

Your rights as a debtor in Illinois©

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The Self Help Legal Center
Southern Illinois University School Of Law
Carbondale, IL 62901
(618) 453-3217

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Disclaimer — Please read

This packet of information was prepared to answer general questions and give general advice about the law in Illinois. This packet may or may not also include forms that you can use. When reading this packet or using the forms, keep in mind that the advice, information, and forms were created to assist readers with general issues, not specific situations, and as such does not replace the advice or representation of an attorney licensed to practice in the State of Illinois. Because of this and because of unanticipated changes in the law, the School of Law at Southern Illinois University and the person, institution, or agency who gave you this packet make no claim as to whether the use of this packet will achieve the result you desire and disclaim any responsibility for the consequences of any form prepared or action taken in reliance upon the information in this packet. If you are concerned or do not understand whether this packet will be of assistance to you or will apply to your specific situation, you should talk to an attorney who is licensed to practice in the State of Illinois. If you have any questions about this disclaimer, call the Self Help Legal Center.

Look for these symbols to tell you when to:



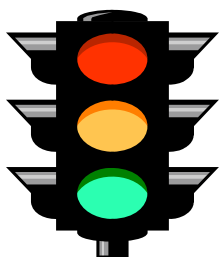
STOP!

You need legal representation or advice to continue.



USE CAUTION!

This is very important so pay attention.



GO!

You can proceed to the next step.



CHECK IT OUT!

This issue is discussed in another packet.

Warning to all readers



Before you proceed with using this packet, you should ask yourself the following questions:

1. Have I tried to consult a private attorney?

No self-help publication, packet, or form can replace the advice and experience of a licensed attorney. An attorney may not cost as much as you think, especially if you just need to ask questions. Before you proceed on your own, call several local attorneys, compare prices, and find out whether you can pay an attorney or not.

2. If I cannot afford an attorney, have I tried to find a free source of legal assistance?

There are several agencies which provide legal assistance for free to certain groups of individuals. Some of these agencies are listed to the right. While they may not be able to help you with a particular problem, it does not hurt to call them to find out before you proceed on your own.

3. Is this something that I can do on my own?

If you have trouble following directions, or have difficulty reading, writing, or speaking in public, you may not be able to follow the directions and advice in this packet. If this is the case, find a friend or someone who can help you before you proceed on your own.

Free sources of legal help

Land Of Lincoln Legal Assistance

Serves the 65 southernmost counties in Illinois

Toll Free: 877-342-7891

For additional information, you may visit their website at

[Http://www.lollaf.org](http://www.lollaf.org)

Prairie State Legal Services

Serves most of northern and north central Illinois outside of Cook County

815-965-2134

800-331-0617

Coordinated Advice and Referral Program for Legal Services

serving Cook County

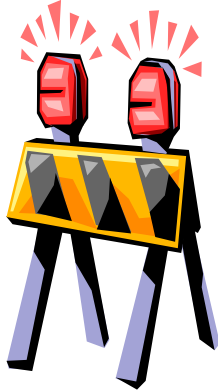
312-738-9494

Will County Legal Assistance

Serving Will County

815-727-5123

Who should not use this self help packet 5



This packet does not apply to debts which arise from child support obligations; local, state, or federal taxes; or fines imposed by a civil or criminal court. If your debt falls into one of these categories, you should not use this packet.

Similarly, if you have a dispute over whether you owe money or the amount of a bill, you should not use this packet.



If you are unsure as to whether this applies to you, you should seek the assistance of an attorney.

How to use this self help packet

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It is very important that you read each section of this packet completely before you take any action in regard to a legal problem including using any forms that supplement this packet.

Because this packet discusses terms and actions you are likely not familiar with, you will need to refer back to the following sections from time to time when reading this packet:

People you should know

This section describes people that you may come into contact with in regard to a particular legal problem. It is important that you understand who these people are and what they do and don't do.

What these legal terms mean

This section defines commonly used legal terms in words that you can understand. To use the rest of this packet and any supplemental forms, you need to understand exactly what these terms mean.

Summary of the law in this area

This section contains summaries of important areas of the law that you need to know.

How to file a document in a court file

This section answers commonly asked questions about filing documents.

Myths and Tips

These two sections discuss commonly held misbeliefs about the law and steps that you should take (or not take) that could make your task easier.





