

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

**W20-05**

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<b>Title</b>	<b>Action Requested</b>
Civil Practice and Procedure: Enforcement of Judgment Forms—Exemptions	Review and submit comments by February 11, 2020
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Revise forms EJ-130, EJ-150, EJ-155, and EJ-156; adopt forms EJ-157, EJ-157-INFO, EJ-158, and EJ-159.	September 1, 2020
<b>Proposed by</b>	<b>Contact</b>
Civil and Small Claims Advisory Committee Hon. Ann I. Jones, Chair	Anne M. Ronan, Attorney 415-865-8933 anne.ronan@jud.ca.gov

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### Executive Summary and Origin

Recently enacted Senate Bill 616 amends several laws regarding exemptions to enforcement of civil money judgments. The amendments have two primary purposes: to extend the time for making and opposing claims of exemption, and to create a new automatic exemption for deposit accounts. A new automatic exemption for Federal Emergency Management Agency funds provided to a judgment debtor was also created. The Civil and Small Claims Advisory Committee proposes that the Judicial Council revise several enforcement of judgment forms and approve several new ones to implement the new provisions.

### The Proposal

The proposal would revise the following forms, effective September 1, 2020, to reflect the new provisions enacted in SB 616:

- *Writ of Execution* (form EJ-130);
- *Notice of Levy* (form EJ-150);
- *Exemptions From the Enforcement of Judgments* (form EJ-155); and
- *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156).

The proposal also recommends four new forms, also effective September 1, 2020, to implement the new ex parte process set out in new section 704.220(e) of the Code of Civil Procedure:

- *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157);

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. It is circulated for comment purposes only.*

- *Instructions for Ex Parte Application for Order on Deposit Account Exemptions* (form EJ-157-INFO);
- *Declaration Regarding Notice and Service for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-158); and
- *Order on Application for Designation of Deposit Account Exemption* (form EJ-159).

Copies of the proposed forms are attached at pages 9–25.

### **Change in time frame for making or opposing claims of exemption (form EJ-150)**

SB 616<sup>1</sup> amends section 703.520(a) of the Code of Civil Procedure<sup>2</sup> to provide that a judgment debtor may make a claim of exemption by filing it with the levying officer within 15 days after the date the notice of levy has been served, or within 20 days if service is by mail. (Under current law, the time frame is within 10 days or 15 days if service is by mail). That same section has also been amended to provide that the date of filing is either (1) the date the levying officer receives the claim; or (2) the postmark date, if the claim was given a tracking number and mailed by the US Post Office. The proposed *Notice of Levy* (form EJ-150) has been revised to reflect these changes. See form EJ-150, page 2, *Information for Judgment Debtor*, at paragraph 2.<sup>3</sup>

### **New automatic exemptions**

SB 616 also creates two new exemptions: section 704.220, creating an automatic exemption for deposit accounts generally, and section 704.230, creating an automatic exemption for money provided to the judgment debtor by the Federal Emergency Management Agency. The statute directs the council to adopt or revise forms to implement the new provisions regarding deposit accounts.<sup>4</sup> The revised and new forms discussed below are primarily the result of that mandate.

### ***Existence and amount of new exemptions (forms EJ-155 and EJ-156)***

The Judicial Council is required to maintain a list of the state and federal exemptions from enforcement of a money judgment, with citations to the relevant statute, and information as to how to find the amount of the exemptions.<sup>5</sup> This list is set out in *Exemptions From the Enforcement of Judgments* (form EJ-155). The committee proposes revising form EJ-155 by adding “Deposit Accounts (generally)” under the existing category for deposit accounts, which has, until now, been limited to specific types of accounts for which exemptions have been

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<sup>1</sup> Sen. Bill 616 (Stats. 2019, ch. 552), [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB616](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB616).

<sup>2</sup> All statutory references herein are to the Code of Civil Procedure unless otherwise noted.

<sup>3</sup> Other changes to this form are discussed below. Parallel amendments were made to the statutory provisions relating to the judgment creditor’s opposition (if any) to the claim of exemption (see § 703.550), but because information about such opposition is not included on any Judicial Council forms, no revisions are needed to reflect those statutory changes.

