

FILING CLAIM OF EXEMPTION: BANK LEVY

Asking the Court to Stop or Reduce a Bank Levy

This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide. Additional copies of this Guide can be accessed at: saclaw.org/exemption-bank

BACKGROUND

If you receive notice from your bank that funds have been withdrawn due to a court judgment (“levied”), and you want to object, act fast. You have 15 days (20 days, if you were served by mail) to file a Claim of Exemption. Here’s how.

Creditors commonly collect on court judgments by levying, or seizing, funds from a debtor’s bank or credit union accounts. To do this, the creditor must request that the court issue a *Writ of Execution* (EJ-130), which is a court order directing the sheriff of a particular county to enforce the judgment by withdrawing money from a particular bank or banks in that same county.

Upon receiving the order to levy, the bank will typically freeze the funds in the affected account(s) (up to the amount of levy), or will give those funds to the sheriff. Only funds in the account at the time of the levy will be frozen or seized. (For this reason, creditors often levy accounts after the first of the month when most people have just received paychecks.)

Automatic exemptions: Pension payments and government benefits are automatically exempt as long as they are direct-deposited into your account. Up to \$3500 in Social Security funds (\$5250 if two payees use the account) and up to \$1750 in other benefits (\$2600 for two payees using the same account) is shielded from being frozen by the bank or seized by the sheriff. These amounts are adjusted annually.

New, Sept. 1, 2020: A minimum of \$1,788 (increased annually) in one account is exempt. It cannot be seized, regardless of its source. (Exception: if the debt is for child or spousal support (alimony), or for wages you owe someone, this exemption does not apply.) If the exemption for public benefits or pensions is larger, that exemption applies instead.

Related Guides

- [Claim of Exemption for Wage Garnishment](http://saclaw.org/coe-bank-levy) (saclaw.org/coe-bank-levy)
- [Exemptions from Enforcement of Judgment](http://saclaw.org/exemptions-enforcement-judgment) (saclaw.org/exemptions-enforcement-judgment)

Related Videos

- [Enforcement of Judgments](http://saclaw.org/self-help-videos/) (saclaw.org/self-help-videos/)

If judgment was by default:

If you were unaware of the judgment until your bank account was frozen, you may be able to ask the court to set aside (vacate) the judgment. See our guide to Relief from Default Judgments on our website at saclaw.org/relief-default-judgment.

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

This new exemption is limited to one (1) bank account per debtor. If you have more than one account, and want to specify which account is protected by the automatic exemption, you may file an application with the court, using the forms [Ex Parte Application for Order on Deposit Account Exemption](#) (EJ-157), [Declaration Regarding Notice and Service for Ex Parte Application for Order on Deposit Account Exemption](#) (EJ-158), and [Order on Application for Designation of Deposit Account Exemption](#) (EJ-159).

If you do not specify, the bank will decide which account is exempt.

If a judgment creditor attempts to levy your bank account, you will be mailed a *Notice of Levy* (EJ-150), along with some other informational documents. The bank or sheriff will hold the seized funds for up to 20 days, allowing you the opportunity to seek to stop or reduce the levy by filing a *Claim of Exemption* (EJ-160).

The court may order some or all of the funds in an account exempt if:

- The money in the account is from a source that is exempt by law. Social Security is one example, but there are many others; or
- The money in the account is required for the basic necessities of life.

Even if the court orders funds in the account exempt from collection, the judgment still exists, and will continue to accrue 10% simple interest each year.

One of the documents that you should receive with your *Notice of Levy* (EJ-150) is *Exemptions from the Enforcement of Judgments* (EJ-155). This form lists the various asset types that may be exempt from collection. An adaptation of this document, with hyperlinks to the applicable code sections, is available on the Law Library’s website at saclaw.org/exemptions-enforce-judgment. It is very important to read and understand the specific exemption(s) that may apply to you, because not all of these exemptions are complete (for example, employment wages are only 75% exempt), and some have limits on the amount of the exemption (for example, \$2300 in a vehicle’s equity is exempt).

IMPORTANT: Remember, once you receive these documents you have **15 days** (20 days, if you were served by mail) to file your *Claim of Exemption* (EJ-160) and *Declaration* (MC-030) with the sheriff’s department listed on the *Notice of Levy* (EJ-150). If you mail it by a service that gives you a tracking number, such as USPS Priority Mail, the postmark date counts as the date of “filing.” Otherwise, the date the Sheriff receives it is the date of filing.

STEP-BY-STEP INSTRUCTIONS

Step 1: Complete the Necessary Forms

The forms commonly used in this procedure are:

- [Claim of Exemption \(EJ-160\)](#)
- [Financial Statement \(WG-007/EJ-165\)](#) (if you’re claiming the funds are necessary for the basic necessities of life)
- [Declaration \(MC-030\)](#)

Instructions for completing the necessary forms are included at the end of this packet.

