

Commerce Bank hits below the belt

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Hundreds of Daily News readers responded when I wrote last fall about the unconscionable practice, common among [New York](#) banks, of freezing customers' accounts the moment a lawyer or collection agency sends notice that funds are owed.

That can leave bank customers in a horrible position, unable to pay for rent, food, medicine or other necessities. They go to the ATM - and what they thought was there is gone. They go to the bank teller's window - and get turned away.

The practice causes untold misery, often in blatant violation of federal law.

At present, with the push of a button, a lawyer or collection company holding a judgment against a customer can e-mail a legal message - known as a restraining order - to every bank in town.

That order directs the bank to slap a hold on a debtor's money, with severe penalties for failing to do so. Far too many banks blindly comply with the orders - without also following federal laws that exempt certain money from seizure.

Title 38, Chapter 5301 of the [United States](#) Code is clear: in almost all cases, federal benefits "shall be exempt from the claim of creditors, and shall not be liable to attachment, levy or seizure by or under any legal or equitable process whatever."

That means banks can't freeze Social Security, veterans' benefits, SSI or welfare payments. Nor can they seize child support money, workers' compensation, unemployment insurance, retirement income or the last 60 days of a customer's salary.

It seems they need to study up on the law at [Commerce Bank](#), which touts itself as "America's Most [Convenient Bank](#)" but screwed up the life of [Manhattan](#) resident [Silverio Guzman](#) something awful.

Guzman, a 76-year-old ex-amateur boxer and retired caretaker, gets Social Security and pension payments from decades of work keeping police precincts and public housing developments clean.

Only when he tried to withdraw rent money in mid-April did Guzman discover Commerce had frozen his account to the tune of more than \$3,100 - the result of a default judgment on an unpaid credit card bill from 2000.

Guzman wasn't sure of how much he owed or why. What he did know was that he needed cash to pay for blood pressure medicine for Maria, his 77-year-old wife.

The branch manager of "America's Most Convenient Bank" did nothing to help Guzman - in fact, the manager called the cops to escort the irate and desperate senior out of the bank.

"I had to go to the loanshark," Guzman told me. He borrowed \$200 to get by, agreeing to repay \$30 in interest every week.

Commerce finally released Guzman's money after inquiries from the Daily News, and they insist they did nothing wrong.

"In this case, Commerce Bank complied with all New York banking laws," is what bank spokesman [David Flaherty](#) told me.

That's the whole problem. State law tells banks to freeze accounts the minute a restraining notice arrives, without noting that a federal law overrides New York rules when it comes to Social Security and other benefits.

[Albany](#) can come to the rescue. It must.

A bill called the Exempt Income Act would change the language of restraining notices to make clear that banks can't freeze exempt funds. It would also create consumer dispute procedures to resolve cases of improper seizure - and bar banks from charging customers legal or processing fees if the restraint is found to have violated the law.

The bill, supported by New Yorkers for Responsible Lending, a coalition of nonprofit advocacy groups, was recently passed by the Assembly unanimously.

The state Senate, which now has the bill, should move as quickly as possible to outlaw the financial misery being inflicted daily on the New Yorkers who can least afford to be parted from the money they need.

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