<sup>4</sup> § 704.220(g).

<sup>5</sup> § 681.030(c).

available. An item has also been added to this form for the new exemption for money provided to the judgment debtor by the Federal Emergency Management Agency.<sup>6</sup>

The dollar amounts of certain exemptions are set out in *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156). By statute, the Judicial Council is responsible for adjusting the dollar amounts of these exemptions in April of every third year based on changes in the consumer price index and responsible for publishing the revised amounts.<sup>7</sup> Even though the new deposit account exemption will, by the terms of the statute, be adjusted annually by the Department of Social Services,<sup>8</sup> rather than triannually by the council, the committee proposes adding the amount of the new exemption to form EJ-156, along with the information that this exemption amount will be adjusted annually. The current amount of the exemption is \$1,724,<sup>9</sup> but the committee expects that figure to be adjusted effective July 2020, and the amount on the form will be modified as appropriate. The form will need to be revised annually after that point.

A new footnote has also been added to the form, noting that although the new exemption does not preclude or reduce any other exemption applicable to deposit accounts, if the exemption amount for the deposit account applicable under other automatic exemptions—such as those applicable for direct deposit of social security benefits or public benefits—is greater under the other exemptions, then those apply instead of this one.<sup>10</sup>

### ***Exceptions to the deposit account exemption (form EJ-130)***

Although this new deposit account exemption is an automatic exemption, which does not require a party to make a claim for the exemption to be applied by a financial institution, the exemption does not apply in all cases. Enforcement of judgments for wages owed, child or spousal support, or liability to the state government are not subject to the exemption.<sup>11</sup> In order to ensure that financial institutions are aware of whether a levy is based on a judgment to which this exemption does not apply, the new law amends section 699.520, mandating that the content of a writ of

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<sup>6</sup> This is the only proposed form revision relating to new section 704.230.

<sup>7</sup> § 703.150; and see form EJ-156.

<sup>8</sup> The amount of the new direct deposit exemption is not stated as a dollar amount, but defined in section 704.220(a) as:

an amount equal to or less than the minimum basic standard of adequate care for a family of four for Region 1, established by Section 11452 of the Welfare and Institutions Code and as annually adjusted by the State Department of Social Services pursuant to Section 11453 of the Welfare and Institutions Code.

Welfare and Institutions Code section 11453 provides that the amounts in section 11452 are to be adjusted annually, effective July 1 by the Department of Social Services.

<sup>9</sup> See Dept. of Social Services, All County Letter No. 19-47 (issued May 15, 2019) (available at [www.cdss.ca.gov/Portals/9/ACL/2019/19-47.pdf?ver=2019-05-15-133708-453](http://www.cdss.ca.gov/Portals/9/ACL/2019/19-47.pdf?ver=2019-05-15-133708-453)).

<sup>10</sup> § 704.220(b).

<sup>11</sup> § 704.220(c).

execution now include information as to whether the underlying judgment is for wages owed or child or spousal support.<sup>12</sup>

This information has been added to the revised *Writ of Execution* (form EJ-130; see the instruction following item 5 and new item 22 on back.) An instruction has been put on the front of the form (the complete item could not fit there) so that it will be seen when a party completing the form would otherwise only complete the first page.

### **Notice of Levy (form EJ-150)**

SB 616 expressly requires that a levy against a deposit account include a written description of the requirements of new section 704.220.<sup>13</sup> The information provided on the back of the *Notice of Levy* (form EJ-150) has been expanded to include this information, as follows:

- Information for Judgment Debtor—New item 3 notes that financial institutions should be applying automatic exemptions and directs the reader below for more information.
- Information for Person Other Than Judgment Debtor—New item 2 provides a similar advisement to those who have received the levy.
- Information About Deposit Accounts—This section has been added to:
  - Describe the new exemption and list the exceptions thereto, noting that no claim is required (§ 704.220(a));
  - Note that if there are other applicable automatic exemptions, the larger of the exemptions should be applied (§ 704.220(b)) and to give examples of such other exemptions; and
  - Advise both judgment debtor and judgment creditor that if they want to designate to which of multiple accounts the automatic exemption should apply, the party should file an ex parte application with the court, as provided in section 704.220(e). It also advises they do so promptly, because nothing in the new section requires the financial institution to delay in determining to which of multiple accounts to apply the exemption.

