motion to contest, the moving party shall notify the sheriff that the motion has been filed. Such notification may be by telephone but a copy of the motion and notice of hearing shall also be mailed or hand delivered to the sheriff within the filing period herein prescribed.

(c) The sheriff shall not deliver to the plaintiff or sell the property levied upon, except if perishable as provided by law, until the period for filing a claim has elapsed. The sheriff shall refuse to accept or honor a claim not filed with him within that period and unless otherwise ordered by the court, shall, after such period has elapsed, proceed to sell or deliver the property levied upon to the plaintiff or other person in whose favor the execution runs. If, after notice from the sheriff of the filing of a claim, the plaintiff or other person in whose favor the execution runs, notifies the sheriff that the claim will be uncontested or fails to notify the sheriff within the time provided in subsection (b) of this section that the claim is being contested, the sheriff shall release the claimed property to the defendant or his agent.

(d) If a plaintiff or other person in whose favor the execution runs has failed to contest a claim of exemption within the time allowed by this section or if property has been determined by a court to be exempt, and the plaintiff or other person in whose favor the execution runs thereafter levies upon or otherwise seeks to apply the property toward the satisfaction of the same money judgment, the plaintiff or other person in whose favor the execution runs is not entitled to recover the subsequent costs of collection unless the property is applied to satisfaction of the judgment.

(e) If a security agreement to the third party claimant is in default, rendering said claimant the legal right to possession, the claimant may file with the sheriff an affidavit of release to the claimant executed by the defendant-debtor, or his agent; or, in lieu of said affidavit of release, the third party claimant may file an affidavit setting forth the defendant-debtor's default and claiming possession under default and a hold harmless agreement in favor of the sheriff, supported by an undertaking qualifying in the state of Idaho, indemnifying the sheriff and said defendant-debtor in double the actual value of the property as stated in said third party claim. Upon receipt of either of the foregoing, the sheriff shall release said property to the third party claimant, taking receipt therefor; these proceedings to be reported to the court by sheriff's return in the action.

(f) Nothing in this section shall be construed to prevent the defendant from pursuing his common law remedies.

(g) Personal service shall be accomplished in the same manner provided for service of summons under the Idaho rules of civil procedure. Mailing shall be by first class mail. The date when an item is deposited in the United States mails shall constitute the date of mailing. In computing any period of time prescribed in this section, the day of the act or event after which the designated period of time begins to run is not to be included.

(h) At any time after the entry of a judgment that may be enforced by writ of execution as provided in section [11-104](#), Idaho Code, the judgment

debtor, or any third party who claims a security interest or other interest in the property of the judgment debtor, may move the court for an order of exemption identifying the property for which the exemption is claimed and setting forth the grounds, arising under this title or common law, upon which he claims an exemption or, in the case of a third party, an interest in the property, and in the case of a secured party, also stating the dollar amount of such secured party's claim.

[11-203, added 1991, ch. 165, sec. 10, p. 403; am. 2017, ch. 303, sec. 6, p. 801.]

11-204. EXEMPTION IN FAVOR OF MARRIED PERSON. All real and personal property of any married person at the time of his or her marriage, or which he or she subsequently acquires as separate property, and all noncommunity rents, issues and profits thereof, are exempt from execution for any separate debts incurred by his or her spouse.

[11-204, added 2011, ch. 86, sec. 2, p. 182.]

11-206. DEFINITIONS. For the purpose of section [11-207](#), Idaho Code, the term:

1. "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

2. "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

3. "Garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

[I.C., sec. 11-206, as added by 1970, ch. 11, sec. 2, p. 18.]

11-207. RESTRICTION ON GARNISHMENT -- MAXIMUM. (1) Except as provided in subsection (2) of this section, the maximum amount of the aggregate disposable earnings of an individual for any work week which is subjected to garnishment shall not exceed (a) twenty-five per cent (25%) of his disposable earnings for that week, or (b) the amount by which his disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C.A. 206(a) (1) in effect at the time the earnings are payable, whichever is less. In the case of earnings for any pay period other than a week, the Idaho commissioner of labor shall by regulation prescribe a multiple of the federal minimum hourly wage equivalent in effect to that set forth in (b) of this subsection.

(2) (a) The restrictions of subsection (1) of this section shall not apply in the case of any order of any court for the support of any person, any order of any court of bankruptcy under chapter XIII of the Bankruptcy Act, or any debt due for any state or federal tax.

(b) The maximum part of the aggregate disposable earnings of an individual for any work week which is subject to garnishment to enforce any order for the support of any person shall not exceed:

1. Where such individual is supporting his spouse or dependent child, other than a spouse or child with respect to whose support

such order is used, fifty per cent (50%) of such individual's disposable earnings for that week; and

2. Where such individual is not supporting such a spouse or dependent child described in paragraph 1., sixty per cent (60%) of such individual's disposable earnings for that week;

except that with respect to the disposable earnings of any individual for any work week, the fifty per cent (50%) specified in paragraph 1. shall be deemed to be fifty-five per cent (55%) and the sixty per cent (60%) specified in paragraph 2. shall be deemed to be sixty-five per cent (65%), if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such work week.

[I.C., sec. 11-207, as added by 1970, ch. 11, sec. 3, p. 18; am. 1982, ch. 170, sec. 2, p. 450.]