

# ***FTC Consumer Alert***

Federal Trade Commission ■ Bureau of Consumer Protection ■ Division of Consumer & Business Education

## **Creditors Seeking Federal Benefits in Your Bank Account? Understanding Your Rights**

If you receive federal benefits and have an unpaid debt, a creditor or the debt collector it hires may get a court order to try to take money from your bank account to pay the debt. The court order is called a garnishment. What's important to know is that federal benefits ordinarily are exempt from garnishment. That means you should be able to protect your federal funds from being taken by your creditors, although you might have to go to court to do so.

### **What federal benefits are ordinarily exempt from garnishment?**

The Federal Trade Commission (FTC), the nation's consumer protection agency, has suggestions on how to protect your federal benefits from garnishment. The federal benefits that are exempt from garnishment include:

- Social Security Benefits
- Supplemental Security Income (SSI) Benefits
- Veterans' Benefits
- Civil Service and Federal Retirement and Disability Benefits
- Military Annuities and Survivors' Benefits
- Student Assistance
- Railroad Retirement Benefits
- Merchant Seamen Wages
- Longshoremen's and Harbor Workers' Death and Disability Benefits
- Foreign Service Retirement and Disability Benefits
- Compensation for Injury, Death, or Detention of Employees of U.S. Contractors Outside the U.S.
- Federal Emergency Management Agency Federal Disaster Assistance.

However, there are some situations where these funds are not protected and may be garnished. For example, some of these federal benefits may be used to pay delinquent federal taxes or student loans. Others, such as Social Security benefits, may be deducted before you receive them to pay child support or alimony.

The law varies from state to state as to what types of state benefits are subject to and exempt from garnishment. For more information, you should contact an attorney who practices in your state, your state or local consumer protection agency, or a legal aid office in your area.

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## **How does my bank account get garnished?**

If a creditor or a collector obtains a judgment against you, it can ask a state court to issue an order garnishing your bank account. The creditor or collector will send this garnishment order to your bank and it usually requires the bank to hold the money until the court has made a final decision as to whether the money must be paid to the creditor. In some states, you have the right to receive a notice informing you that a judge has issued a garnishment order for the money in your bank account and telling you what to do if you think that some or all of the money in your account is exempt from garnishment. However, sometimes you will not receive a notice before the judge issues its order and the bank freezes your account.

## **What should I do if I receive a notice of garnishment?**

If you receive a notice saying that your bank account may be garnished and your bank account contains exempt funds, you should seek the assistance of an attorney at once. You also should follow the instructions in any garnishment notice you receive. It is very important that you meet any deadline in the notice for telling the judge that money in your account is exempt from garnishment.

## **When do banks freeze bank accounts?**

Banks freeze funds in bank accounts after they receive a garnishment order. A freeze prevents customers from accessing the funds in their accounts.

## **What should I do if my bank account is frozen?**

If you haven't already done so, you should seek an attorney's help right away. If your bank freezes your account, this prohibits anyone, including you, from getting money out of the account. If you wrote checks or authorized electronic payments that have not cleared yet, they may be returned unpaid. What's more, your bank may charge you a fee for having insufficient funds (NSF) in your account.

As soon as you find out there's a freeze on your account, you should make arrangements to prevent outstanding checks from bouncing and prevent the imposition of NSF fees. You might want to contact the people you wrote checks to, for example, and explain that you are working with your bank to resolve the problem.

You also should tell the bank that your account has funds that are exempt from garnishment under federal law and ask that the freeze be lifted immediately. In addition, you should ask that your bank waive or refund NSF fees resulting from the freeze. If the bank refuses to release your exempt funds from the freeze, you probably have to go to court. If the judge decides that your funds are exempt, the bank will be required to lift the freeze.

## **What do I have to do to get the judge to keep creditors from obtaining the exempt funds in my bank account?**

You or your attorney will want the judge to decide that the funds in your bank account are exempt under federal law. This will usually involve a hearing before a judge. You should be prepared to submit any documentation that you have showing that your bank account contains exempt funds. If the federal government provided your benefits through electronic deposits, you should submit documents showing these deposits and their source. If the federal government provided your benefits through

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paper checks you deposited in the bank, you should submit bank deposit slips, statements from the agency that is the source of the exempt funds, bank account statements, or other documents demonstrating that the account contains exempt funds. If you can show the judge that your bank account contains funds exempt under federal law, the judge will not allow the creditor to obtain these funds to pay the judgment against you (or to collect these funds as fees).

### **What should I do next if the judge issues an order saying that funds in my bank account are exempt?**

You should show the judge's order to your bank and demand that the bank lift its freeze on your exempt funds, if it has not already done so. In addition, you should ask your bank to waive or refund any NSF or other fees resulting from the freeze.

### **For More Information**

Federal Benefits and Bank Account Garnishment:

<http://files.ots.treas.gov/commenttopics/13c7cbd4-38e1-480c-9b4c-f075facfe014.pdf>

Benefit Receipt: To find out about receiving your federal benefits by check, direct deposit, or the Direct Express debit card, see [www.ssa.gov/deposit/DDFAQ898.htm](http://www.ssa.gov/deposit/DDFAQ898.htm) or [www.ssa.gov/pubs/10073.html](http://www.ssa.gov/pubs/10073.html).

Debt Collection: To learn about your rights under the Fair Debt Collection Practices Act, see Debt Collection FAQs: A Guide for Consumers at [www.ftc.gov/credit](http://www.ftc.gov/credit).

Legal Aid: LawHelp helps low and moderate income people find free legal aid programs in their communities, and answers to questions about their legal rights. Visit [www.LawHelp.org](http://www.LawHelp.org) to find information to help you with problems related to housing, work, family, bankruptcy, disability, immigration and other topics.

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit [ftc.gov](http://ftc.gov) or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters consumer complaints into the Consumer Sentinel Network, a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

