

Getting Started

Citation to Discover Assets to a Debtor's Bank

IMPORTANT: This getting started guide and the instructions are not legal advice. They are only meant to help you learn how to do a *Citation to Discover Assets to a Debtor's Bank* in order to find out about the debtor's income and property. Your use of the form does not guarantee you will be successful in court.

To learn how to fill out the form and file it with the court, read the *How to do a Citation to Discover Assets to a Debtor's Bank* instruction sheet and the instructions on the form.

Name of form:	<i>Citation to Discover Assets to a Debtor's Bank</i>
Purpose of the form:	To find out if the bank has information about the debtor's income or property. This information could be used to help get the judgment paid.
Types of cases the form CAN be used for:	When you have a judgment for money and are trying to get information about the debtor's income and property from a bank.
Types of cases the form CANNOT be used for:	When you do not have a judgment for money or the judgment is for unpaid child support or maintenance. This form should not be used on the debtor's employer since there is a separate form to find out about the debtor's wages or employment. You cannot use this form if the bank is not doing business in Illinois.
Cost to file the form:	There is a fee for filing. If you cannot afford to pay the filing fee, you can ask the court to file for free by filing the <i>Application for Waiver of Court Fees</i> found at: http://www.illinoiscourts.gov/Forms/approved/
Special information or papers needed to complete the form:	<ul style="list-style-type: none">• Your case number;• Name of the debtor;• Address for the debtor;• Name of the bank;• Address for registered agent of the bank;• Courtroom number;• Date of judgment or the date it has been renewed;• Amount of judgment; AND• Amount that remains unpaid.
Statutes and rules covering the form:	735 Illinois Compiled Statutes, section 5/2-1402 Illinois Supreme Court Rule 277
Where to find the form and instruction sheet:	http://www.illinoiscourts.gov/Forms/approved/
For more information:	Read the <i>How to do a Citation to Discover Assets to a Debtor's Bank</i> instruction sheet that comes with this form. You may also find more information, resources, and the location of your local county self help center at: https://www.illinoislegalaid.org/legal-information/what-citation-discover-assets .

HOW TO DO A CITATION TO DISCOVER ASSETS TO DEBTOR'S BANK ("BANK GARNISHMENT")

What is a *Citation to Discover Assets to Debtor's Bank*?

A *Citation to Discover Assets to Debtor's Bank* is a court document that tells the bank to answer questions about the debtor's property and income.

Who can file a *Citation to Discover Assets to Debtor's Bank*?

Anyone who has won a judgment for money against another person or business can file a *Citation to Discover Assets to Debtor's Bank* to try to collect the money.

- The person who won the judgment is called the "creditor."
- The person who owes the money is called the "debtor."
- The debtor's bank is called the "respondent."

Using the *Citation*, the creditor can try to get that property or income to pay the judgment if they are not protected by law.

What if my judgment is over 7 years old?

- If your judgment is over 7 years old, you will need to renew ("revive") your judgment before you can do a *Citation to Discover Assets to Debtor's Bank*. To start the process, file and serve a Petition for Revival.
- You can renew ("revive") a judgment only up to the 20th year from the date of your judgment.
- If your judgment is over 27 years old, you cannot enforce your judgment.

Who do I serve the *Citation* on?

- You must use the bank's correct legal name. You may call the bank and ask them their correct legal name. You may even ask where they prefer legal papers to be delivered. If the receptionist does not know, ask for a bank officer. Do not give them the name of your debtor.
- Serve the bank's registered agent or any officer at any branch. You do not need to know which branch was used by the debtor.
- You can use the Secretary of State's website to find a bank's registered agent:
<http://www.ilsos.gov/corporatellc/>
- **NOTE:** you cannot use this form if the bank is not doing business in Illinois.

What forms do I need for the *Citation to Discover Assets to Debtor's Bank*?

- ***Citation to Discover Assets to Debtor's Bank:*** tells the bank to answer questions about the debtor's property and income.

- ***Letter to the Sheriff (optional):*** is a letter that tells the sheriff the address of the bank to serve.

