

Claim for Exemptions Kit

Individual

North Dakota law provides debtors with specific rights in protecting property from levy and other collection processes. Filing a Claim for Exemptions is a response to a creditor's attempt to take your property as payment for a debt you owe. If you have questions regarding this kit or your rights as a debtor, please contact an attorney or Legal Services of North Dakota at:

Telephone: Central Intake Office 1-800-634-5263; weekdays 9:00 a.m. to 3:00 p.m.
If you are over 60: Senior Hotline 1-866-621-9886; weekdays, 8:00 a.m. to 5:00 p.m.
Website: www.legalassist.org

Important: Please read carefully. You have ten (10) days from the date you were served with a notice of levy to complete this Kit and take it to the Sheriff's Office.

This Claim for Exemptions Kit and instructions are not intended to replace legal advice. If you have any questions regarding this Kit, please contact an attorney. You may contact the State Bar Association of North Dakota's Lawyer Referral Program to find an attorney to help you at 1-866-450-9579. If you cannot afford an attorney, you may contact Legal Services of North Dakota to see if you qualify for an attorney to help you at no cost. **It is important to complete the Kit and give it to the Sheriff's Office within ten (10) days of the date of being served a notice of levy; otherwise, you could lose your property.**

North Dakota law provides for many exemptions, and they are not all covered in this Claim for Exemptions Kit. If you have questions about property you own, which is not covered by this kit, contact an attorney or Legal Services of North Dakota to find out if there are other ways to protect your property.

This kit is designed for an **individual person residing in North Dakota**. You are an individual for purposes of this Kit if:

1. You are a single person.
2. You are single, but you support children from a relationship, and you were **not** married to that person.
3. You **are** married, and your spouse claimed the Head of Family exemption, and you want to claim additional exemptions that might be available.

If you are married, and your spouse has **not** used the Head of Family Kit and exemptions, you could complete the Head of Family Kit instead, which gives additional exemptions not available to individuals. If you support children from a previous marriage, use the Head of Family Kit instead. If you are not sure about which Kit to use, please contact an attorney or Legal Services of North Dakota for help.

To complete the Kit fill in the blanks and list all of your property. If you need to add more pages to list all of your property, feel free to do so. List all of your property so you can protect as much property as possible under the law. If you don't list your property, you can't protect it from creditors.

Form Heading: Fill out the blanks at the top of the form with the name of the county where you were sued, plaintiff(s) [the person(s) or company to whom you owe money], defendant(s) [this is your name and the name of anyone else listed on the papers], and the civil number. This information should be on the papers the sheriff's office gave you. If you cannot find the civil number, ask the sheriff's office to provide it to you.

1. Enter your full name on the blank provided.
2. Enter the name of the county where you live.
3. Circle the marital status that applies to you.
4. Enter the county in which you were served by the sheriff and the date you were physically given the legal papers. Do not enter the date on the papers you were given.
5. This paragraph is where you will list all of your property.

- (a) This section protects all of your clothing. It also protects wearing apparel not to exceed \$5,000 in value. It also exempts all of the groceries in your cupboards, refrigerator and freezer. [N.D.Cent.Code § 28-22-02]. You do not have to complete anything. Do not list these items on the form.
- (b) This section protects your homestead which is the house where you live and the land that the house sits on, or the amount of equity you have in your homestead, up to \$100,000 in value. [N.D. Cent. Code § 47-18-01]. Equity in this situation is the amount of your original mortgage minus what you owe. If you recently sold your home, you can still protect up to \$100,000 in proceeds from the sale. You may need to provide proof to show the amount you claim is from the sale of your homestead. **If you wish to claim the value of your homestead, then list the address or legal description of the home in the space provided.** See example below.

(b) Homestead where I reside, or up to \$100,000 in equity in my home located at:
123 ABC Street Northwest, Somewhere, North Dakota 58000.

This exemption does not protect your home from being taken to pay the creditor who lent you money for your home, or for taxes due. If you have taxes due, and are disabled or over 65 years old, you may be eligible for tax credits. Contact your county tax assessor or Legal Services of North Dakota for more information.

This section protects a trailer **OR** mobile home you own, in which you live. If you also own the land on which the mobile home sits, this section would not protect the land. **Complete the blank if you have a trailer or mobile home by listing the address.** See example below.

(b) A housetrailer or mobile home where I reside located at:
XYZ Mobile Home Park, Somewhere, North Dakota 58000.

