RCW 6.25.070 Issuance of writ—Notice—Hearing—Issuance without notice—Forms for notice. (1) Except as provided in subsection (2) of this section, the court shall issue a writ of attachment only after prior notice to defendant, given in the manner prescribed in subsections (4) and (5) of this section, with an opportunity for a prior hearing at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for attachment exists.

(2) Subject to subsection (3) of this section, the court shall issue the writ without prior notice to defendant and an opportunity for a prior hearing only if:

(a)(i) The attachment is to be levied only on real property, or (ii) if it is to be levied on personal property, the ground alleged for issuance of attachment is one appearing in RCW 6.25.030 (5) through (7) or in RCW 6.25.040(1) or, if attachment is necessary for the court to obtain jurisdiction of the action, the ground alleged is one appearing in RCW 6.25.030 (1) through (4); and

(b) The court finds, on the basis of specific facts alleged in the affidavit, after an ex parte hearing, that there is probable cause to believe the allegations of plaintiff's affidavit.

(3) If a writ is issued under subsection (2) of this section without prior notice to defendant, after seizure of property under the writ the defendant shall be entitled to prompt notice of the seizure and of a right to an early hearing, if requested, at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for attachment exists. Such notice shall be given in the manner prescribed in subsections (4) and (5) of this section.

(4) When notice and a hearing are required under this section, notice may be given by a show cause order stating the date, time, and place of the hearing. Notice required under this section shall be jurisdictional and, except as provided for published notice in subsection (5) of this section, notice shall be served in the same manner as a summons in a civil action and shall be served together with: (a) A copy of the plaintiff's affidavit and a copy of the writ if already issued; (b) if the defendant is an individual, copies of homestead statutes, RCW 6.13.010, 6.13.030, and 6.13.040, if real property is to be attached, or copies of exemption statutes, RCW 6.15.010 and 6.15.060, if personal property is to be attached; and (c) if the plaintiff has proceeded under subsection (2) of this section, a copy of a "Notice of Right to Hearing" in substantially the following form:

NOTICE OF RIGHT TO HEARING

In a lawsuit against you, a Washington court has issued or will issue a Writ of Attachment against your property. Under the writ a sheriff or sheriff's deputy has or will put a lien against your real estate or has seized or will seize other property of yours to hold until the court decides the lawsuit.

Delivery of this notice of your rights is required by law.

YOU HAVE THE RIGHT TO A PROMPT HEARING. If notice of a hearing date and time is not served with this notice, you have a right to request the hearing. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the statements in the enclosed affidavit are true and also that

the claim stated in the lawsuit is probably valid, or else your property will be released.

If the defendant is an individual, the following paragraph shall be added to the notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE YOUR PROPERTY RELEASED if it is exempt property as described in the copies of statutes included with this notice and if you claim your exemptions in the way described in the statutes.

(5) If service of notice on the defendant must be effected by publication, only the following notice need be published under the caption of the case:

To Defendant:
A writ of attachment has been issued in the above-captioned case, directed to the Sheriff of . . . . . County, commanding the Sheriff as follows:

"WHEREAS, . . . [Quoting body of writ of attachment]"

YOU HAVE A RIGHT TO ASK FOR A HEARING. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the ground for attachment alleged in an affidavit filed with the court exists and also that the claim stated in the lawsuit is probably valid, or else the attachment will be discharged.

If the defendant is an individual, the following paragraph shall be added to the published notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE YOUR PROPERTY RELEASED if it is exempt property as described in Washington exemption statutes, including sections 6.13.010, 6.13.030, 6.13.040, 6.15.010, and 6.15.060 of the Revised Code of Washington, in the manner described in those statutes.

[1988 c 231 s 15; 1987 c 442 s 807.]

Reviser's note: As to the constitutionality of certain applications of subsection (2) of this section, see *Tri-State Dev. v. Johnston*, 160 F.3d 528 (9th Cir. 1998) and *Van Blaricom v. Kronenberg*, 112 Wn. App. 501, 50 P.3d 266 (2002).

Severability—1988 c 231: See note following RCW 6.01.050.