Judge

The judge is the person who presides over the courtroom. In most cases, including divorce cases, the judge makes all of the final decisions and approves all agreements. When a judge makes a decision or a finding, it has the full force of law. The judge also sets out and enforces court rules (like dress codes) and in some courthouses, the judge decides when the cases are scheduled.



Circuit Clerk:

The circuit clerk is responsible for creating, managing, and updating court files. When you want to put something in a court file, see a court file, or make a copy of something in a court file, you need to talk with the circuit clerk's staff. In some courthouse, the circuit clerk also decides when cases are scheduled.



Sheriff:

The sheriff's main duty is to keep the peace and to enforce the law. However, the sheriff's role in the legal system is usually to *serve* (give notice) to people that are a party in a court proceeding. The sheriff does this by giving the person a notice called a **summons**. The sheriff also enforces the judge's orders.



Attorney:

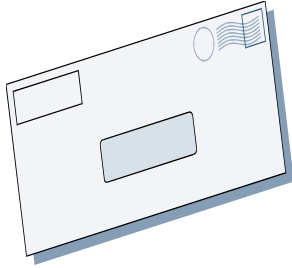
An attorney is someone who can help you with your legal problem by providing you with advice about the law, the legal system, and the merits of your case. An attorney can act as your advocate and represent you in court and in negotiating settlements.



Mediator:

A mediator is someone who can meet with you and the person with whom you have a dispute and help you come to a resolution you can both agree on. A mediator is neither a judge nor *your* attorney; but a mediator can help you make a decision. In some counties, mediation is required in certain types of cases, including child custody.

Who these people are



Creditor

A person or business that you owe money to is called a creditor. If you don't pay a bill on time, if you miss or are late with a payment, or if you owe someone money for some other reason, the creditor will usually be the first person/agency who contacts you.



Collection agency

A collection agency is not owned by a creditor nor is it part of their company. Rather, a collection agency is another business that the creditor hires to try to collect unpaid bills for them. Sometimes the collection agency receives a percentage of whatever they collect, sometimes they are paid a flat rate.



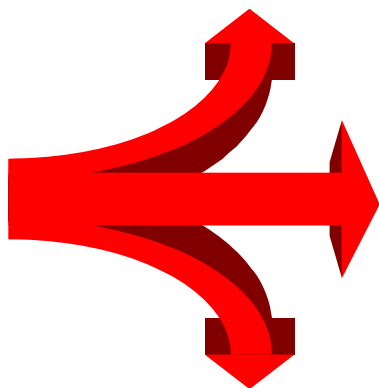
Credit bureau

Like the collection agency, a credit bureau is not owned by the creditor, nor is it a part of their company. Rather, a credit bureau is another business that compiles a computerized record of all (or at least most) the major bills that you have or have not paid off on time. This "record" is often referred to as your "credit report" or "credit history."



Debtor

If you owe a person, business, or agency money, you are in debt to them or are called a debtor.



Mediation

In some cases, you may be able to work out an agreement with the person that you owe money to as to how you can pay it and when. A mediator is someone who can meet with you and the person with whom you are having a dispute and help you both come to a resolution you can both agree on. A mediator is not a judge and does not make decisions, but rather helps you and the other party make a decision. In some counties, mediation is offered in certain types of cases.

Consumer Credit Counseling

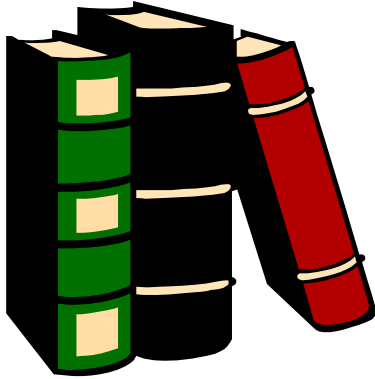
CCCS is a nonprofit community organization dedicated to helping well intentioned people repay their debts in a timely and consistent manner by providing free personal financial counseling. They are not collection agencies or loan companies. Best of all, their services are free. In the Chicago-metro area call 1-866-889-9347. In Southern Illinois, call 1-888-656-CCCS (2227).

