



Thousands of New Yorkers every year are losing access to their exempt funds due to a confusing and contradictory debt collection process. A simple clarification in the law would protect these largely poor, elderly, disabled, and veteran New Yorkers, like the individuals described below.



Nearly **1 in 5 New Yorkers** receives Social Security, SSI, or both

More than **1 million New Yorkers with disabilities** receive SS or SSI benefits

In 2006, over **140,000 veterans** received VA benefits in NY

CHILDREN AND FAMILIES SUFFER

Ms. S and her eight year old daughter had to borrow food and money from friends for six weeks when their bank account containing only a few hundred dollars of directly deposited Social Security was restrained. Even though the bank admitted the account contained only exempt money, it refused to lift the restraint, telling Ms. S to deal with the creditor’s attorney. By the time Ms. S found a legal services attorney to help, the bank had taken \$380 from her \$875 Social Security check - to pay for bounced check and other fees triggered by the restraint. Worse, Ms. S was sued for missing her rent payment due to the restraint, and had to pay the landlord’s lawyer \$900 in legal fees to settle the case.

THE ELDERLY AND DISABLED ARE MOST VULNERABLE

Ms. C is elderly and lives with her disabled daughter in public housing. Permanently disabled herself, Ms. C uses a wheelchair due to osteoarthritis and other medical problems. She learned that she had been sued by debt collectors for an old credit card debt only after her bank account - containing her and her daughter’s SSI benefits - was frozen. The creditor’s attorneys refused to lift the restraint, and Ms. C was unable to pursue her case because she is homebound. She and her daughter had no access to their funds for more than one month. During this time Ms. C could not pay rent or utility bills, causing the public housing authority to send her an eviction notice. Her bank also charged her a \$150 “legal processing” fee for freezing her account. Fortunately, Ms. C found an attorney to help her get her account unfrozen, persuade the bank to waive the fees, and ultimately avert eviction for herself and her daughter.

VETERANS CAN’T ACCESS THEIR BENEFITS

Mr. B is a 59-year-old disabled Vietnam War veteran. Although his bank account contained only directly deposited exempt income, Mr. B’s bank account was frozen by a debt collection law firm enforcing a default judgment in a case that Mr. B never even knew about. As instructed by the bank, he contacted the law firm, but was unable to convince them to release his exempt income. Mr. B’s account was not released until nearly three months later, after he obtained the assistance of a legal services attorney. Mr. B incurred substantial bank fees as a result of the restraint, and developed such a deep mistrust of the banking system that he closed his bank account. He now uses expensive check-cashing facilities and hides his money in his home.

Banks report a **threefold increase** in restraining notices since 2001

One NY debt collector sent over **1 million** restraining notices to NY banks in 2005

An estimated **320,000** debt collection lawsuits were filed in 2006 in NYC alone

★THE EXEMPT INCOME PROTECTION ACT★ FACT SHEET

For more information, please contact
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Sources: Social Security Administration, State Statistics for New York, December 2005; US Census, 2006 Population Estimates; Veteran Administration, New York State Statistics, 2006; Urban Justice Center, "Debt Weight: The Consumer Credit Crisis in New York City and its Impact on the Working Poor," October 2007.

The Problem: A loophole in New York law permits debt collectors to freeze bank accounts containing money that is legally protected ("exempt") from debt collection.

- Nearly **3.5 million New Yorkers** receive Social Security, SSI, or both. Many more have pensions, public assistance, workers compensation, unemployment insurance, child support - all of which are exempt from debt collection by state or federal law.
- A typical bank in New York receives **one demand to freeze an account per minute**.
- Across the state, advocates are inundated with calls from **thousands of veteran, elderly, and disabled New Yorkers** who cannot access critical subsistence income due to the illegal freezing of their bank accounts.

The Solution: The **Exempt Income Protection Act**, A.8527 / S.6203, has been introduced in the NYS Legislature. The bill would clarify existing state law in preventing debt collectors from freezing the first \$2,500 in an account when the account contains directly deposited Social Security, Veterans Benefits, and other subsistence income. These monies are already protected from collection by federal and state law.

The bill would extend the same protection for earned income up to \$1,716 - which is also exempt from debt collection under existing state law.

This statewide problem demands a statewide solution. Other states, like California and Connecticut, have taken legislative action to protect exempt income from collection. New York should similarly protect its citizens!