



This is for information and instruction. Do not file it.

HOW TO FILL OUT AND FILE AN EMERGENCY MOTION TO CLAIM EXEMPTION

1

FILL OUT AND FILE YOUR FORMS.

You can fill out and file an *Emergency Motion to Claim Exemption* to get access to your money in a frozen bank account.

After you fill out the forms, file them with the Circuit Clerk's office in the county where your case is taking place.

Use these forms:

- *Emergency Motion to Claim Exemption*
- *Notice of Court Date for Emergency Motion to Claim Exemption*
- *Order on Emergency Motion*

2

SEND A COPY OF YOUR FORMS TO THE OTHER PARTY AND YOUR BANK.

Send a copy of your forms to the other parties in the case and to your bank. If a party has a lawyer, send the forms to the lawyer.

You can email or fax these forms to the other parties and your bank. If those methods are not available, you can either hand-deliver or mail these forms to the other party and your bank.

3

PREPARE AND GO TO YOUR COURT DATE.

Your court date may be in person, by phone, or by video.

Make notes for yourself about what you want to say to the judge. Bring any additional documents needed.

If the judge grants your *Emergency Motion to Claim Exemption*, get a copy of the *Order* the judge signs. Send a copy of the *Order* to the other party and bring a copy of the *Order* to your bank to release the money in your account.

Laws covering these forms: [735 ILCS 5/12-1001](#), [735 ILCS 5/12-1006](#)



This packet is not legal advice. It provides general instructions on how to use these forms in your court case. It cannot and does not try to cover everything that might happen in your court case. Your use of the forms does not guarantee you will be successful in court.

How a judge handles a case can vary from county to county. **Your county may have special requirements that are not covered in these instructions.** Ask the Circuit Clerk if your county has local rules and, if so, where you can get a copy.



STEP 1

FILL OUT AND FILE YOUR FORMS.

ARE THESE FORMS FOR ME?

You can use these forms to ask the judge for access to the money in your accounts as soon as possible.

You may **use these forms for:**

- Cases where a creditor has filed a *Citation to Discover Assets to a Debtor's Bank* ordering it to freeze your accounts.

Do **not** use these forms for:

- Cases where your accounts have not been frozen.
- Cases where your accounts have been frozen for unpaid child support or taxes.

Forms required:

- ***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*:** This form tells the 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.

You can find all of the statewide forms online at ilcourts.info/forms.

IMPORTANT INFORMATION

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.
- If your name is on an account with a judgment debtor (like a joint bank account) and your money has been tied up due to a freeze, you may use this form to seek the release of your money.

What is an *Emergency Motion to Claim Exemption*?

- An *Emergency Motion to Claim Exemption* asks the court to grant access to the money in your bank account. You do this by claiming the money is protected by law ("exempt") in your *Motion*.

How do I know if my money is exempt?

- Money in your accounts that is from the following sources is exempt by law:
 - 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)

What is a "wildcard" exemption?

- The law allows a personal property exemption that lets you protect up to \$4,000 in money or assets that is not otherwise exempt. You may apply it to multiple items, as long as the combined value you protect does not exceed \$4,000.

What is an "automatic" exemption?

- If you have \$1,000 or less in a bank account, that amount will be automatically exempt and available through the court date listed in the *Citation* form you received.

Who do I notify?

- You notify the creditor (or their attorney if they have one) and the bank that is holding your frozen account.

EXTRA HELP WITH THE FORMS

Easy Form

Illinois Legal Aid Online has an Easy Form program that helps you complete your forms. Easy Forms ask simple questions and put your answers in the right places on the forms. At the end of the program, you can download or email your forms to e-file or print them.

Easy Forms are free to use. Visit ilao.info/emergency-exempt-easy-form or scan the QR code to use the Easy Form.



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.

If there are any words or terms used in these instructions that you do not understand, please **visit Illinois Legal Aid Online** at ilao.info/glossary. You may also find more information, resources, and the location of your local legal self-help center at ilao.info/lshc-directory.



COSTS AND FEES

There may be costs and fees to take part in a court case. This might include fees for filing court documents. Some case types have no fee for filing. Depending on the type of court case, there may be other costs and fees charged – for example, sheriff's fees for serving documents on the other people in the case. If you cannot afford to pay costs and fees, you can ask the court to file for free or at a reduced cost by filing an *Application for Waiver of Court Fees*.

This is a separate form you can find at ilcourts.info/fee-waiver-forms.

HOW TO FILE THE FORMS



E-filing

- After you fill out your court forms, file them with the Circuit Clerk. This is done by electronic filing, called “e-filing.” You do not have to e-file if:
 - You qualify for an exemption (see the Not E-filing section below) or
 - Your case involves a criminal matter or is filed under the Juvenile Court Act of 1987.
- There may be fees to file your forms. See the Costs & Fees section for more information.
- 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/efile-info.
- E-filing is easier on a computer. It may not work on a cell phone or tablet.
- Original wills may not be e-filed.
- 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 Clerk’s office. These places offer public computers where you can e-file your forms.
 - Your courthouse may offer public computers with a scanner where you can turn your paper forms into electronic files.
 - Librarians and courthouse staff may be able to help you e-file, but they cannot provide legal advice.



Not E-filing

- Some people are not required to e-file, 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 or can’t meaningfully use it.
 - Do not have an email account.
 - Do not have a credit card, debit card, or bank account.
 - Have trouble reading, writing, or speaking English.
 - Tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
 - Are filing an emergency case as allowed by local rule or order.
- To ask for an exemption from e-filing, use the form at ilcourts.info/exempt. If you cannot print this form, then ask for it at your local courthouse.
 - File your *Certification for Exemption from E-Filing* form along 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 a fee to make copies.
- There may be fees to file your forms. See the Costs & Fees section for more information.
- 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 and then send your copies back to you in the envelope.



STEP 2

SEND A COPY OF YOUR FORMS TO THE OTHER PARTY.

- The 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 creditor and bank copies of the *Notice of Court Date for Emergency Motion to Claim Exemption* and your *Emergency Motion to Claim Exemption*.
- You should either email or fax these forms to the creditor and your bank. If those methods are not available, you can either hand-deliver or mail these forms to the other party and your bank.



STEP 3

PREPARE AND GO TO YOUR COURT DATE.



Make sure you know how 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/clerks.

Attend Your Court Date.

Your court date could be in person, by phone or by video.

- If your court date is in person:
 - Get to the courthouse at least 30 minutes early so you have enough time to get through security.
 - 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 someone at the Circuit Clerk’s office.
 - 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 log-in 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.
 - Start trying to log-in to your courtroom at least 15 minutes before the start time in case you have any problems with technology.
 - Follow these tips to attend court by phone or video: ilcourts.info/remote-resources.
- Have these items with you on your court date:
 - Photo I.D.
 - A 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 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.
 - If you are having a hearing, bring your witnesses and evidence.

- Check with the Circuit Clerk for any other local requirements.
- When your case is called, introduce yourself to the judge. If you are attending by phone or video remember to unmute yourself.
- 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.
- After court, get a file-stamped copy of the *Order*.
- Fax, hand deliver, or email one copy of the *Order* to the 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.



**YOU'VE COMPLETED THE STEPS
FOR AN EMERGENCY MOTION TO CLAIM EXEMPTION.**