Attorney General of Illinois

If you are having trouble with a collection agency, credit bureau or credit, you should file a complaint with the office of Consumer Protection. You can reach the Attorney General in the Chicago area at 800-386-5438, in the Springfield area at 800-243-0618, and in the Carbondale area at 800-243-0607.

Federal Trade Commission

If you have questions about the Fair Debt Collection Practices Act, or if you would like to file a complaint with the Commission, you can visit their website at www.ftc.gov. While the Commission cannot intervene in individual disputes, if a pattern of possible law violations occur, they can take action.



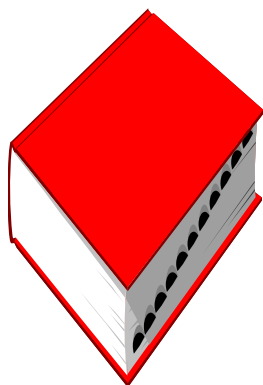
Disclaimer: Please Read !!!

The following is a list of publications which discuss the issues of debtor's rights. Some of these publications are specific to Illinois and others are more general in nature. Because of this and because of unanticipated changes in the law, the School of Law at Southern Illinois University and the person, institution, or agency who gave you this packet make no claim as to the accuracy of the content of these publications including whether they will achieve the result you desire. The School of Law at Southern Illinois University and the person, institution, or agency who gave you this packet disclaim any responsibility for the consequences of any action taken in reliance upon the information in these publications. If you are concerned or do not understand whether a particular publication will be of assistance to you or will apply to your specific situation, you should talk to the publication's publisher or an attorney who is licensed to practice in the State of Illinois. If you have any questions about this disclaimer, call the Self Help Legal Center.

Debt Collection, Illinois Attorney General

What you should know about debt collection, National Consumer Law Center

Fair Debt Collection, Federal Trade Commission



Affidavit

A sworn statement by a person. Lying in an affidavit can result in a charge of perjury which could mean a fine, imprisonment, or both.

Answer or response

The written response to a complaint or a petition that is filed by the defendant (the person being sued) in a lawsuit. In small claims court, you are not required to file an answer as long as you show up to the first scheduled hearing on the plaintiff's complaint.

Circuit

The judicial system in Illinois is divided into circuits. Each circuit defines a geographic area in Illinois.

Contempt

When a person fails to follow a court order which directs him/her to do (or not to do) something, he/she can be held in contempt of court. Being held in contempt can lead to time in jail, a fine, or both.

Exemption rights

In Illinois, certain property (including cash, income, personal property, and a portion of your car and home) cannot be taken from you to pay a debt. This property is called exempt property. If a judgment is entered against you in Illinois, you have the right to claim this property as exempt and not use it to pay a debt against you.

Debtor

A person who owes money.

Defendant

A person who is sued.

Hearing (trial)

An opportunity for both parties to tell the judge or jury their side of a dispute. Some hearings are court ordered so missing them can result in being held in contempt of court. For hearings which are not court ordered, failure to appear can result in the other side getting what they want in relief.

Judgment

A final decision or order of the court.

jurisdiction

Whether the court in a particular state has the power to hear a case or to order someone to do something depends upon whether it has "jurisdiction" . Jurisdiction can be either over a person or over a thing For a state court to have jurisdiction over a person, generally, the person must either reside in the state or have committed an act in the state that gave rise to the case.

motion

A written or oral request to the judge after a lawsuit has been started (see petition).

notary public

A person who verifies that a signature on a document is made by the person whose signature appears. The notary public does not verify the content of the document itself.

petition or complaint

A written request to the court. A petition usually starts a lawsuit and contains the facts that one person alleges has happened along with the relief that they are requesting from the court.

plaintiff or petitioner

The person who starts a lawsuit.

pro-se

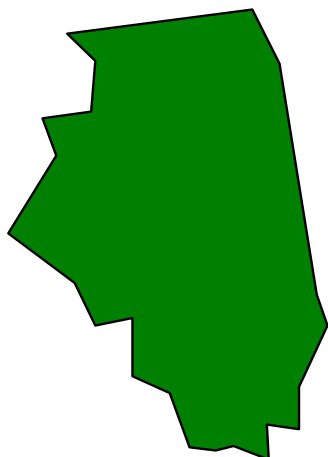
A person who is not represented by an attorney and is involved as a party in a lawsuit.

serve or service

The process where a person is officially notified of a pending lawsuit.

statute

The law that the state legislature or federal government enacted on a particular subject.