Before completing your forms:

Gather these documents, which provide needed information:

- Notice of Levy
- Three months of bank statements issued prior to and including or ending with the levy date
- At least one month of paystubs (more if income varies monthly)
- A list of your monthly expenses (e.g., rent, utilities, insurance, etc.)

Step 2: Copying and Assembling

Make two copies of each:

- Claim of Exemption (EJ-160)
- Financial Statement (WG-007/EJ-165) (if applicable)
- Declaration (MC-030)

If you are submitting a *Financial Statement* (WG-007/EJ-165), attach one copy to each copy of your *Claim of Exemption* (EJ-160).

Step 3: Turn in your Papers

Turn in your papers from Step 2 to the levying officer listed on the *Notice of Levy* (EJ-150). This is usually the sheriff's department. **Deadline:** 15 days to do this (20 if you were served by mail).

- In person: must be received by close of business on or before the last day
- Mail: must be *received by the sheriff* by close of business on or before the last day
- Trackable mail (certified or a delivery service): must be *postmarked* on or before the last day.

The sheriff will mail one copy to the judgment creditor and keep the second. Keep the other copy you made in Step 2 for your records.

Step 4: What Happens Next?

The bank or levying officer will hold the money or property until one of the following happens:

The creditor agrees that the funds are exempt, or takes no action

If the creditor does not file a notice of opposition with the sheriff and court within 15 days, the exemption is automatically granted. The money or property will be returned to you.

The creditor opposes your claim

You will receive a *Notice of Opposition to Claim of Exemption* (EJ-170) and *Notice of Hearing on Claim of Exemption* (EJ-175) that will set a court date for a judge to make a decision. You do not need to file anything additional; the judge will read your Claim of Exemption. You may attend the hearing if you wish but are not required to do so.

Tentative ruling system: check the day before to see if you need to go to court

In Sacramento (and most counties), the judge reads the papers and decides how they are going to rule a few days ahead of time. Then their decision is posted on the internet at 2 p.m. the business day before your hearing date. You may read the tentative ruling online, or may call the Presiding Judge's department at 874-8142 to hear it.

If you disagree with the ruling and want to try to convince the judge to change it, you must call the court and the other party before 4 p.m. to tell them you want to attend oral argument (that is, go to the hearing and argue your case). If neither side objects to the ruling, the court cancels the hearing and the ruling becomes an official court order.

For [more information on the tentative ruling system](http://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx), see the Sacramento County Superior Court's website (www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx)

The tentative ruling may say that the judge orders you to attend the hearing if they have questions. But usually, the tentative ruling will just contain the decision.

Closely review the tentative ruling, because there will be a lot of important information included in it. Your claim of exemption may be:

- GRANTED: the sheriff will return the funds to you.
- GRANTED IN PART: the sheriff will return a portion of the funds to you. The judge decided that you are entitled to part of what you requested.
- DENIED: the funds sheriff will release the funds to the judgment creditor.
- CONTINUED: the hearing is rescheduled to a future date. This is common if the court needs more information from you before making a ruling. *Be sure to read the tentative ruling very carefully, because the court will specify what information or documents are required from you, and a date by which the information must be provided to the court.*

If you are happy with the tentative ruling, you *do not* need to do anything. You don't have to go to court unless ordered to appear in the tentative ruling or unless the other side calls before 4 p.m. to tell you they are planning to go. If that happens, you should go to the court hearing and be prepared to argue your case.

If you are not happy with the tentative ruling, and wish to present arguments in front of the judge, you must call all opposing counsel and/or self-represented parties, and the clerk for Department 53 ((916) 874-7858) or Department 54 ((916) 874-7848) no later than 4 p.m. the court day before your hearing and state that you are requesting oral argument on the motion.

If neither you nor the opposing party requests oral argument, the court will simply make the tentative ruling the official order of the court. If you go to court anyway, you will find that the hearing is cancelled.

FOR HELP

Sacramento County Public Law Library Civil Self Help Center
609 9th Street, Sacramento 95814

saclaw.org/self-help/civil-self-help-center/

(916) 476-2731 (Appointment Request Line)

Services Provided: The Civil Self Help Center provides general information and basic assistance to people without attorneys on a variety of civil legal issues. All assistance is provided by telephone or Zoom videoconference. Visit "[Issues We Can And Cannot Assist With](http://saclaw.org/cshc-services)" (saclaw.org/cshc-services) for a list of qualifying cases.

Eligibility: Must be a Sacramento County resident or have a [qualifying](#) case in the Sacramento County Superior Court.

