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

**NOTE:** If there are any words or terms used in these instructions that you do not understand, please visit Illinois Legal Aid Online at illinoislegalaid.org/lexicon/glossary. For more information about going to court including how to fill out and file forms, call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov.

### 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: 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.
- **NOTE:** The email address (if you have one) and mailing address you put on the *Citation* is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

### Where can I find the form I need?

You can find the form at: ilcourts.info/forms.

### 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 filing fee, you can ask the court to file for free or at a reduced cost by filing the *Application for Waiver of Court Fees*. This is a separate set of forms you can find at ilcourts.info/forms.

### 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 or remote court information for your *Citation to Discover Assets to Debtor's Bank.* The bank is required to respond by this time.
- Write the court date, time, and the information needed to attend court by phone, video, or in person 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.

- After you fill out your court forms, file them with the Circuit Court Clerk. This is done by electronic filing, called 'e-filing'. You do not have to e-file if:
  - you qualify for an exemption or
  - your case involves a criminal matter.
- Most people e-file their forms using Odyssey eFileIL at ilcourts.info/efile.
- Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at ilcourts.info/EfileHowTo.
- E-filing may not work on a cell phone or tablet. You may need to use a computer to e-file.
- If you do not have access to a computer or if you need help e-filing, take your completed forms to a public library, or a Circuit Clerk, Appellate Clerk, or Supreme Court Clerks' office. These places offer public computers where you can to e-file your forms. Librarians and courthouse staff are not able to provide legal advice.
  - You can bring your forms on paper or saved on a flash drive. The public computer will have a scanner where you can turn your paper forms into electronic files.
- Some people are exempt from e-filing, which means they can file paper forms at the courthouse or by mail. People who do not have to e-file are:
  - inmates in prison or jail who do not have a lawyer
  - people with a disability that keeps them from e-filing
- You may also qualify for an exemption from e-filing if:
  - You do not have Internet or computer access in your home, and it is hard for you to travel.
  - You have trouble reading, writing, or speaking English.
  - You are filing documents in a sensitive case, such as an order of protection.
  - You tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
- To ask for an exemption from e-filing, use the form at ilcourts.info/ExemptionCircuit. If you can't print this form, then ask for it at your local courthouse.
  - File your *Certification for Exemption from E-Filing* form with your other court forms at the Circuit Clerk's office or by mail.
  - Bring or send your signed court forms and at least two copies of your forms to the Circuit Clerk's office. Ask them to stamp your copies and return them to you.
  - If you need to make copies of your forms, you can do that at the Circuit Clerk's office. They may charge you to make copies.
  - If you mail your court forms to the Circuit Clerk's office, include a stamped envelope addressed to you. The Circuit Clerk will file your forms then send your copies back to you in the envelope.

**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: ilcourts.info/forms.
    - 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: ilcourts.info/CircuitClerks.
- 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 your court date is by phone or video:
  - Make sure to have the call-in or login information for your court date and make sure your technology is working.
  - Follow the instructions on the court notice you received. Call the Circuit Clerk or Circuit Court or visit their websites for specific technology instructions.
  - Follow these recommendations to appear by phone or video: ilcourts.info/AllRemoteCourtResources.
- **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).

**Make sure you know how you are to attend your court date.**

Your court date could be in person, by phone or by video. If it is by phone or video it is called a "Remote Appearance." Call the Circuit Clerk or visit their website for more information. To find the phone number for your Circuit Clerk, visit ilcourts.info/CircuitClerks.

**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.



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