This section also does not protect your mobile home from being taken by the creditor who sold it to you, or for payment of taxes due. If you have taxes due, and are disabled or over 65

years old, you may be eligible for tax credits. Contact your county tax assessor or Legal Services of North Dakota for more information.

- (c) This section protects insurance benefits you may have received from losses related to the above items. Fill in the amount if it applies to you. Make sure that you have documentation to prove insurance payment for the amount you list on the form.
- (d) List all motor vehicles in which your name is on the certificate of title. Enter the current value and subtract any amount remaining on any loan(s). The remaining amount is your equity in the vehicle(s), or the **Net Value**. You are entitled to a \$2,950 motor vehicle exemption. This may only be used for one motor vehicle. **If the net value is more than the exemption allowance of \$2,950, the difference can be claimed with other allowed exemptions.**

Motor Vehicle(s):	<u>Estimated Value</u>	“minus”	<u>Amount I still owe</u>	=	<u>Net Value</u>
Year <u>2004</u>					
Make <u>Pontiac</u>					
Model <u>Bonneville</u>	<u>\$4,150</u>	-	<u>\$2,950</u>	=	<u>\$1,200</u>

- (e) If you receive Social Security payments this section will apply to you. If you do not receive Social Security payments it will not apply. Social Security benefits and Veteran’s benefits are **not** exempt from a claim for child support. [N.D.Cent.Code § 28-22-03.1 (4)(c) and (d)].
- (f) If you receive Veteran’s Benefits this section will apply to you. If you do not it will not apply.
- (g) List the value of each item of property in the **Item** column that you want to protect. For example, if you have a table and chair set, you would list the value here. This Claim for Exemptions Kit lists common household items for you. It also provides room for other items you want to protect. Under **Estimated Value**, list the current value of the item if you were to sell it at a rummage sale. If you owe money on the item, list that amount under **Amount Owed**. Subtract **Amount Owed** from **Estimated Value**, then list the result under **Net Value**. See the example below:

Example:

<u>Item</u>	<u>Estimated Value</u>	<u>“minus”</u>	<u>Amount Owed</u>	=	<u>Net Value</u>
Pots & Pans	<u>\$25</u>	-	<u>0</u>	=	<u>\$25</u>
Refrigerator	<u>\$50</u>	-	<u>0</u>	=	<u>\$50</u>

If you owe more money on the item than it is worth, list *zero* under Net Value. See the example below:

<u>Item</u>	<u>Estimated Value</u>	<u>“minus”</u>	<u>Amount Owed</u>	=	<u>Net Value</u>
Dishes	<u>\$25</u>	-	<u>\$30</u>	=	<u>0</u>
Silverware	<u>\$50</u>	-	<u>\$60</u>	=	<u>0</u>

- (h) List all money owed to you or your family **and** due to be paid to you **now**, including wages or commissions due but not paid, bonuses, loan repayments, payments as a result of lawsuits, one time payment such as an insurance claim payment, child support or spousal support, money due now for property you have sold. See example below.

<u>Property owed to me</u>	<u>Who Owes the Money</u>	<u>Current Amount Owed</u>
Wages	Little Squirts Daycare	<u>\$225</u>
Child Support	Obligor’s Name	<u>\$300</u>

- (i) Complete the totals for each section and add them all together to arrive at your total exempt property. If you list an address in section (b) claiming your homestead exemption then the total of all your exempt property as an individual should not be more than \$3,750. If you did not claim your homestead exemption in section (b) then the total of all your exempt property should not be more than \$13,750. **If the total of all your exempt property is more than the allowed amount you should consult with an attorney prior to submitting your claim for exemptions.**

Finishing the Kit:

Sign, Seal and Deliver the Kit:

You must sign this Kit in front of a Notary Public. When you sign the Kit, remember you are stating that the information you gave in this Affidavit and Claim for Exemptions is a true and accurate assessment of all of your property and the current value of that property. Keep track of records which show ownership and value of the property listed.

You must bring the ***original*** of this **Claim for Exemptions Kit** to the Sheriff's Office who served you with the Notice of Levy documents ***within ten (10) days*** of the date you were served with papers. If you don't, you could lose your property. Make sure the Sheriff's Office stamps the original Kit and your copy with the date received in their office so you can show you met the deadline. Keep a copy for your records. The creditor may have the Sheriff bring out a notice of levy any time they believe your property has changed, so it is possible to go through this process more than once.

If you have further questions, please contact an attorney, or Legal Services of North Dakota for more information and help. We appreciate the opportunity to help you with your legal problem.