For assistance with a Claim of Exemption- Bank Levy, you must email:

- Notice of Levy
- Three months of bank statements issued prior to and including or ending with the levy date
- At least one month of paystubs (more if income varies monthly)
- A list, including the amounts of, your monthly expenses (e.g., rent, utilities, insurance, etc.)

ATTACHMENTS: FORMS AND INSTRUCTIONS

The Judicial Council forms commonly used in this procedure are:

- [Claim of Exemption \(EJ-160\)](#)
- [Financial Statement \(WG-007/EJ-165\)](#)
- [Declaration \(MC-030\)](#)

Sample filled-in forms with instructions are available at the end of this Guide.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

ATTORNEY OR PARTY WITHOUT ATTORNEY
Daniel Debtor
 123 Main St.
 Sacramento, CA 95814
 TELEPHONE NO. 916-555-1212
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name) **In Pro Per**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento
 STREET ADDRESS: 720 Ninth Street
 MAILING ADDRESS: 720 Ninth Street
 CITY AND ZIP CODE: Sacramento, CA 95814
 BRANCH NAME: Civil

PLAINTIFF/PETITIONER: **Cal Creditor**
 DEFENDANT/RESPONDENT: **Daniel Debtor**

CLAIM OF EXEMPTION
 (Enforcement of Judgment)

Your name, address, and phone number. "In Pro Per" means you are representing yourself.

Insert Court County, Address, City, State, Zip, and Branch.

Sheriff's Levy Number, found on the Notice of Levy.

Plaintiff = Judgment Creditor
Defendant = Judgment Debtor
Names as they appear in Notice of Levy.

LEVYING OFFICER FILE NUMBER
2020-01234

Copy all the information required above (except the top left space) from the Notice of Levy. The top left space is for your name or your attorney's name and address. The original and one copy of this form must be filed with the levying officer. DO NOT FILE WITH THE COURT.

Mark these boxes as appropriate

CASE NUMBER:
34-2020-00123456
Case Number

1. My name is: Daniel Debtor
2. Papers should be sent to:
 - me.
 - my attorney (I have filed with the court and served on the judgment creditor a request that papers be sent to my attorney and my attorney has consented in writing on the request to receive these papers.)
 - at the address shown above following (specify):
3. I am not the judgment debtor named in the notice of levy. The name and last known address of the judgment debtor is (specify):
4. The property I claim to be exempt is (describe):
Any and all deposits held in my name at **Fictional Savings Bank.**
5. The property is claimed to be exempt under the following code and section (specify):
42 U.S.C. Section 47 and CCP Section 704.080
6. The facts which support this claim are (describe):
See Attached Declaration
7. The claim is made pursuant to a provision exempting property to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor. **A Financial Statement form is attached to this claim.**
8. The property claimed to be exempt is:
 - a. a motor vehicle, the proceeds of sale, or the proceeds of any insurance or indemnification for the loss, damage, or destruction of the motor vehicle;
 - b. tools, implements, materials, or other personal property used in the trade, business or profession of the judgment debtor or spouse;
 - c. all other property of the same type owned by the judgment debtor, either alone or in combination with others, is (describe):
9. The property claimed to be exempt consists of the loan value of unexpired life insurance policies (including endowment and annuity policies) or benefits from matured life insurance policies (including endowment and annuity policies). All other property of the same type owned by the judgment debtor or the spouse of the judgment debtor, either alone or in combination with others, is (describe):

4. Describe the property that is exempt.
5. Insert applicable code sections.
6. Insert "See attached Declaration."

Complete paragraphs 7, 8, & 9 ONLY if they pertain to your situation.

If you are claiming that some, or all, of the amount levied should be withheld because it is needed for the basic necessities of life, you will need to check box 7 and complete and attach a Financial Statement (WG-007/EJ-165).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Date: Print name and date Signature Signature

If you are claiming that some, or all, of the amount levied should be returned to you because it is needed for the basic necessities of life, you will need to complete and attach a *Financial Statement* (WG-007/EJ-165). The statement provides the court with a snapshot of your monthly income and expenses. If your only claim is that the funds are statutorily exempt, you do not need to complete this form.

WG-007/ EJ-165

SHORT TITLE: Creditor v Debtor	LEVYING OFFICER FILE NO: 2020-01234	COURT CASE NO: 34-2020-00123456
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FINANCIAL STATEMENT
(Wage Garnishment - Enforcement of Judgment)

NOTE: If you are married, this form must be signed by your spouse unless you and your spouse are living separate and apart. If this form is not signed by your spouse, check the applicable box on the reverse in item 9.

