

# HOW TO DO AN EMERGENCY MOTION TO CLAIM EXEMPTION

## Who can file an *Emergency Motion to Claim Exemption*?

Anyone who has a money judgment against them and whose bank account has been frozen as a result of that judgment can file an *Emergency Motion to Claim Exemption*. Your bank account may have been frozen if a creditor filed a *Citation* against your bank.

## What is an *Emergency Motion to Claim Exemption*?

You can file an *Emergency Motion to Claim Exemption* to get access to the money in your bank account for an emergency purpose. An emergency purpose may include a need to pay for your basic necessities like food, rent/mortgage, utilities, etc. You do this by claiming the money is protected by law ("exempt") in your *Motion*.

## How do I know if my money is exempt?

The following money is exempt:

- Social Security, SSI benefits, and disability
- Pension and retirement benefits and refunds
- Public assistance benefits
- Child support
- Unemployment compensation benefits
- Workers' compensation benefits
- Veterans' benefits
- Circuit breaker property tax relief benefits
- Any other source, up to \$4,000 ("wildcard exemption")

## Who do I notify?

You notify the judgment creditor (or their attorney if they have one) and the bank that is holding your frozen account.

## What forms do I need for the *Emergency Motion to Claim Exemption*?

- ***Emergency Motion to Claim Exemption***: This form asks the court to allow access to the money in your bank accounts because the money is protected by law and removes the bank from your case.
- ***Notice of Court Date for Emergency Motion to Claim Exemption***: The form tells the judgment creditor and your bank that you have filed an *Emergency Motion to Claim Exemption*. It also states the date, time, and place where the judge will hear this *Motion*.
- ***Order on Emergency Motion to Claim Exemption***: This form is used by the judge to make a decision about whether to allow you access to the money in your bank account.

**Fill out the *Emergency Motion to Claim Exemption* and follow the instructions on the form.** You will need the addresses for the judgment creditor and your bank to notify them. See Step 2.

## Where can I find the forms I need?

You can find the forms at:

<http://www.illinoiscourts.gov/Forms/approved/>.

## Does it cost to file a *Emergency Motion to Claim Exemption*?

- There may be a fee for filing an *Emergency Motion to Claim Exemption* with the Circuit Clerk.
- If you cannot afford to pay the filing fee, you can ask the court to file for free. Fill out the *Application for Waiver of Court Fees* to ask the court for a fee waiver. This is a separate set of forms you can find at: <http://www.illinoiscourts.gov/Forms/approved/>.

## What do I do after I fill out the *Emergency Motion to Claim Exemption*?

### Step 1: File your forms with the Circuit Clerk in the county where the court case is filed.

- Ask the Circuit Clerk for a court date, time, and courtroom number for your *Emergency Motion to Claim Exemption*. This is the time and place your *Emergency Motion to Claim Exemption* will be heard by a judge.
- Write the courthouse address, court date, time, and courtroom number on the *Notice of Court Date for Emergency Motion to Claim Exemption*.
- You must electronically file (e-file) court documents unless you qualify for an exemption from e-filing.
  - You will qualify for an exemption if: (1) you do not have internet or computer access at home and it would be difficult for you to travel to a place where you could use a computer, (2) you have a disability that keeps you from e-filing, or (3) you have trouble reading or speaking English.
  - Fill out a *Certification for Exemption from E-Filing* found here: [www.illinoiscourts.gov/Forms/approved/default.asp](http://www.illinoiscourts.gov/Forms/approved/default.asp).
  - File the original and 1 copy of your *Motion* form, and the *Certification*, with the Circuit Clerk's office in person or by mail.
- To e-file, create an account with an e-filing service provider.
  - Visit <http://efile.illinoiscourts.gov/service-providers.htm> to select a service provider. Some service providers are free while others charge a processing fee.
  - For instructions on how to e-file for free with Odyssey eFileIL, see the self-help user guides here: [http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented\\_Litigants/self-represented.asp](http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented_Litigants/self-represented.asp)

- If you do not have access to a computer, or if you need help e-filing, take your form to the Circuit Clerk's office where you can use a public computer terminal to e-file your form.
  - You can bring your form on paper or saved on a flash drive.
  - The terminal will have a scanner and computer that you can use to e-file your form.

