

Frozen Bank Accounts:

The **Exempt Income Protection Act** (EIPA) N.Y. C.P.L.R. § 5222-a protects New York bank accounts containing government benefits, pensions, and some earned income from being frozen.

Creditors and debt collectors **must not** freeze your bank account or garnish your wages to pay private debts like credit cards, if the balance in your account is less than:

- \$2,750 if your account contains exempt benefits that were directly deposited within past 45 days, including:
 - Social Security
 - Supplemental Security Income (SSI)
 - Social Security Disability (SSD)
 - spousal support, maintenance
 - child support
 - veterans administration benefits (VA)
 - public assistance (PA)
 - retirement savings accounts
 - 401(k), 403(b), individual retirement accounts
 - workers' compensation
 - unemployment insurance
 - public/private pensions
 - railroad retirement
 - black lung benefits
 - college tuition trusts
 - life insurance

OR:

- \$2,160 in all other accounts holding wages*, family support, or other non-exempt income (this exemption represents 2 months' income at the minimum wage).

*If you take home \$240.00 per week or less, all of your earned income is exempt from debt collection. If you take home more than \$240.00 per week, 90% of your gross income or 75% of your disposable income, whichever is greater, is exempt from debt collection.

NOTE– EIPA does not apply if the creditor that has frozen your account is the State or City of New York or its agencies, or if the debt is for child support, spousal support, or alimony.

Banks cannot charge fees if your entire account qualifies for protection under the Exempt Income Protection Act.

If your bank account is in danger of being frozen

1. Make sure all exempt income you receive is direct deposited to your bank account.
2. Do not commingle exempt and nonexempt income in one account.

Releasing a Frozen Account

If you think the money is exempt, take the following steps:

1. The Exemption Claim Form is a self-help form you can use to have frozen exempt funds released.
2. If your bank has frozen your account, they must send a copy of the Restraining Notice and the statutory Exemption Notice and Exemption Claim Form. Keep the post-marked envelope these forms arrive in.
3. Complete the Exemption Claim Form as instructed. Sign the form and mail or deliver copies to the bank and the creditor's attorney within **20 days** of the postmark on the envelope containing the Notices and Form. Include documents supporting your claim of exemption (ex: award letters, benefit forms and statements, etc).
4. The creditor's attorney must instruct the bank to release the account within 7 days of the postmark or delivery date of the Exemption Claim Form if you prove that all funds are exempt (the burden to prove funds are NOT exempt is on the creditor). If the bank does not hear from the creditor's attorney within 8 days, your account will be released.

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EIPA SELF HELP GUIDE:

What to do when a bank won't comply with exempt income law

What if my account has exempt income but the bank still freezes it?

Unfortunately, many New York banks do not know or train their bank branch employees in the law. Sometimes the banks aren't aware that an account holds exempt income because the income is not direct deposited or there are other issues.

Banks are required to provide a self-help form called an Exemption Claim Form when they notify you that your account is frozen. (**See Releasing a Frozen Account column 2, side 1 of this fact sheet.**) If the bank still refuses to release the account after you have followed this procedure or you have not received the self-help form, then you may need to try the steps below.

Self Help Guide to regain access to your exempt funds:

1. Call the bank to see whether they received the self-help forms.
2. Keep a detailed record of all of your contacts with bank personnel, including, date, name and what they told you.
3. Review side 1 of this fact sheet to learn about the exempt income laws in preparation for explaining the law to uninformed bank personnel. (See helpful Talking Points in Side 2, Column 2,).
4. Bring this EIPA fact sheet and/or the NYS Department of Financial Services (DFS) Industry letter & copy of statute with you to show the bank representative.
5. If a teller or other lower level employee continues to deny access to your funds, ask to speak to the branch manager .
6. Try accessing the funds at a different branch of your bank. For example, if your bank is in the Bronx, go to midtown Manhattan.
7. Call the bank's customer service number and ask for the Levies or Legal Processing Department.
8. Go to CLARO or call a legal services hotline, especially before contacting the creditor's attorney!
9. Contact the Department of Financial Services, which regulates banks in NY and file a complaint.
10. File a complaint with the Consumer Financial Protection Bureau.

Talking Points for speaking with Bank Personnel:

Consumer: I would like to access my exempt funds (which are either \$1920 or \$2625)

Bank: What do you mean?

Consumer: I have State and Federal rights to this money and this fact sheet explains those rights.

Bank: I don't know about this.

Consumer: If you do not know how to release my exempt funds, I would like to speak with a Branch Manager or supervisor right now.

Bank: You have to contact the creditor's attorney and fill out an exemption claim form.

Consumer: You have to follow the exempt income laws and give me access to the account. I do not have to call the creditor or complete a claim form to gain access to the protected amount under the law.

NOTE:

- If the manager does not release your funds, ask to speak to the Levies or Legal Processing Department.
- If you are unsuccessful at the branch in getting access to your funds, contact a legal hotline or go to CLARO and call the DFS consumer hotline.

Resources:

FREE LEGAL SERVICES ADVICE & ASSISTANCE:

NYC Financial Justice Hotline (212) 925-4929

CLARO: <http://claronyc.org> for schedules

Lawhelp.org: <http://www.lawhelpny.org/issues/consumer>

COMPLAINTS:

New York State Department of Financial Services (DFS),

<http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

<http://www.dfs.ny.gov/legal/industrylet.htm>

Consumer Financial Protection Bureau (CFPB),

(855) 411-CFPB (2372), <http://www.consumerfinance.gov/complaint/>