There are federal and state debt collection laws. The federal Fair Debt Collection Practices Act can be found in Title 15, Section 1692 of the United States Code. The Illinois Collection Agency Act can be found in Act 425/1 of Chapter 225 of the Illinois Compiled Statutes.

Debt collection is also discussed in Sections 2H and 2I of the Consumer Fraud and Deceptive Business Practices Act. The Act can be found in Chapter 815, Act 505 of the Illinois Compiled Statutes.

A debtor's exemption rights are discussed in Chapter 735, Act 5, Section 12-1001 of the Illinois Compiled Statutes

What a judge can do to enforce a money judgment:

The judge has the power to order a debtor to make payments on a money judgment either in whole or in installments from any non-exempt assets or income that the debtor may have. The judge can also hold a debtor in contempt if he/she fails to comply with a payment order or if he/she fails to show up to a Citation To Discover Assets hearing. A judge cannot put a debtor in jail nor can he/she fine a debtor for nonpayment of a debt when the debtor has only exempt assets or income. For more information on what a creditor can do to enforce a money judgment, see Packet #3 of the Court Proceedings series.

Debtor's rights

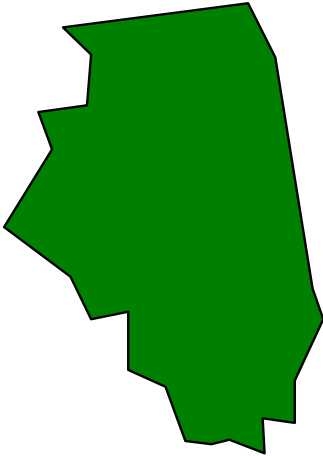
A debtor has the right to keep certain property and income that cannot be taken from him/her to pay a debt unless the debt is for child support, a criminal fine, taxes, etc. This property and income is called exempt property and income and the debtor's right to this property and income is called his/her exemption rights.

Creditor's rights

A creditor is entitled to recover 9% interest per year on his/her money judgment. A creditor also has the right to request a hearing to question the debtor about his/her ability to pay a judgment and about the debtor's income and assets. This hearing is called a Citation To Discover Assets hearing. If a debtor fails to follow a payment plan ordered by the court, the creditor also has the right to request a hearing for the debtor to appear and explain why he/she should not be held in contempt of court. This hearing is called a Rule To Show Cause hearing. Failure by a debtor to appear at either a Citation To Discover Assets hearing or a Rule To Show Cause hearing can result in him/her being held in contempt of court. For more information on what a creditor can do to enforce a money judgment, see Packet #3 of the Court Proceedings series.

Debt collection:

Under state and federal law, a collection agency is prohibited from doing the following:

- 
- calling a debtor before 8 am or after 9pm;
 - using obscene or profane language;
 - contacting you at work if your employer disapproves;
 - using threats of violence or harm;
 - repeatedly calling just to annoy the debtor;
 - call anyone without identifying themselves or use a false name;
 - and/or falsely imply that they are operating with a credit bureau or a local, state, or federal governmental agency.

A debtor's exemption rights

Before you agree to a payment plan you should know what money the creditor can't access/get even if they take you to court and get a judgment against you in Illinois



In Illinois, a debtor has certain money and assets which cannot be taken from him/her even by a court order to pay a debt unless that debt is child support, a criminal fine, or for taxes. This money/property is called exempt property. **If you have only exempt assets or income, you are within your right not to make payments on a debt. If you agree to make payments on a debt knowing your exemption rights, the court may consider that you have waived them.**

Income and assets that are exempt in Illinois As of June 1, 2008



Real estate

Up to \$15,000 of the value of a debtor's home is exempt. If the debtor is married, the amount is \$30,000.



Automobiles

The first \$2,400 of the value of a debtor's automobile is exempt.



Assets

Up to \$4,000 worth of any property belonging to the debtor, including money in a bank account, is exempt.



Wages up to \$337.50 per week

An employee's wages in Illinois **cannot** be garnished to pay a debt (not counting child support) if his/her weekly net salary is \$337.50 (45 times the federal minimum wage) or less. Above that, the most that can be garnished from a debtor's wages in Illinois is 15% of their gross weekly wages.