**Step 2: Serve notice to the judgment creditor and your bank regarding your *Emergency Motion to Claim Exemption*.**

- The judgment creditor and bank must receive notice of your *Emergency Motion to Claim Exemption*. A hearing on the *Motion* cannot take place unless this notice is given.
- Give the judgment creditor and bank copies of the *Notice of Court Date for Emergency Motion to Claim Exemption* and your *Emergency Motion to Claim Exemption*.
- Because there may not be enough time to mail these forms, you should either hand-deliver, fax, or email these forms to the judgment creditor and your bank.

**Step 3: Go to your court date.**

- Your court date, time, and room number are listed on your *Notice of Court Date for Emergency Motion to Claim Exemption*.
- Bring these items with you to court:
  - A file-stamped copy of the *Emergency Motion to Claim Exemption*.
  - *Order on Emergency Motion to Claim Exemption*. Complete the top part of this form only.
  - Copies of the *Notice of Court Date for Emergency Motion to Claim Exemption* given to the judgment creditor and your bank with the Proof of Delivery signed by you showing when and how they got notice.
  - Any proof that shows the funds in your bank account are exempt as you claim.
- Get to the courthouse at least 30 minutes early.
- Go to the courtroom number listed on your court form. If your forms do not have a courtroom number, look for a list of cases at the courthouse or ask the Circuit Clerk.
- Check in with the courtroom staff and wait for your name and case number to be called.
- When your case is called, step up, introduce yourself to the judge and tell the judge you want them to grant your *Emergency Motion to Claim Exemption*.
- Explain to the judge the reasons you are claiming your exemption and provide the judge with any proof you have to show your funds are exempt.
- If the judge grants your *Motion*, give the *Order on Emergency Motion to Claim Exemption* to the judge.
- Before you leave the courtroom, get a file-stamped copy of the *Order*.
- Fax, hand deliver, or email one copy of the *Order* to the judgment creditor (or their attorney if they have one).
- Bring the *Order* to your bank and ask the bank to release the money in your account.

<b>STATE OF ILLINOIS, CIRCUIT COURT</b>  _____ COUNTY	<b>EMERGENCY MOTION TO CLAIM EXEMPTION</b>	<i>For Court Use Only</i>
<b>Instructions ▼</b>  Enter above the county name where the <i>Citation to Discover Assets to Debtor's Bank</i> was filed.  Fill in the rest of the information by copying it from the <i>Citation</i> .	_____ <b>Plaintiff</b> ( <i>First, middle, last name</i> )  v.  _____ <b>Defendant</b> ( <i>First, middle, last name</i> )  _____ <b>Respondent</b> ( <i>Bank's name</i> )	_____ <b>Case Number</b>

1. I am the debtor.
2. My accounts at \_\_\_\_\_ have been frozen.  
*Name of bank*

In 2, enter the name of your bank.

In 3, check all that apply.

3. My accounts contain money from the following sources: (*check all that apply*)
  - Social Security, SSI benefits, and disability
  - Pension and retirement benefits and refunds
  - Public assistance benefits
  - Child support
  - Unemployment compensation benefits
  - Workers' compensation benefits
  - Veterans' benefits
  - Circuit breaker property tax relief benefits
  - Any other source, up to \$4,000 ("wildcard exemption")

4. This money is exempt under these laws: [42 USC § 407\(a\)](#); [735 ILCS 5/12-1001](#); and [735 ILCS 5/12-1006](#).

In 5, enter the amount of money you are claiming as exempt.

5. I claim \$ \_\_\_\_\_ as exempt.  
*Amount of money in account*

I ask for the following:

- Declare my funds to be exempt.
- Order the bank to remove the hold on my accounts.
- Dismiss the *Citation to Discover Assets to a Debtor's Bank*.
- Grant any other relief that is fair.

Under the Code of Civil Procedure, [735 ILCS 5/1-109](#), making a statement on this form that you know to be false is perjury, a Class 3 Felony.

**I certify that everything in the *Emergency Motion to Claim Exemption* is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).**

\_\_\_\_\_  
*Your Signature*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*Your Name*

\_\_\_\_\_  
*City, State, ZIP*

\_\_\_\_\_  
*Telephone*

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name.