Where can I find the form I need?

You can find the form at:

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

Does it cost to file a *Citation to Discover Assets to Debtor's Bank*?

- Yes, there is a fee for filing a *Citation to Discover Assets to Debtor's Bank* with the Circuit Clerk.
- There will also be a fee for the sheriff or private process server.
- If you cannot afford to pay the cost, 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/>.

Fill out the *Citation to Discover Assets to Debtor's Bank* following the instructions on the form.

You will need the address where the bank can be served and the address where you will send the debtor notice. See **Steps 2** and **3**.

What do I do after I fill out the *Citation to Discover Assets to Debtor's Bank*?

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

- Call the Circuit Clerk for a court date, time, and courtroom number for your *Citation to Discover Assets to Debtor's Bank*. The bank is required to respond by this time.
- Write the courthouse address, court date, time, and courtroom number on the *Citation to Discover Assets to Debtor's Bank*.
- Ask the Circuit Clerk how much it will cost to file your form and what types of payment (cash, check, credit, online) they take.
- 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.
 - File the original and 1 copy of your *Citation* 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 eFileLL, see the self-help user guides here: 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 the bank with a copy of your form.

- The *Citation to Discover Assets to Debtor's Bank* must be served on the bank. The judge will have no power to order the bank to do anything if the *Citation to Discover Assets to Debtor's Bank* is not served.
- You can use the sheriff, a private process server, or Certified Mail to serve the bank with the *Citation*. You cannot give the *Citation* to the bank yourself.
- The sheriff or the private process server will require the original *Citation* and 2 file-stamped copies.
- If by sheriff
 - Contact the sheriff's office in the county where the bank is located for more for information about how to serve the *Citation* on the bank.
 - If the sheriff wants it in person:
 - Bring the file-stamped copies of your *Citation* to the sheriff's office.
 - Pay the sheriff's fees for the debtor OR give the sheriff a copy of your *Order for Waiver of Court Fees* (if you have one) to not be charged a fee.
 - If the sheriff wants you to mail it to the sheriff's office:
 - Mail copies of your *Citation* to the sheriff's office.
 - Include the *Letter to the Sheriff* found at: <http://www.illinoiscourts.gov/Forms/approved/>
 - Pay the sheriff's fees for each party OR mail the sheriff a copy of your *Order for Waiver of Court Fees* (if you have one) to not be charged a fee.
- If by private process server
 - You may also have the forms served by a private process server. A private process server is anyone 18 or older and not a party to the lawsuit. Private process servers do not accept fee waivers.

- If by Certified Mail
 - The *Citation* may also be served by Certified Mail, restricted delivery, return receipt requested.
- **NOTE:** If you e-filed your *Citation* and you want to use the sheriff to serve the *Citation*, contact your sheriff's office to ask if the sheriff will file the Return/Affidavit of Service or if you will have to e-file it. If you use a private process server, you or the process server will have to file the Return/Affidavit of Service when you receive it back.

Step 3: Mail a copy of the *Citation to Discover Assets to Debtor's Bank* to the debtor.

- The person serving the *Citation* must send a copy of the *Citation* to the debtor by regular first-class mail within 3 days after service upon the bank. If you use certified mail, wait at least 3 days before mailing the copy of the *Citation* to the debtor. If you mail too quickly, you will notify the debtor and they will take their money out of the account. If you wait too long to mail the copy, you will not be following the law.

Step 4: If you have not received the *Answer* from the bank, contact the sheriff or private process server to confirm they served your forms on the bank.

