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FROZEN ACCOUNTS

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HOW IS A BANK ACCOUNT FROZEN?

One effective method of collection after a creditor has obtained a judgment, is to serve a restraining notice on a bank to effectively "freeze" a debtor's bank account for up to twice the amount owed to the creditor. This can happen only AFTER the creditor has sued in court and obtained a judgment. The "freeze" can result in bounced checks, related overdraft fees, and will prevent withdrawals. Also deposits to the account will be frozen. The debtor is not notified until after the account has been frozen. Such notice must contain a list of exemptions and notify the debtor that if he believes that the money in the account is exempt, he is supposed to notify the person sending the notice.

CAN ALL FUNDS BE FROZEN?

Certain money is exempt from most debt collection: SSI, SSD, public assistance, Veterans Benefits, and unemployment benefits, workers compensation, child support and alimony, public and private pensions. Still, accounts including these funds have often been frozen in error.

NEW LAW PROTECTS EXEMPT ACCOUNTS

As of January 1, 2009, the Exempt Income Protection Act EIPA protects bank accounts in certain cases. The exempt amounts for Long Island are \$2640 (if no exempt income in account) and \$2750 (if exempt income in account). Also, you are having issues with your bank regarding a frozen account, you should call the NY Department of Financial Services to file a complaint at 1-800-342-3736.

WHAT IF THE ACCOUNT ONLY CONTAINS EXEMPT FUNDS BUT THE BALANCE EXCEEDS THE AMOUNTS ABOVE?

Call the attorney for the creditor and inform them of the exempt nature of the funds. The attorney may ask for proof, but should immediately release the account if the funds are proven to be exempt.

WHAT IF THE ACCOUNT HAS SOME EXEMPT FUNDS AND SOME NON-EXEMPT FUNDS?

These are called commingled funds and the debt collector must be persuaded to release the exempt funds that are over the protected limits listed above. This can get complicated and you may require legal assistance to go to court. For more information see [Restrained Bank Account](#).

IF MY ACCOUNT CONTAINS MORE THAN THESE LIMITED AMOUNTS (AND IS THEREFORE NOT PROTECTED), HOW DOES THE CREDITOR TAKE THE MONEY OUT?

The creditor cannot take the money out of the account just because there is a restraining notice (freeze) on the account. The creditor's attorney does not need to file for a turnover to get the funds from the account unless it is a joint account or the bank requests a turnover

HOW LONG WILL THE ACCOUNT BE FROZEN?

Until the debt is voluntarily paid in full, the creditor actually seizes the funds, or the judgment is vacated. To vacate a judgment you have to go back to court with a legal defense, and this can be difficult. For more information see [Guide to Vacating a Default Judgment](#).

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