# 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.
  - 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

- 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.



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