1. The following persons other than myself depend, in whole or in part, on me or my spouse for support:

NAME	AGE	RELATIONSHIP TO ME	MONTHLY TAKE-HOME INCOME & SOURCE
a. Debbie Debtor	39	Spouse	1,328.43 Employment at Acme Inc.
b. David Debtor	10	Son	0.00
c. Darla Debtor	7	Daughter	0.00
d.			
e.			

List each person in your household. If you have no spouse, write "none" on line a.

2. My monthly income

a. My gross monthly pay is: 2a. \$ 2,600.00

b. My payroll deductions are (specify purpose and amount):

(1) Federal and state withholding, FICA, and SDI \$ 461.23

(2) _____ \$ _____

(3) _____ \$ _____

(4) _____ \$ _____

My TOTAL payroll deduction amount is (add (1) through (4)):

b. \$ 461.23

c. My monthly take-home pay is (a minus b): c. \$ 2,138.77

d. Other money I get each month from (specify source): _____ is _____ d. \$ 0.00

e. **TOTAL MONTHLY INCOME (c plus d)** e. \$ 2,138.77

Describe your monthly income. You may need several pay stubs to complete this section.

I, my spouse, and my other dependents own the following property:

a. Cash 3a. \$ 45.00

b. Checking, savings, and credit union accounts (list banks):

(1) Fictional Savings Bank checking account (Levied) \$ 734.00

(2) Arbitrary Savings and Loan savings account \$ 80.00

(3) _____ \$ _____ b. \$ 814.00

c. Cars, other vehicles, and boat equity (list make, year of each):

(1) 1989 Adobe Automobile \$ 100.00

(2) _____ \$ _____

(3) _____ \$ 0.00 c. \$ 100.00

d. Real estate equity d. \$ _____

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.) (list separately):

Misc. household furnishings

e. \$ 300.00

Complete your asset information Remember "equity" is the fair value of the property minus the amount owed on it. If the total is negative, the equity is \$0.



As a general rule, entertainment (line 4(l)) and most installment payments (line 4(j) and section 5) are not considered "basic necessities of life," and such amounts will typically be ordered paid to the creditor. Exceptions are installments being paid to prior judgment debtors, installments being paid to the government for back taxes, or other debts that are legally entitled to priority over the judgment in this case.

SHORT TITLE Creditor v Debtor	LEVYING OFFICER FILE NO.	COURT CASE NO. 34-2020-00123456
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4. The monthly expenses for me, my spouse, and my other dependants

a. Rent or house payment and maintenance	4a. \$	1,000.00
b. Food and household supplies	b. \$	425.00
c. Utilities and telephone	c. \$	250.00
d. Clothing	d. \$	60.00
e. Medical and dental payments	e. \$	85.00
f. Insurance (life, health, accident, etc.)	f. \$	479.00
g. School, child care	g. \$	450.00
h. Child, spousal support (prior marriage)	h. \$	0.00
i. Transportation & auto expenses (insurance, gas, repair) (list car payments in item 5)	i. \$	400.00
j. Installment payments (insert total and itemize below in item 5)	j. \$	197.00
k. Laundry and cleaning	k. \$	38.00
l. Entertainment	l. \$	18.00
m. Other (specify):		

List your monthly expenses. If not paid monthly, estimate the amount if broken into monthly payments.

m. \$	
n. TOTAL MONTHLY EXPENSES (add a through m):	n. \$ 3,402.00

5. I, my spouse, and my other dependents owe the following debts:

CREDITOR'S NAME	FOR	MO. PAYMENTS	BALANCE OWED	OWED BY (State person's name)
Adobe Automobile	Car payments	179.00	900.00	

6. Other facts which support this Claim of Exemption (i.e., unusual medical needs, school tuition, expenses for recent family emergencies, or other unusual expenses to help your creditor and the judge understand your budget) (describe): (If more space is needed, attach page labeled Attachment 6.)

If there are other facts to consider, list them here.

7. An earnings withholding order is now in effect with respect to my earnings or those of my spouse or dependent named in item 1 (specify each person's name and monthly amount):

8. A wage assignment for support is now in effect with respect to my earnings or those of my spouse or dependent named in item 1 (specify each person's name and monthly amount):

Earnings withholdings or assignments (support payments) in effect as to your income or the income of a household member are listed in paragraphs 7 or 8.

- 9. My spouse has signed below.
- I have no spouse.
- My spouse and I are living separate and apart.

Check the appropriate box in paragraph 9. If the debtor is married, his or her spouse must sign unless the two are separated and living apart.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 09/02/2020

Daniel Debtor _____
Debbie Debtor _____

Print name(s) and date

Signature(s)

(TYPE OR PRINT NAME OF SPOUSE)

(SIGNATURE OF SPOUSE)