In addition, an item identical to new item 22 on the *Writ of Execution* has been added to form EJ-150, as well (see new item 2), to communicate clearly to the financial institution that receives the levy whether the judgment is excepted from the automatic exemption for deposit accounts.

### ***New Ex Parte Application Process (forms EJ-157, EJ-157-INFO, EJ-158, and EJ-159)***

SB 616 added provisions for determining to which deposit account this new exemption should be applied in situations where a judgment debtor has more than one deposit account. See

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<sup>12</sup> The new law does not mandate that the writ of execution include whether the underlying action is based on a state claim. Because the state has a separate set of levy forms that, by their use, will indicate to the financial institution that the underlying judgment is for liability to the state, identifying whether the exemption applies to such judgments should not be a problem.

<sup>13</sup> § 704.220(d).

704.220(e)(2) (regarding a judgment debtor having multiple accounts in one bank) and (e)(3) (regarding a judgment debtor having accounts in more than one bank). If the former (multiple accounts in a single institution), either party may apply for an order determining how and to which accounts the exemption is to be applied. If the latter (the judgment debtor has deposit accounts in multiple financial institutions), the judgment creditor must, and the judgment debtor may, apply for a determination as to which account the exemption is to apply to. If no order is served on a financial institution designating the specific account, each institution is to apply the exemption.

The statute provides that the parties may obtain a determination by filing “an ex parte application . . . for a hearing to establish how and to which account the exemption should be applied.” This instruction is somewhat confusing because generally a party either (1) makes an ex parte application for an order and no hearing is held or (2) moves for an order with a noticed hearing date. The committee has interpreted the new process as allowing either a hearing on shortened time or a true ex parte order, with no further hearing, if the circumstances warrant (i.e., the applicant can show irreparable harm to the property being levied if immediate action is not taken).<sup>14</sup> The proposed forms reflect this interpretation.

The statute is somewhat confusing as to exactly what kind of order a judgment debtor with multiple accounts may obtain. The statutory language is clear that either party can obtain an order determining *to which* account the exemption should apply,<sup>15</sup> but the committee also considered whether a judgment debtor may obtain an order that the exemption be spread *among* multiple accounts. Although the legislative history on this point is contradictory,<sup>16</sup> section 704.220(e)(1) states: “the exemption applies per debtor, not per account.” In light of that provision and the language in the statute that the court is to determine “*how* and to which account the exemption should be applied (italics added),” the committee is proposing forms that allow for designation of the exemption spread among accounts, as well as to a single account. The committee is seeking specific comments on this point.

### ***Form EJ-157***

The proposed *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157) is to be signed under penalty of perjury, and includes the following:

- Check boxes at the top to indicate whether the application is being made for an ex parte order or for a hearing at which the court can make the requested designation;

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<sup>14</sup> The applicant need not show irreparable harm or immediate danger to file the application because the new statute expressly allows for an ex parte application. (See Cal. Rules of Court, rule 3.1202(c).) But because the new statute provides for a hearing on the application, a factual showing is necessary if a party is seeking to avoid the hearing.

<sup>15</sup> § 704.220(e)(2) and (3).

<sup>16</sup> An Assembly Floor Analysis (09/06/19) summarizes the bill as, among other things, providing a procedure for seeking a court order allocating the exemption among multiple accounts. On the other hand, a Senate Floor Analysis (09/10/19) states on page 3 that the new law “limits the automatic exemption to one bank account per debtor.” Both reports are available at [http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200SB616](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB616).

- A pointer to the new information sheet, noting that it describes the notice and service requirements;
- A statement explaining why the party is making the application;
- Identification of the writ of execution and notice of levy that the application pertains to, and instructions to attach copies;
- Designation of how and to which account the applicant is requesting that the exemption be applied; and
- The factual basis for the request that an order be issued without any further hearing, if there is such a request.