<b>STATE OF ILLINOIS, CIRCUIT COURT</b>  _____ COUNTY	<b>NOTICE OF COURT DATE FOR EMERGENCY MOTION TO CLAIM EXEMPTION</b>	For Court Use Only
<b>Instructions ▼</b> Directly above, enter the name of the county where the <i>Citation to Discover Assets to Debtor's Bank</i> was filed.  Fill in the rest of the information by copying it from the <i>Citation</i> .	_____ <b>Plaintiff</b> ( <i>First, middle, last name</i> )  v.  _____ <b>Defendant</b> ( <i>First, middle, last name</i> )  _____ <b>Respondent</b> ( <i>Bank's name</i> )	_____ <b>Case Number</b>

In **1a**, enter the date and time of your court date. The Circuit Clerk will give you the date and time of the court date when you file your *Emergency Motion to Claim Exemption*.

In **1b**, also enter the address of the court and courtroom number for the court date.

**1. Court Date Information**

The reasons for this court date are listed in the attached *Emergency Motion to Claim Exemption*.

The court date for the *Emergency Motion to Claim Exemption* I filed is scheduled for:

a. Date: \_\_\_\_\_, 20 \_\_\_\_ Time: \_\_\_\_\_  a.m.  p.m.

b. Address: \_\_\_\_\_  
Street City State ZIP

Courtroom: \_\_\_\_\_

Attach a copy of your *Motion* to this *Notice*.

**PROOF OF DELIVERY**

1. I sent the *Emergency Motion to Claim Exemption and Notice of Court Date for Emergency Motion to Claim Exemption*.

a. To the other party:

Name: \_\_\_\_\_  
First Middle Last

Address: \_\_\_\_\_  
Street, Apt # City State ZIP

Email address: \_\_\_\_\_

b. By:  Personal hand delivery

Regular, First-Class Mail, put into the U.S. Mail with postage paid at:

\_\_\_\_\_  
Address of Post Office or Mailbox

Third-party commercial carrier, with delivery paid for at:

\_\_\_\_\_  
Name (for example, FedEx or UPS) and office address

The court's electronic filing manager (EFM) or an approved electronic filing service provider (EFSP)

Email (*not through an EFM or EFSP*)

Mail from a prison or jail at:

\_\_\_\_\_  
Name of prison or jail

c. On: \_\_\_\_\_  
Date

At: \_\_\_\_\_  a.m.  p.m.  
Time

In **1b**, check the box to show how you sent the document, and fill in any other information required on the blank lines.

**NOTE:** There may be local rules about how many days before the court date you have to give notice to the other parties. Ask the Circuit Clerk where to find these rules. Look for rules about motions and notice of hearing.

In **c**, fill in the date and time that you sent the document.

In **2a**, enter the full name and address of the respondent/bank you are sending a copy of the *Motion* to. You can find this information on the *Citation to Discover Assets to a Debtor's Bank*.

In **2b**, check the box to show how you sent the document, and fill in any other information required on the blank lines.

**CAUTION:** You may only send this form by email if the other party has agreed to receive documents in the lawsuit by email.

2. I sent this document:

a. To bank:

Name: \_\_\_\_\_  
*First Middle Last*

Address: \_\_\_\_\_  
*Street, Apt # City State ZIP*

Email address: \_\_\_\_\_

b. By:  Personal hand delivery

Regular, First-Class Mail, put into the U.S. Mail with postage paid at:

\_\_\_\_\_  
*Address of Post Office or Mailbox*

Third-party commercial carrier, with delivery paid for at:

\_\_\_\_\_  
*Name (for example, FedEx or UPS ) and office address*

The court's electronic filing manager (EFM) or an approved electronic filing service provider (EFSP)

Email (*not through an EFM or EFSP*)

Mail from a prison or jail at:

\_\_\_\_\_  
*Name of prison or jail*

c. On: \_\_\_\_\_  
*Date*

At: \_\_\_\_\_  a.m.  p.m.  
*Time*

**I certify that everything in the Proof of Delivery is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).**

\_\_\_\_\_  
*/s/ Your Signature*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*Print Your Name*

\_\_\_\_\_  
*City, State, ZIP*

\_\_\_\_\_  
*Telephone*

Under the Code of Civil Procedure, [735 ILCS 5/1-109](#), making a statement on this form that you know to be false is perjury, a Class 3 Felony.

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name.

