

---

**Volunteer Lawyers Project  
Nebraska State Bar Association**

# **Garnishment Overview**

---



Under Nebraska Law, a judgment creditor (person or company who is owed a debt) has the right to take the contents of a bank account of a debtor (person who owes the debt) to satisfy the judgment. Once the creditor has obtained judgment against you in a lawsuit, the creditor will file a document with the Court requesting the Court to send a summons to your bank to review your account and hold or “freeze” any funds that you have on deposit. This includes any accounts where you may be listed as an “owner.” Generally, the judgment creditor will not notify you of this process before it has already happened to prevent you from removing funds from the account. The bank cannot hold funds on an account where you merely have authority to sign checks or withdraw funds. They also must review the last 60 days of deposits and make sure that you didn’t receive any federal benefits by automatic deposit, which cannot be taken by creditors (“exempt”) and the bank will not put a hold on these funds. This includes veterans benefits (VA), Supplemental Security Income (SSI), Railroad Retirement and a few others. It does not include tax refunds, unemployment benefits and child support. The bank is obligated under Federal Regulations to put a hold on those funds even though they may not be exempt from the garnishment. Once the bank has conducted the review, it will hold those funds and let the Court know the amount held, and the Court will then order the bank to send the funds to the judgment creditor.

## **What do I do if my bank accounts are being garnished?**

If you see that the bank has put a hold on your funds or that you have a transaction pending, review your account and make sure that the account didn’t have any exempt funds. You have a right to request a hearing within 3 business days of the garnishment to explain to the judge why the judgment creditor may not be entitled to those funds. Banks are obligated to hold the entire amount in your account, minus any federal benefits. However, some types of funds may still be exempt from garnishment. It is your duty to explain to the Judge why they are exempt. The bank cannot do this for you or refuse to give the funds to the judgment creditor.

For example, Nebraska Statutes allow for the tracing of the funds deposited. If the funds are not entirely yours, but are really owned by your joint account holder, the Judge may reduce the amount garnished by the amount contributed by your joint account holder. Also, you have a general right to the first \$2,500 in your account under the Nebraska Exemptions (explained further in the Bankruptcy Section). Moreover, some judges believe that when you are already having your wages garnished at work, that the remainder of the wages in your account are exempt in some form. The only way to asset these exemptions is to request a hearing.

## **How do I request a hearing?**

To request a hearing and assert your exemptions, you must call the Clerk of the Court where your case is located. Your bank will have this information if you have not yet received it or lost it. You will need to let the Clerk know the case number and that you are requesting a hearing. The Clerk will set a date and time for the hearing which you must attend. On the day of the hearing, be there a few minutes early and let the Clerk know that you are there. Bring with you copies of bank statements, checks and any other evidence you may have that shows that some of the funds garnished are exempt. When the Judge asks you to explain your reason for being in Court, keep your answers to the issue of exemptions. The Court has already ruled in favor of the judgment creditor. The only matter the Judge is reviewing is the contents of your bank account and whether the money in your account can be taken by the creditor.

---

The information in this brochure is for educational purposes only. It is not legal advice or a substitute for legal advice by a lawyer. If you want legal advice, you should contact a lawyer licensed to practice law in Nebraska.

### **Nebraska Find-A-Lawyer**

Visit [www.nefindalawyer.com](http://www.nefindalawyer.com) for an online directory of lawyers who advertise professional services on the website. Nebraska Find-A-Lawyer is not a directory of all lawyers licensed to practice law in Nebraska.

### **Nebraska Free Legal Answers**

Visit [www.NE.freelegalanswers.org](http://www.NE.freelegalanswers.org) to learn how to ask a lawyer licensed to practice law in Nebraska a civil (non-criminal) legal question online. Qualifying users may receive free basic legal information and advice from an approved volunteer lawyer.

Nebraska State Bar Association  
635 South 14th Street #200  
Lincoln, Nebraska 68508

©July 2020 Nebraska State Bar Association