Tools of the trade

Up to \$1,500 of a debtor's professional tools of the trade (books, computers, tools) are exempt.



Personal belongings

All of the necessary clothing, family pictures, bibles, and school books of the debtor are exempt.



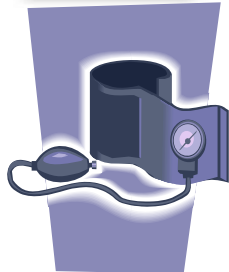
Government benefits

All of the following government benefits are exempt regardless of their amount: All Illinois Department of Human Services benefits, including, TANF, AFDC, AABD, GA, food stamps; All Social Security benefits, including SSI disability benefits; Veteran's Administration benefits; worker's compensation benefits; black lung benefits; unemployment compensation; and crime victim's awards.



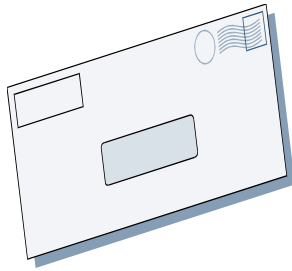
Family support payments

All of the following support payments are exempt to the amount that the debtor reasonably needs them to support him/herself and his/her dependents: alimony, maintenance, child support, life insurance proceeds, pensions, wrongful death awards, and up to \$15,000 in any personal injury award.



Health aides

Any health aide prescribed by a physician that belongs to a debtor is exempt.



The first contact: the creditor

If you don't pay a bill on time, if you miss or are late with a monthly, weekly, or annual payment, or if you owe someone money for some other reason, the **creditor** will usually contact you first. This contact may be in person, by mail, or by telephone. When they contact you, they might threaten to repossess your property, to sue you, to garnish your wages, to report you to a collection agency, or to report you to a credit bureau, or maybe all of the above. While a creditor may not take all of the steps that are discussed in this packet (or may skip a step or two), it is important to know what a creditor can and cannot do before you make any decisions.

Unfortunately, there are no debt collection laws which cover creditors, so they can pretty much say whatever they want and call you whenever they want. Your only relief from this type of harassment is to try to change your telephone number or to contact the police if they continually come to your door or your place of work to harass you.



The next step: Sending your bill to a collection agency:

If you do not pay a bill that you owe, sooner or later, the creditor will report this to a collection agency. There is nothing that you can do about this so you should try not to worry if a creditor threatens to do this. If you go ahead and pay the bill, the creditor should not report you to a collection agency, but sometimes their records might not show your payment and the collection agency might have already been contacted. If this happens, simply inform the collection agency that the bill has been paid.

Usually when a creditor sends your bill to a collection agency, they will not talk with you anymore about the bill, but, rather, will tell you to contact the collection agency. You should know that they are not ignoring you or doing this to annoy you. Rather, when a creditor refers a bill to a collection agency they usually will send all of their records about your bill to the collection agency as well. So when you call the creditor and ask a question, they don't know the answer, because they don't have your records. Consequently, you should be prepared to make several phone calls and have to talk with several people to find information about your bill.

Once a collection agency is hired they will contact you about your bill. Like the creditor, they will threaten certain things (to sue you, to take a part of your salary, etc.).

Unlike the creditor, however, **there is something you can do about this type of harassment, including stopping it altogether.** In the supplement to this packet you will find a letter called a Cease and Desist letter. Federal law requires a collection agency to stop all contacts with you if they receive a written request to stop. Please note that you do not need an attorney to send this letter for you, you can send it yourself.

Note: While it is not required, it is a good idea to send this letter by certified mail, return receipt requested, so you will have proof that the collection agency received the letter.

If a collection agency continues to contact you even after they have received your cease and desist letter, you should contact an attorney or one of the agencies listed on page 9.

Reporting you to the "credit bureau"



One of the most often misunderstood and feared aspects of debt collection is the "credit bureau." First, there is not one credit bureau, there are several. Second, they are not governmental agencies but, rather, private corporations which as a service to businesses, banks, lenders, etc, keep track of a person's ability to pay and (not pay) back loans that they have made throughout their life.