- Before court, you should check on whether the bank was served. This is called the Return/Affidavit of Service. You may be able to check this online. Find your local Circuit Clerk's website at: <http://www.ilcourtclerks.org/illinois-court-clerks/>.
- If the bank was served, make sure the Return/Affidavit of Service is filed with the Circuit Clerk. You may be responsible for filing this with the Circuit Clerk. The judge has no power to do anything if the *Citation* is not served.
- If you sent the *Citation* by certified mail, you must have the green receipt card to prove that the bank was served. Attach the green card to the original *Citation* and bring it to court. The clerk will put it into the court file.
- If the Return/Affidavit of Service says "no service," this means that the sheriff's deputy tried to find the bank's agent, but could not serve the bank. If this happens, you must start over. The fee is less on the second attempt.
- **NOTE:** You should review the Return/Affidavit of Service. If it says the bank has moved or is not located at the address you wrote down, you should find a new address for the bank before starting again.

Step 5: Go to your court date.

- Your court date, time, and room number are listed on your *Citation to Discover Assets to Debtor's Bank*.
- Bring these items with you to court:
 - A copy of the *Citation to Discover Assets to Debtor's Bank*;
 - A copy of the written judgment (if you have one);
 - Any receipts you have of your court costs including any costs for the sheriff;
 - The Return/Affidavit of Service showing that the *Citation to Discover Assets to Debtor's Bank* was served on the bank; AND
 - Any answer you have received from the bank.
- Get to the courthouse at least 30 minutes early.
- Go to the courtroom number listed on your court form. If your form does 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.
- **If the bank was served but does not answer:**
 - The judge may enter a conditional judgment against the bank for failure to answer. A conditional judgment requires the bank to file an answer on or before the next court date. The creditor must issue a Summons after Conditional Judgment and serve it on the bank sheriff or private process server. If the bank does not answer, the court may enter a final judgment against the bank for the balance due.
 - The judge may issue a *Rule to Show Cause* requiring the bank to appear and explain why they did not answer. If the bank fails to file an answer or appear for the *Rule*, the court may find them in contempt and may order their arrest.
- **If the bank files an answer:**
 - If the bank's answer says that they have no property belonging to the debtor, then the *Citation to Discover Assets to Debtor's Bank* will be dismissed.
 - If the bank answers that it has property belonging to the debtor, then you can seek a turn over order for this property.
- The debtor has certain exemptions that protect income and assets belonging to the debtor such as social security, disability, or child support.
- Sometimes bank accounts are in the name of the debtor and another person. This will be shown on the bank's answer. The other person, like a spouse or child, may actually own the funds. When this happens, you will need to continue the case and send a notice of hearing to the other party (unless they are already in court).

Step 6: After court, send a copy of any order entered to the bank's representative.

- If there are funds to be turned over, make sure you have your current address on the order.

- Send a copy of the court's order with the clerk's filing stamp on it to the bank at the address shown on their answer. If the court orders the money to be turned over to you, you should send the bank a letter telling them where to send the money and include the order.

Notice to Bank

- If you do not answer or come to the court date listed in section 3, the judge may do one of two things:
 - Issue a rule to show cause; OR
 - Enter a conditional judgment.
- If there is a rule to show cause court date, you will have to explain why you did not come to court on the court date and why you should not be found in contempt of court. If you do not come to the rule to show cause on the set court date, the judge may find you in contempt, and you might be arrested and jailed.
- If the court enters a conditional judgment, you will have 30 days to answer or appear. If you fail to do so, then the court may enter a final judgment against you.

6. The bank's duties and obligations:

You must file the *Answer* on page 4 telling the Court about all accounts or safety deposit boxes that the debtor may have an ownership interest in or appears as a signatory. You must not transfer (sell, give away or get rid of) any property not exempt from the enforcement of a judgment. This prohibition shall remain in effect until further order of the court or termination of the proceeding. The bank is required to withhold double the unpaid amount listed below in paragraph 8. The bank is not required to withhold beyond double the unpaid amount listed below.

If the account consists solely of funds that can be identified as exempt under federal or state law, the bank is PROHIBITED from withholding the funds, and the bank must respond that the funds are exempt. Deposited funds that are exempt under federal and state law include Social Security Disability Insurance (SSDI) and Social Security Retirement Insurance (SSRI), Supplemental Security Income (SSI), veteran's benefits, public assistance benefits, unemployment compensation benefits, child support and/or circuit breaker property tax relief benefits.