### ***Form EJ-157-INFO***

Because the committee expects self-represented parties to be among those making the applications, a detailed *Instructions for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157-INFO) is included with the new proposed forms. The instruction sheet is intended to help a party understand the requirement of an ex parte application, in general, as well as this new application, in particular. The party is directed to check with the court regarding scheduling of ex parte applications and any applicable local rules, and to review the statewide rules of court relating to ex parte applications—particularly the rules on notice, service, and appearance. (Cal. Rules of Court, rules 3.1203–3.1207.) The rules are also summarized in the instructions.

The instruction sheet also includes a warning, in bold, that a judgment debtor applicant should act promptly, because nothing in the new law instructs a financial institution to defer complying with a notice of levy to await a court order.

### ***Form EJ-158***

Because the requirements of notice and service of ex parte applications are complex, the proposal includes a *Declaration Regarding Notice and Service for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-158). This form is based on a similar Judicial Council form declaration regarding notice and service of ex parte applications in family law cases (form FL-303). It contains all the content required for notice and service in compliance with rules 3.1203 and 3.1204.

### ***Form EJ-159***

Finally, the proposed forms also include an *Order on Application for Designation of Deposit Account Exemption* (form EJ-159). The proposed order is designed to be used by the court for several alternative rulings:

- To deny the application;
- To set a hearing on shortened time (with an item for setting the hearing, plus items for time for service and time for filing any opposition);
- To rule on the application ex parte without a further hearing; or
- To rule on the application after hearing.

Each type of ruling is a separate item (see items 3, 4, 5, and 6), with a check box to indicate which ruling the court is making. If the court were making a substantive ruling (checking item 5 or 6), the court would then proceed to items 7 (findings) and 8 (designating the account or accounts to which the exemption is to apply).

### **Alternatives Considered**

Because, as of September 1, 2020, current forms EJ-130, EJ-150, and EJ-156 would be out of compliance with law if not revised, the committee did not consider the alternative of not revising those forms.

In addition, because the new statute expressly mandates the council to revise or adopt forms to implement the provisions in new section 704.220, the committee did not consider not developing the new proposed forms. The committee did, however, consider alternatives while developing those forms. In addition to those discussed above, the committee considered whether to include in the application and order items addressing a potential stay of enforcement of judgment while the application was pending for designation of which deposit account to apply the amount to. The committee declined to do so for a couple of reasons.

First, nothing in the new statute authorizes a stay of enforcement: no provision requires the bank to delay providing funds to the levying officer to allow for the filing of the ex parte application, nor the financial institution (or levying officer) to be given notice of an application or to take any action (or delay taking any action) if such notice is provided.

Second, the exemption is to be applied automatically, meaning that a judgment debtor should still have the exempted funds in the bank without a stay, even if the funds are not in the specific account that the judgment debtor prefers. In fact, if the judgment debtor has deposit accounts at multiple financial institutions, \$1,784 will be in each account unless the judgment creditor obtains an order under section 704.220(e)(3) that the exemption be applied to a particular account.

The committee requests specific comments on this point.

### **Fiscal and Operational Impacts**

Because SB 616 requires a new item in the writ of execution and provides a new ex parte application, the change in law will result in the need for additional training for clerks, judicial officers, and court legal services and self-help offices on the change in the writ form and the new type of application. The new forms proposed here are intended to assist parties and courts in complying with the new procedures.

### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Is it appropriate for the application and order to include items allowing the exemption to be allocated among multiple accounts? If not, why not?
- Would adding an optional request for stay of enforcement of judgment to the new *ex parte* application form be appropriate or helpful?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

1. Forms EJ-130, EJ-150, EJ-155, EJ-156, EJ-157, EJ-157-INFO, EJ-158, and EJ-159
2. Link A: Sen. Bill 616,  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB616](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB616)
3. Link B: Bill Analysis of Sen. Bill 616,  
[http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200SB616](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB616)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (name): <input type="checkbox"/> ORIGINAL JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>12-02-19</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Plaintiff: Defendant:	CASE NUMBER:
<b>WRIT OF</b> <input type="checkbox"/> EXECUTION (Money Judgment) <input type="checkbox"/> POSSESSION OF <input type="checkbox"/> Personal Property <input type="checkbox"/> SALE <input type="checkbox"/> Real Property	<input type="checkbox"/> Limited Civil Case (including Small Claims) <input type="checkbox"/> Unlimited Civil Case (including Family and Probate)

1. To the Sheriff or Marshal of the County of:

You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accordance with CCP 699.080 or CCP 715.040.

