



New rule stops creditors from freezing bank accounts that have Social Security, other benefits

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By

CLEVELAND, Ohio -- Five years ago, George Lexington of Ashtabula County had a \$1,200 past due credit card bill, which he paid on every month. Then suddenly, the creditor froze Lexington's only bank account.

The 56-year-old's money -- all he had and all from veterans benefits -- should have been off-limits to creditors, which is the case with legally protected Social Security and other federal benefits. But it wasn't.

It took him two weeks to get his account unfrozen and several more weeks to get back about \$200 in garnishment and overdraft fees Lexington incurred when checks he wrote bounced because the account couldn't be debited.

"It was awful," said his attorney, Anne Reese of the Ashtabula office of the **Legal Aid Society of Cleveland**. "He had no other income. He was without money during that time. He was pretty distraught."

Lexington did not want to be interviewed for this story, but he hopes that by publicizing his predicament, it will highlight a problem more common than many think.

It's a problem that could soon get resolved.



Associated Press file

How to protect yourself

If you receive Social Security, Supplemental Security Income or other federal benefits:

- Use electronic direct deposit. Benefits deposited by check aren't covered by a new federal rule that keeps certain bank accounts from being drained by creditors.
- Don't transfer benefits to another account, or else the protection is void.
- Don't have credit cards or other loans at the bank where your federal benefits are deposited.

A new federal rule that took effect two weeks ago will better protect senior citizens, veterans and the disabled from having their bank accounts drained by creditors.

- Seek legal help if you believe your accounts are being frozen or garnished improperly.
- Know what's protected: Benefits from Social Security, SSI, federal railroad retirement, Civil Service Retirement System and Federal Employee Retirement System benefits are protected.

The mandate from the **U.S. Department of Treasury** severely limits the ability of creditors to freeze bank accounts and take money from them if the accounts contain

For more information or to make comments on the new requirement by May 24, go to **regulations.gov** and enter "3206-AM17" in the keyword field.

Social Security, Supplemental Social Security, veterans' payments and other federal benefits.

"This is a big deal. It is a wonderful rule," said Margot Saunders, an attorney with the **National Consumer Law Center** in Washington, D.C. While federal law has long made federal benefits immune from seizure by creditors, reality played out differently, consumer advocates and government officials say.

Creditors could obtain court orders to garnish wages, which would cause banks to freeze accounts even if they contained federal benefits. Consumers would be unable to get their money while it was frozen, and many times they couldn't file paperwork or hire an attorney to overturn the improper freeze.

The result: Banks often turn over money they shouldn't.

"It's a huge problem," Saunders said, whose group estimates that at least 1 million a Social Security and SSI recipients are affected each year.

U.S. Treasury spokesman Matthew Anderson said before the rule, "It was up to the account holder to go to court to ensure the funds were protected." Now, consumers won't have to do anything to protect their money, he said.

The new rule won't be a huge deal for some banks like **Third Federal**.

"We already meet the requirements the Treasury Department has set up," said spokeswoman Jennifer Rosa. "When presented with a garnishment order, Third Federal reviews the customer's account to determine if there are any protected funds. ... The customer can use the protected amount of money in their account as they normally would." The rest is available to turn over to the creditor.

The new requirement took effect May 1 but is open for public comment until May 24. The final rule could be tweaked after all public comments are reviewed.

David Dawson, deputy director of **Legal Aid Society of Cleveland**, said untangling such problems in court has been a big issue for some.

"Some people don't know the court system or they'd give up," Dawson said. "Or they might need the money to pay their rent while they went through the legal system. It was horrible."

Getting an illegal freeze overturned can take two to four weeks or longer, Dawson said. If people need the money during that time for groceries or gasoline, they're helpless.

Dawson estimates that about two-thirds of people seeking help from Legal Aid have no other income besides Social Security or disability.

Saunders said improper account freezes is one of the leading consumer problems in the nation, right up there with mortgage woes.

The Treasury Department said the issue has been mushrooming because of evolving technology and debt collection practices. For example, a Social Security recipient could have an old credit card debt purchased by a debt buyer for pennies on the dollar. The debt buyer can then electronically obtain a garnishment order in state court and can easily email the order to every bank in the state.

"People who are living on limited incomes really are not the people who should have money taken out of their accounts," said Linda Sherry, spokeswoman for **Consumer Action**, which specializes in multilingual consumer education on personal finance issues. "They should be judgment proof. It's good to draw a line in the sand."

The protection is limited to two months' worth of federal benefits; anything more in the account can be garnished.

There are three key exemptions to the protection. Federal benefits can be tapped for:

- Money owed to the U.S. Treasury, such as for back taxes or student loans.
- Child support payments owed to enforcement agencies, not private collectors.
- Money owed to a bank if it also holds the deposit account that can be frozen. This might include money owed for overdraft fees or unpaid credit card bills.

Still, the new rule will mean a big change by requiring banks to determine whether they can freeze an account, rather than forcing a consumer to go to court to unfreeze it.

If a bank receives a garnishment order on an account, it must determine whether the account contains federal benefits that were deposited electronically. If so, the bank must protect two months' worth of those payments from seizure.

The **American Bankers Association** supports the new rule because "we recognize you can have very real hardships," said Mark Tenhundfeld, senior vice president for regulatory policy for the American Bankers

Association in Washington, D.C. Protecting up to two months' worth is fair to the consumer and to creditors, he said.

Still, complying with the new rule will bring new costs, he said, and that could be passed onto customers. "If you continue to whittle away at sources of earnings while increasing banks' costs, the banks are going to have to make up the difference somewhere," Tenhundfeld said

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