No one wants to have a bad credit rating, but if you are late or if you miss your payment on your credit card, loan or other installment purchase or if you file bankruptcy, it will likely end up in your credit record or history. Similarly, if you are consistently up-to-date on your payments or if you have paid certain bills off, that will appear in your credit history as well. Your credit history is important because it is what other companies, including banks, financial institutions, stores, and other lenders of credit look to when deciding whether or not to give you credit.

If you do not pay a bill that you owe or if you are late with a payment, the creditor can report this to a credit bureau. There is nothing that you can do about this so, again, you should try not to worry if a creditor or collection agency threatens to do this to you. If you go ahead and pay the bill, the creditor should not report you to a credit bureau, but sometimes their records might not show your payment and the credit bureau might have already been contacted. If this happens simply inform the credit bureau in writing that the bill has been paid.

Unlike the creditor or the collection agency, the credit bureau will not contact you or harass you about your unpaid bills. So, you should rarely receive any contact from a credit bureau. However, if you later try to get credit or to make a purchase on an installment basis, the business where you are trying to get credit may contact the credit bureau and may deny you credit based on the information in your credit report. For a discussion on your credit/history and report and what you can do to correct mistakes, consult Packet #3 of the Financial Matters series.



Repossessing or taking your personal property

Sometimes when you take out a loan, or buy something in installments, the business or financial institution may ask you to pledge an item as security for your credit or for your loan. Often the item pledged may be the item you are purchasing. This item is often referred to as a "**secured interest**" or as "collateral". To have a secured interest in your property, however, you must have agreed to it when you made the purchase, got credit, or took out the loan. Consequently, if you want to find out if your creditor has a secured interest in a certain piece of your property, you should examine the documents you signed, including promissory notes, installment purchase contracts, or bills of sale.

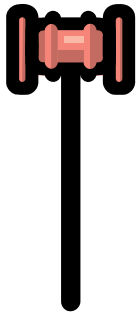
If you didn't pledge an item as a secured interest, then your creditor cannot take your property to pay off a debt that you owe unless they first go to court and get what is called a **judgment** against you and then pay the county sheriff a bond equal to twice the amount you owe plus a fee. Only then does the sheriff have the power to take property and sell it to pay off a judgment.

The sheriff, however, cannot take exempt property that has not been pledged as a security interest and sell it to pay off a judgment regardless of how much you owe.

If the creditor does not want to pay the costs of having the sheriff seize and sell your assets, they can take you to court and ask the court for what is called a "**lien**" on your property. So, if the creditor or collection agency threatens to come to your home to take personal property that you have not pledged as security for your loan to pay off a debt, you should ignore them since they will have to follow the procedures stated above before they can do it. For more discussion on what a creditor can do to enforce a money judgment, consult Packet #3 of the Court Proceedings series.

However, if you did pledge an item to make a purchase, to receive credit, or to take out a loan, your creditors may be able to take this item if you don't pay what you owe them. Once they take the item, the law allows the creditor to sell the item to someone else. If the selling price is less than what you still owe, the law allows the creditor to sue you for the difference between the selling price and what you still owe.

Note: There are specific laws regarding repossession of cars and homes, however, which the creditor must follow and which give you certain rights. For a discussion on losing your home by foreclosure or default on a contract for deed, consult Packet #1 and 2 of the Property series.



Taking you to court:

If you do not pay a bill that you owe, the creditor may decide to take you to court. Again, there is nothing that you can do about this so you should try not to worry about this if a creditor or a collection agency threatens to take you to court.

A lot of people believe that if they just pay something on a bill, they cannot be taken to court. **This is wrong.** If you are in default of your contract (in most cases, this will be missing or being late with a payment), you can be taken to court at any time until you take care of or "cure" the default. Sometime you can cure a default by paying all past due amounts or the entire amount owed. Check your contract to see how you can cure your default.

If the creditor takes you to court, you will be notified by this when you receive what is called a "**complaint**" against you in the mail or from your local Sheriff. A **complaint** is a document filed in court by your creditor saying that they believe that you owe them money, how much they believe that you owe, and why. Sometimes the complaint will have been prepared by an attorney, sometimes not. If the complaint asks for an amount less than \$5000, it should be a Small Claims Complaint. For a discussion on small claims court in Illinois, consult Packet #1 of the Court Proceedings series.