3. (Name):

is the  original judgment creditor     assignee of record    whose address is shown on this form above the court's name.

4. Judgment debtor (name, type of legal entity if not a natural person, and last known address):

9.  See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.

10.  This writ is issued on a sister-state judgment.

**For items 11–17, see form MC-012 and form MC-013-INFO.**

11. Total judgment (as entered or renewed)    \$ \_\_\_\_\_

12. Costs after judgment (CCP 685.090)    \$ \_\_\_\_\_

13. Subtotal (add 11 and 12)    \$ \_\_\_\_\_

14. Credits to principal (after credit to interest)    \$ \_\_\_\_\_

15. Principal remaining due (subtract 14 from 13)    \$ \_\_\_\_\_

16. Accrued interest remaining due per CCP 685.050(b) (not on GC 6103.5 fees)    \$ \_\_\_\_\_

17. Fee for issuance of writ    \$ \_\_\_\_\_

18. Total (add 15, 16, and 17)    \$ \_\_\_\_\_

19. Levying officer:

a. Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees)    \$ \_\_\_\_\_

b. Pay directly to court costs included in 11 and 17 (GC 6103.5, 68637; CCP 699.520(i))    \$ \_\_\_\_\_

20.  The amounts called for in items 11–19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

\_\_\_\_\_

\_\_\_\_\_

Additional judgment debtors on next page

5. Judgment entered on (date):

(See type of judgment in item 22.)

6.  Judgment renewed on (dates):

7. Notice of sale under this writ

a.  has not been requested.

b.  has been requested (see next page).

8.  Joint debtor information on next page.

[SEAL]

Issued on (date): \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**NOTICE TO PERSON SERVED: SEE PAGE 3 FOR IMPORTANT INFORMATION.**

Plaintiff: Defendant:	CASE NUMBER:
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21.  Additional judgment debtor (name, type of legal entity if not a natural person, and last known address):


22. The judgment is for (check one):

- a.  wages owed.
- b.  child support or spousal support.
- c.  other.

23.  Notice of sale has been requested by (name and address):


24.  Joint debtor was declared bound by the judgment (CCP 989–994)

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>a. on (date):</li> <li>b. name, type of legal entity if not a natural person, and last known address of joint debtor:</li> </ul> | <ul style="list-style-type: none"> <li>a. on (date):</li> <li>b. name, type of legal entity if not a natural person, and last known address of joint debtor:</li> </ul> |
|---|---|
- |  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|  |  |  |  |

c.  Additional costs against certain joint debtors are itemized  Below  on Attachment 23c.

25.  (Writ of Possession or Writ of Sale) Judgment was entered for the following:

- a.  Possession of real property: The complaint was filed on (date):  
(Check (1) or (2). Check (3) if applicable. Complete (4) if (2) or (3) have been checked.)
  - (1)  The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46. The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.
  - (2)  The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.
  - (3)  The unlawful detainer resulted from a foreclosure sale of a rental housing unit. (An occupant not named in the judgment may file a Claim of Right to Possession at any time up to and including the time the levying officer returns to effect eviction, regardless of whether a Prejudgment Claim of Right to Possession was served.) (See CCP 415.46 and 1174.3(a)(2).)
  - (4) If the unlawful detainer resulted from a foreclosure (item 24a(3)), or if the Prejudgment Claim of Right to Possession was not served in compliance with CCP 415.46 (item 24a(2)), answer the following:
    - (a) The daily rental value on the date the complaint was filed was \$
    - (b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):

Item 25 continued on next page

Plaintiff: Defendant:	CASE NUMBER:
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- 25. b.  Possession of personal property.  
 If delivery cannot be had, then for the value (*itemize in 24e*) specified in the judgment or supplemental order.
- c.  Sale of personal property.
- d.  Sale of real property.
- e. The property is described  below  On Attachment 24e.

