

## **N.Y. banks are abusing the power to seize money**

By Errol Louis, Daily News Columnist

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New York banks have a very bad habit - one that they've been getting away with for years - of instantly freezing customers' accounts when collection agencies come looking for assets to grab.

Seizing that money amounts to a financial death sentence for thousands of working people, who instantly lose access to their paycheck, their retirement income and their savings - cash that may be needed for transportation, medicine, rent and other necessities.

That happens whether they've really dug themselves into debt or whether there's just been a terrible mistake.

One day, an account may have a few hundred dollars. The next, it can be frozen with a negative balance in the thousands.

It isn't fair to treat people that way. In many cases, it's not even legal.

When someone gets into debt and loses in court, state law gives the city marshals and other debt collectors a powerful tool called a restraining notice. It amounts to a court order requiring a bank to seize the account of a person with a judgment against them.

But a host of other state and federal laws specify that banks aren't supposed to just freeze every last penny in an account: certain kinds of funds are exempt.

Federal safety-net benefits like Social Security, SSI and welfare payments can't be taken. Neither can 90% of a customer's salary for the last 60 days.

Pension and retirement funds can't be seized. Child support dollars are protected, too.

But in practice, there's mounting evidence that most banks are simply ignoring the law and freezing 100% of a customer's account upon receipt of a restraining notice - even when it should be obvious that certain electronic transfers, like Social Security and payroll deduction, are legally off limits.

According to the Urban Justice Center, which provides legal services to low-income New Yorkers, that's what happened to "DM," a single mother working full time for \$1,600 a month. Identity thieves ran up an \$800 debt without her knowledge, leading to a court judgment she never had wind of.

In July of 2006, DM's bank account was restrained - and the burden was on her to prove the debt and seizure were in error.

A judge eventually lifted the account freeze and threw out the bogus judgment, but it took six weeks and help from a lawyer to straighten out the mess.

During those six weeks, DM fell behind on her rent, credit cards, phone bills, insurance premiums and other basic expenses. That did lasting damage to her credit, creating a whole separate mess to dig out of.

She's not alone. According to the Neighborhood Economic Development Advocacy Project, a community nonprofit group, a typical New York bank handles more than 500,000 restraining notices a year. That's a 30% jump since 2001.

Use of the freezes exploded after 2000, when collection agencies won the right to send out restraining notices by e-mail, allowing creditors to hit every bank in the state with the push of a button - making it all the more important for banks to do their homework before seizing accounts.

"The cases we see are concentrated in particular neighborhoods" says Mark Griffith, NEDAP's executive director. "I bet you would begin to see a change in behavior if entire communities organized to fight back against the unwarranted seizure of what should be protected income."

Sounds like a plan to me.

If you think your bank has improperly frozen federal benefits, pension money, child support or a recent paycheck, show this article to the customer service people - and invite them to take a peek at Chapter 38, Section 5301 of the United States Code, which

specifies which benefits "shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever."

Griffith's group also runs a hotline at (212) 925-4929 for frozen-account victims. Give them a call.

Banks and collection agencies have every right to collect what they're owed - but not to run over people just because they've hit a rough patch.

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