If a creditor takes you to court and wins, he/she will get what is called a money judgment against you. A money judgment is a court determination that you owe money to the person who sued you. If a money judgment has been entered against you, you should know that Illinois law allows you to keep certain property and certain money which you cannot be forced to use to pay a money judgment. This property and money is called "exempt" and your right to keep it is called your **exemption rights**. For a list of what property is exempt, see pages 15-16.

After the creditor gets a judgment against you, he/she may demand that you appear at a hearing called a Citation To Discover Assets hearing and/or he/she may try to garnish (take) part or all of your exempt wages. The next two pages discuss what you should do if either of these occur.

If a creditor takes some other type of action — like putting a lien on your property or forcing the sale of your property, you should seek the assistance of an attorney.

What is a Citation To Discover Assets hearing?

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A Citation to Discover Assets hearing occurs after a judgment has been entered against you. A judgment is a judge's decision stating that you owe some amount of money to the person who sued you.

A Citation To Discover Assets is a court order to appear. **You MUST appear.** If you do not, you will have violated that order, and a warrant for your arrest can be issued. Be sure to appear on the date listed on the Citation.

A Citation To Discover Assets hearing gives the creditor (the person you owe money to) the chance to find out if you are financially able to make payments on the judgment that was entered against you. At the hearing you can be sworn as a witness and asked questions concerning your income and assets, employment, bank accounts, personal property, and real estate. If you work, you should be prepared to say when you started working, how much you have earned, and how much you expect to earn in the future.

You **CANNOT** be required to make payments if your income and assets are exempt. If all your income is exempt, you should be careful about entering into a payment agreement. Any agreement you make will probably become a court order. If it becomes a court order, you are then **REQUIRED TO MAKE THOSE PAYMENTS**. If you do not make the payments, the creditor can ask that the Court hold you in contempt for not obeying the order to pay.

You **CANNOT** go to jail for owing money to someone. You **CAN** go to jail for failing to appear in court when the court ordered you to do so or if you have non-exempt assets or income and you willfully refuse to use these assets to make court ordered payments.

Remember, you can avoid most problems simply by showing up on time for all Citation hearings scheduled in your case.



If your wages are exempt (see pages 15-16) and are being garnished in violation of the law, you can stop it yourself without the assistance of an attorney. To do that, you must do the following:

STEP ONE: GET THE FORM YOU NEED

Go to the Circuit Clerk's office in the county where the order to garnish your wages came from. The Clerk should have a form called Notice of Motion For Wage Deduction Exemption Hearing. If they do not, you can use the form in the supplement to this packet.



STEP TWO: COMPLETE THE NOTICE FORM

Ask the Clerk for the court file in which the court order to garnish your wages appears. It should be the same file in which the judgment stating that you owe money to the creditor appears. Using the information from the file, fill in the top part of the form so that it matches the documents in the file. Ask the Clerk for a hearing date for your Notice form. Complete the rest of the form, including the date of the hearing, the name and address of your employer, the name and address of the attorney for the creditor, and your name and address. Be sure to complete the part titled Proof of Service. You should then ask the Clerk to file your Notice.



STEP THREE: SEND THE NOTICE FORM TO THE CREDITOR AND YOUR EMPLOYER

Send a copy of the Notice form to your employer and the attorney for the creditor (or the creditor if they did not have an attorney) either in person or by mail, whichever you choose. Just be sure it matches what you stated in the Proof of Service paragraph on the Notice form.



STEP FOUR: THE HEARING

After you have served the Notice form on your employer and the creditor's attorney (or creditor, if they do not have an attorney), you will have to show up to your hearing. Your employer and the creditor's attorney can show up for the hearing, although they do not have to. At your hearing, you should first tell the judge that your wages are exempt and that you want the wage garnishment order stopped. Be prepared to present copies or the originals of your paycheck stubs to prove this. If your employer still has the money that they have not yet turned over to your creditor, you may be able to get that money back if you can prove that your wages were exempt when they were being garnished. If you intend to ask for this type of relief, try to get a letter from your employer stating that they still have this money in their possession which they have yet to turn over to the creditor and how much money they have. You may not get this money back, but it does not hurt to ask.



Q: What is a court file?

A: The file is the way that the courthouse keeps track of a lawsuit.

The file includes all of the documents that were filed, notices of hearings, notes by the judge and clerk, and letters to and from the judge and clerk.