**NOTICE TO PERSON SERVED**

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (form EJ-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will demand that you turn over the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

EXCEPTION IF RENTAL HOUSING UNIT WAS FORECLOSED. If the residential property that you are renting was sold in a foreclosure, you have additional time before you must vacate the premises. If you have a lease for a fixed term, such as for a year, you may remain in the property until the term is up. If you have a periodic lease or tenancy, such as from month-to-month, you may remain in the property for 90 days after receiving a notice to quit. A blank form *Claim of Right to Possession and Notice of Hearing* (form CP10) accompanies this writ. You may claim your right to remain on the property by filling it out and giving it to the sheriff or levying officer.

EXCEPTION IF YOU WERE NOT SERVED WITH A FORM CALLED PREJUDGMENT CLAIM OF RIGHT TO POSSESSION. If you were not named in the judgment for possession and you occupied the premises on the date on which the unlawful detainer case was filed, you may object to the enforcement of the judgment against you. You must complete the form *Claim of Right to Possession and Notice of Hearing* (form CP10) and give it to the sheriff or levying officer. A blank form accompanies this writ. You have this right whether or not the property you are renting was sold in a foreclosure.

ATTORNEY OR PARTY WITHOUT ATTORNEY (name and address):  
After recording, return to:

TEL NO.: \_\_\_\_\_ FAX NO. (optional): \_\_\_\_\_

E-MAIL ADDRESS (optional): \_\_\_\_\_

ATTORNEY FOR  JUDGMENT CREDITOR  ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY AND ZIP CODE: \_\_\_\_\_

BRANCH NAME: \_\_\_\_\_

DRAFT

12-02-19

Not approved by the Judicial Council

FOR RECORDER'S USE ONLY

PLAINTIFF: DEFENDANT:	LEVYING OFFICER (name and address):
<b>NOTICE OF LEVY</b> under Writ of <input type="checkbox"/> Execution (Money Judgment) <input type="checkbox"/> Sale	LEVYING OFFICER FILE NO.: _____ COURT CASE NO.: _____

TO THE PERSON NOTIFIED (name):

- The judgment creditor seeks to levy upon property in which the judgment debtor has an interest and apply it to the satisfaction of a judgment as follows:
  - Judgment debtor (name):
  - The property to be levied upon is described
    - in the accompanying writ of possession or writ of sale.
    - as follows:

2. The judgment is for (check one)

- wages owed.  child/spousal support.  other

3. The amount necessary to satisfy the judgment creditor's judgment is

- Total amount due (less partial satisfactions) ..... \$
- Levy fee ..... \$
- Sheriff's disbursement fee ..... \$
- Recoverable costs ..... \$
- Total (a through d) ..... \$
- Daily interest ..... \$

4. You are notified as

- a judgment debtor.
- a person other than the judgment debtor (state capacity in which person is notified):

(Read Information for Judgment Debtor or Information for Person Other Than Judgment Debtor on page two.)

Notice of Levy was

- mailed on (date): \_\_\_\_\_  posted on (date): \_\_\_\_\_
- delivered on (date): \_\_\_\_\_  filed on (date): \_\_\_\_\_
- recorded on (date): \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE)

- Levying officer  Registered process server

SHORT TITLE:

LEVYING OFFICER FILE NO.:

COURT CASE NO.:

**–INFORMATION FOR JUDGMENT DEBTOR–**

1. The levying officer is required to take custody of the property described in item 1 in your possession or under your control.
2. You may claim any available exemption for your property. A list of exemptions is attached. **If you wish to claim an exemption for personal property, you must do so within 15 days after this notice was delivered to you or 20 days after this notice was mailed to you** by filing a claim of exemption and one copy with the levying officer as provided in section 703.520 of the Code of Civil Procedure. **The date of filing is calculated as the date it is received by the levying officer, or the date of the postmark if mailed and assigned a tracking number by the US Postal Service. If you do not claim an exemption, you may lose it and the property is subject to enforcement of a money judgment. If you wish to seek the advice of an attorney, you should do so immediately so that a claim of exemption can be filed on time.**
3. There are automatic exemptions that financial institutions should apply to a deposit account before providing funds to the levying officer. See below for more information.
4. You are not entitled to claim an exemption for property that is levied upon under a judgment for sale of property. This property is described in the accompanying writ of sale. You may, however, claim available exemptions for property levied upon to satisfy damages or costs awarded in such a judgment.
5. You may obtain the release of your property by paying the amount of a money judgment with interest and costs remaining unpaid.
6. If your property is levied upon under a writ of execution or to satisfy damages and costs under a writ of possession or sale, the property may be sold at an execution sale, perhaps at a price substantially below its value. Notice of sale will be given to you. Notice of sale of real property (other than a leasehold estate with an unexpired term of less than two years) may not be given until at least 120 days after this notice is served on you. This grace period is intended to give you an opportunity to settle with the judgment creditor, to obtain a satisfactory buyer for the property, or to encourage other potential buyers to attend the execution sale.
7. All sales at an execution sale are final; there is no right of redemption.

**– INFORMATION FOR PERSON OTHER THAN JUDGMENT DEBTOR –**

1. If the property levied upon is in your possession or under your control and you do not claim the right to possession or a security interest, you must deliver the property to the levying officer. If you do not deny an obligation levied upon or do not claim a priority over the judgment creditor's lien, you must pay to the levying officer the amount that is due and payable and that becomes due and payable during the period of the execution lien, which lasts two years from the date of issuance of the writ of execution. You must execute and deliver any documents needed to transfer the property.
2. If you are a financial institution, you are required to apply applicable exemptions to deposit accounts. See below.
3. You must complete the accompanying Memorandum of Garnishee.
4. If you claim ownership or the right to possession of real or personal property levied upon or if you claim a security interest in or lien on personal property levied upon, you may make a third-party claim and obtain the release of the property under sections 720.010–720.800 of the Code of Civil Procedure.
5. **Make checks payable to the levying officer.**

**– INFORMATION ABOUT DEPOSIT ACCOUNTS –**

1. If the levy is **not** to satisfy a judgment for wages owed, child or spousal support, or liability to the state government, there is an automatic exemption for money in a deposit account up to a certain dollar amount, under section 704.220 of the Code of Civil Procedure, with no claim of exemption required. See form EJ-156 for the exemption amount.
2. Other automatic exemptions may apply to deposit accounts, such as exemptions for directly deposited social security or public benefits under section 704.080. (See form EJ-156 for the exemption amounts.) Generally, the financial institution should apply the larger set of exemptions that apply to an account. See section 704.220(b).
3. If a judgment debtor has multiple accounts in one or more financial institutions, either the judgment creditor or judgment debtor (defendant) may file an application in the superior court identified in the front of this form for an order as to which account the exemption should apply. (See section 704.220(e).) To get such an order, file an *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157) as soon as possible. (There are instructions on the form.) If the judgment debtor has more than one account in a financial institution, that institution may decide how and to which account to apply the exemption, unless it is served with a court order directing how to apply the exemption.

**EXEMPTIONS FROM THE ENFORCEMENT OF JUDGMENTS**

The following is a list of assets that may be exempt from levy in enforcing a judgment.

Exemptions are found in the United States Code (**USC**) and in the California codes, primarily the Code of Civil Procedure (**CCP**).

Because of periodic changes in the law, the list may not include all exemptions that apply in your case. The exemptions may not apply in full or under all circumstances. Some are not available after a certain period of time. You or your attorney should read the statutes.

If you believe the assets that are being levied on are exempt, file the claim of exemption form that you received from the levying officer.

**AMOUNT OF EXEMPTIONS:** For the exemption amount, please refer to the code section listed below for each type of property. The current amounts of certain exemptions are listed in *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156). The amounts of some of the exemptions are amended every three years and become effective immediately on April 1 under the provisions of Code of Civil Procedure section 703.150.

