



# My Bank Account Is Frozen. What Do I Do?

If your bank account is frozen, that means someone has filed and won a lawsuit against you. The person or company that filed the lawsuit is called the plaintiff. Winning the lawsuit means that the plaintiff now has a judgment against you. If you did not receive notice of the lawsuit, or did not appear if you did receive notice, it is called a default judgment. A plaintiff's attorney can use the default judgment to restrain or freeze your bank account and take money in the account to pay the judgment. You should have received a notice from the bank that the account will be or has been frozen and a claim exemption form that explains that certain funds in the account are exempt from collection.

## WHAT ARE MY OPTIONS?

There are two ways to try to release your bank account:

- If your **income is exempt** by law from collection, fill out a claim exemption form from the bank to release your account. Look at the list below to help determine if your income is exempt from collection. If you are not sure, consult an attorney. You should include as much proof as possible, such as a benefits award letter, to establish that the frozen income is actually exempt. If your account has been incorrectly frozen, sending that form to the bank and the creditor's attorney with the attached proof should result in the bank releasing the exempt funds. After you do this, it may be a good idea to vacate the default judgment to prevent future bank restraints (see below).
- Another option to release your bank account is to go to court and **file an Order to Show Cause to Vacate a Default Judgment**. This option is available to anyone, regardless of your source of income. However, you can only vacate a default judgment for a good reason, such as improper service. More information on how to file an Order to Show Cause is available on our fact sheet entitled "*How to Remove (Vacate) a Default Judgment.*"

## WHAT MONEY IS EXEMPT FROM COLLECTION?

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

- Wages of people who also receive SSI or public assistance
- Public or private pensions
- Social Security Disability benefits (SSD)
- Unemployment benefits
- Supplemental Security Income (SSI)
- Public school teacher benefits
- Public Assistance
- Veterans benefits (including survivor's benefits)
- Workers compensation benefits
- Social Security benefits
- Child support
- Maintenance (Alimony)
- Railroad retirement benefits
- Some insurance benefits
- Life insurance policies
- 90% of wages earned within the past 60 days

**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 federal debts, including student loans. If you owe these kinds of debts, you should contact an attorney to find out how these debts may affect your benefits.

If income from an exempt source is **directly deposited** into your bank account, New York law states that the first \$2,625 of that account cannot be frozen. Additionally, federal rules automatically protect the last two months' worth of certain types of federal benefit income, including Social Security, SSI and veterans' benefits. Also, even if you have no exempt income, New York law protects the first \$1,920 of any bank account from collection and that amount cannot be frozen.