Q: When do you need to file a document in a court file?

A: Generally, you will file a document when you want to:

have evidence that a task was completed, record an event or a statement, or give notice to someone about something.

Q: What does it mean to file a document in a court file?

A: Generally, filing a document means giving the Circuit Clerk a copy of a document so that he/she can place it in the court file you want it to go in. When the Clerk files the document, he/she will stamp it with a stamp that says the date (and sometimes the time) the document was filed.

Q: Does filing a document make it legal?

A: No. The Clerk will not check to make sure that your document is in compliance with the law. Most of the time you can file anything you want as long as you are willing to pay for the filing costs. It does not mean, however, that what you have filed is correct.

Q: Why is filing so important?

A: Most of the time, filing is the primary way to show that you have met the deadline for something — either to initiate a lawsuit or to notify someone of a lawsuit or a hearing. Filing is also the way that you notify the court of your answer (response) to lawsuit started against you.



Please note that failure to file something on time can cause you to lose your right to proceed with your claim or you may be forced to start over.



5 Commonly held beliefs about debt collection which are not true:

The debtor has to pay something

Not necessarily. If the debtor has only exempt assets and income, the court cannot force him/her to pay the creditor anything (even a penny) on the judgment.

If I have only exempt assets and income or if I can't pay the debt, there is not reason for me to show up to any court hearings

Yes, there is. If you fail to show up to a court hearing, you can be held in default and as such, lose any right you have to challenge or question what the party you are suing is asking for. More importantly, if the hearing is a court ordered hearing (like a Citation To Discover Assets hearing), failure to show up to the hearing can cause you to be held in contempt of court and possibly be arrested.

I cannot be held to a verbal agreement to make payments

That depends. If you verbally agree in court that you will make payments on a debt, your verbal assertion will likely become a written court order which can be enforced. Similarly, if the creditor can prove that you agreed outside of court to make payments in a certain amount and you have non-exempt assets or income which can be used to pay this amount, your agreement can become a written court order which can be enforced.

If I make payments on a debt, even small ones, they cannot take me to court.

Wrong. Making payments on a debt does not prevent the creditor from taking you to court if you are a) in default of your contractual agreement or court ordered payment plan or b) if the creditor believes that you have non-exempt assets or income that you could use to pay off the debt.

I can't be put in jail for not paying a debt.

Yes, you can. If you refuse to use non-exempt assets or income to make payments which have been ordered by the court for you to make, the judge can hold you in contempt which could mean time in jail. Similarly, if you fail to show up to a hearing which has been ordered by the court, you can be arrested and brought to the court to appear.



Try to get agreement

where you can

While it is not required, if you can get agreement with the other party on any part of your dispute it will make the process easier. In fact, it may improve your chances of getting a payment plan that you can afford.

Show up to all court hearings

Most of the time, not showing up to a hearing on your case can only make a bad situation worse. If you are not there, the other side can say whatever they want and as such, the court might believe what they are saying because you are not there to say otherwise. Similarly, if you are not there, the court has no way of knowing if your assets and or income are exempt. Finally, at a minimum, not showing up to a hearing sends a signal to the court that you don't care about what happens in your case. If the hearing is a court ordered hearing, not showing up can land you in contempt of court which could mean jail time, a fine, or both.

Be realistic when agreeing to make payments on a debt

A lot of debtors agree to payment plans they cannot afford because they are either a) afraid to go to court or b) they are in court and feel that they have to agree to the payment plan. Keep in mind that you have exemption rights which protect a certain amount of your income and assets. When agreeing to a court ordered payment plan, it does not make sense to agree to something that you know you can't pay on a regular basis because if you fail to make a payment, you can be held in contempt of court. As such, agree only to an amount that you know that you can make regularly without creating an undue burden on your financial situation.

Get help if you need it

If you have trouble following directions, doing things on time, filling out forms, or keeping track of paperwork, enforcing your rights may be much more stressful than it needs to be. If, however, you have a friend you can help you do these things, the job will be a lot easier. Keep in mind, however, that a friend cannot take the place of the advice and experience of an attorney licensed to practice in the State of Illinois. Consequently, if you need legal advice or if representing yourself proves to be too difficult a task for you, talk to an attorney.