7. The debtor has the right to claim certain protections ("exemptions").

If the debtor claims an exemption, the income or property covered by that exemption cannot be taken to pay the judgment. Here are some exemptions the debtor may be able to claim:

1. Money or belongings up to \$4,000 ("wildcard exemption");
2. Social Security, Supplemental Security Income benefits, and disability;
3. Public assistance benefits;
4. Child support;
5. Unemployment compensation benefits;
6. Workers' compensation benefits;
7. Veteran's benefits;
8. Circuit breaker property tax relief benefits;
9. Debtor's equity interest, up to \$2,400, in any one motor vehicle;
10. Debtor's equity interest, up to \$1,500, in any professional books, or tools of their trade;
11. Pension and retirement benefits and refunds; AND
12. Debtor's equity interest, up to \$15,000, in the house they live in.

To debtor: see *Emergency Motion to Claim Exemption* for further instruction on how to ask the court for these exemptions.

The debtor has the right at the court date listed in section 3 to declare property or income as exempt. The debtor also has the right to ask for these exemptions at an earlier date by notifying the clerk in writing at the office of the Circuit Clerk. A court date will be promptly set. Necessary forms must be prepared by the debtor and sent to the bank and the creditor or the creditor's attorney.

3. Property:

a. Account

	Account Type	Account Balance	Amount Withheld
1.		\$	\$
2.		\$	\$
3.		\$	\$
4.		\$	\$
5.		\$	\$
6.		\$	\$

b. Safety Deposit Yes No

c. Other property (*rents, mortgages, etc.*)

	Describe Property	Value of Property	Amount Withheld
1.		\$	\$
2.		\$	\$

d. Less Right of Offset for Loans \$ _____

e. **Total Amount Frozen:** \$ _____

4. List all electronic monthly deposits:

	Account Number	Source of Deposit	Monthly Amount
1.			\$
2.			\$
3.			\$

5. List all joint account holders or anyone who has a claim on the property:

If all of the property belongs to another person who is not the debtor, do not freeze the property.

a. _____
First Middle Last Name

Street

City State ZIP

Account Information: Type: Checking CD Savings

Account Number: _____

b. _____
First Middle Last Name

Street

City State ZIP

Account Information: Type: Checking CD Savings

Account Number: _____

Enter the Case Number given by the Circuit Clerk: _____

c. _____
First Middle Last Name

Street

City State ZIP

Account Information: Type: Checking CD Savings

Account Number: _____

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.

After you finish this form, sign and print your name.

Enter your complete current address and telephone number.

Mail or hand-deliver a copy of this completed *Answer* to the Circuit Clerk, plaintiff, and debtor.

I certify that everything in the *Answer to Citation Proceeding* 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

Print Your Name

City, State, ZIP

Telephone

**LETTER TO THE SHERIFF
(SERVING FORM)**

Instructions to User

1. Complete this letter.
2. With this letter, include the *Citation to Discover Assets to a Debtor's Bank* for each of the banks in your case that are located in that county, payment or *Order for Waiver of Court Fees*, and a self-addressed and stamped envelope for the sheriff to mail the return of service to you.
3. Send your letter and the documents listed above to the sheriff's office in the county and state where the bank is located.

Date: _____

Sheriff of _____ County State of _____

Address of Sheriff _____

Dear Sheriff:

Re: _____ v. _____ Case Number: _____
Plaintiff *Defendant*

I am enclosing the *Citation to Discover Assets to a Debtor's Bank*

to be served on: _____
Name of Bank

Street, Apt # City State Zip

Check the box that applies:

- I have enclosed an *Order for Waiver of Court Fees* entered by the Court in _____ County, Illinois, which waives the cost of service; **OR**
- I have enclosed the cost of service \$ _____.

Once you have served the enclosed documents, please complete a return of service and return it to me in the enclosed self-addressed and stamped envelope.

Thank you for your attention to this matter.

Sincerely,

Signature

Printed Name

Street Address, Apt #

City State Zip

Phone