



Can Creditors Take My Benefits and Assets?

I'VE BEEN SUED AND THERE IS A JUDGMENT AGAINST ME. CAN MY CREDITORS TAKE PART OF MY PAYCHECKS?

Yes. If you owe money and a creditor has received permission from the court, they can arrange to have your paychecks “garnished,” meaning they can have up to 10% of your gross income removed (gross income is your total income prior to taxes and deductions) and sent to the creditor before it gets to you. However, if you take home \$240 in gross income or less per week, your paycheck cannot be garnished.

Note: If you already have child-support, alimony or support payments taken out of your paycheck, the total amount garnished cannot exceed 25%.

WHAT BENEFITS ARE EXEMPT?

Below is a partial list of deposits that are generally exempt from collection or garnishment:

- Veterans Benefits (including survivor’s benefits)
- Wages of SSI or public assistance recipients
- Public or Private Pensions
- Social Security Disability Benefits (SSD)
- Unemployment Benefits
- Supplemental Security Income (SSI)
- Public School Teacher Benefits
- Public Assistance
- Workers Compensation Benefits
- Social Security Benefits
- Child Support
- Maintenance (Alimony)
- Railroad Retirement Benefits
- Some Insurance Benefits
- Life Insurance Policy
- 90% of wages earned within the past 60 days

If income from an exempt source is **directly deposited** into your bank account, the first \$2750 of that account cannot be frozen. Additionally, even if you have no exempt income, the first \$2100 of any bank account is exempt from collection and cannot be frozen.

Note: There are exceptions to the general rule that the above benefits are exempt from garnishment: some exempt funds may be garnished for purposes of paying child support or debts owed to the government, including taxes or student loans. If you owe these kinds of debts, you should contact an attorney to find out how these debts may affect your benefits.

I OWN MY HOME. CAN IT BE SEIZED BY A CREDITOR TRYING TO COLLECT ON A JUDGMENT AGAINST ME?

Under current law a creditor could take steps to try and sell your home to pay a judgment, but it is very unlikely to happen. A creditor cannot seize or forcibly sell your home without a court order, and the process for obtaining such an order is complicated and can be expensive and time-consuming. It is also not very likely that a judge would grant a creditor's request to sell your home in order to pay off a consumer debt.

However, if you own real estate and a judgment is outstanding against you, the creditor can easily put a "lien" on your property, which means that if you ever decide to sell your property, the unpaid debt may be taken out of a portion of the proceeds.

CAN CREDITORS TAKE MY PERSONAL PROPERTY?

Some personal property can be taken to satisfy a judgment, although this doesn't happen very often. There are also some types of personal property such as household furniture, clothing, and some appliances that are exempt from potential collection. You should speak with an attorney if you fear that a creditor is going to take your personal property.

I RECEIVED A PACKET IN THE MAIL FROM THE MARSHAL AND THE FORMS ASK LOTS OF QUESTIONS ABOUT MY SOURCES OF INCOME AND MY ASSETS. DO I HAVE TO FILL THIS OUT?

Yes. These documents allow the court to determine what income and assets your creditors can seize or garnish. If you ignore them and fail to fill them out and mail them back (you should send them via Certified Mail, Return Receipt Requested), you may be found in contempt of court and subject to a fine and even possibly jailed. It is important to fill these forms out completely and accurately and mail them back promptly as instructed.

HOW LONG WILL A JUDGMENT AGAINST ME HAVE EFFECT?

A judgment is collectable for 20 years.

Note: Creditors are entitled to charge 9% annual interest on unpaid judgments, so the amount you owe will continue to increase for as long as it remains unpaid.

WHO CAN I CONTACT IF I HAVE QUESTIONS?

You may call MFY Legal Services, Inc.'s Consumer Rights Project on Thursdays from 10:00 a.m. to 2:00 p.m. at 212-417-3881.

DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.