<u>Type of Property</u>	<u>Code and Section</u>	<u>Type of Property</u>	<u>Code and Section</u>
ABLE Accounts . . . . .	Welf & I C § 4880(c)	Benefit Payments ( <i>cont.</i> )	
Accounts ( <i>See Deposit Accounts</i> )		Relocation Benefits . . . . .	CCP § 704.180
Appliances . . . . .	CCP § 704.020	Retirement Benefits	
Art and Heirlooms . . . . .	CCP § 704.040	and Contributions:	
Automobiles . . . . .	CCP § 704.010	Private . . . . .	CCP § 704.115
BART District Benefits . . . . .	CCP § 704.110	Public . . . . .	CCP § 704.110
	Pub Util C § 28896	Segregated Benefit Funds . . . . .	Ins C § 10498.5
Benefit Payments:		Social Security Benefits . . . . .	42 USC § 407
BART District Benefits . . . . .	CCP § 704.110	Strike Benefits . . . . .	CCP § 704.120
	Pub Util C § 28896	Transit District Retirement	
Charity . . . . .	CCP § 704.170	Benefits (Alameda and	
Civil Service Retirement		Contra Costa Counties) . . . . .	CCP § 704.110
Benefits (Federal) . . . . .	5 USC § 8346	Unemployment Benefits	
County Employees		and Contributions . . . . .	CCP § 704.120
Retirement Benefits . . . . .	CCP § 704.110	Veterans Benefits . . . . .	38 USC § 3101
	Govt C § 31452	Veterans Medal of Honor	
Disability Insurance Benefits . . . . .	CCP § 704.130	Benefits . . . . .	38 USC § 562
Fire Service Retirement		Welfare Payments . . . . .	CCP § 704.170
Benefits . . . . .	CCP § 704.110		Welf & I C § 17409
	Govt C § 32210	Workers Compensation . . . . .	CCP § 704.160
Fraternal Organization		Boats . . . . .	CCP § 704.060
Funds Benefits . . . . .	CCP § 704.130		CCP § 704.710
	CCP § 704.170	Books . . . . .	CCP § 704.060
Health Insurance Benefits . . . . .	CCP § 704.130	Building Materials (Residential) . . . . .	CCP § 704.030
Irrigation System		Business:	
Retirement Benefits . . . . .	CCP § 704.110	Licenses . . . . .	CCP § 695.060
Judges Survivors Benefits			CCP § 699.720(a)(1)
(Federal) . . . . .	28 USC § 376(n)	Tools of Trade . . . . .	CCP § 704.060
Legislators Retirement		Cars and Trucks (including	
Benefits . . . . .	CCP § 704.110	proceeds) . . . . .	CCP § 704.010
	Govt C § 9359.3	Cash . . . . .	CCP § 704.070
Life Insurance Benefits:		Cemeteries:	
Group . . . . .	CCP § 704. 100	Land Proceeds . . . . .	Health & SC § 7925
Individual . . . . .	CCP § 704. 100	Plots . . . . .	CCP § 704.200
Lighthouse Keepers		Charity . . . . .	CCP § 704.170
Widows Benefits . . . . .	33 USC § 775	Claims, Actions and Awards:	
Longshore & Harbor Workers		Personal Injury . . . . .	CCP § 704.140
Compensation or Benefits . . . . .	33 USC § 916	Worker's Compensation . . . . .	CCP § 704.160
Military Benefits:		Wrongful Death . . . . .	CCP § 704.150
Retirement . . . . .	10 USC § 1440	Clothing . . . . .	CCP § 704.020
Survivors . . . . .	10 USC § 1450	Condemnation Proceeds . . . . .	CCP § 704.720(b)
Municipal Utility District		County Employees Retirement	
Retirement Benefits . . . . .	CCP § 704.110	Benefits . . . . .	CCP § 704.110
	Pub Util C § 12337		Govt C § 31452
Peace Officers Retirement		Damages ( <i>See Personal Injury</i>	
Benefits . . . . .	CCP § 704.110	and <i>Wrongful Death</i> )	
	Govt C § 31913	Deposit Accounts:	
Pension Plans		Deposit Accounts (generally) . . . . .	CCP § 704.220
(and Death Benefits):		Escrow or Trust Funds . . . . .	Fin C § 17410
Private . . . . .	CCP § 704.115	Social Security Direct	
Public . . . . .	CCP § 704.110	Deposits . . . . .	CCP § 704.080
Public Assistance . . . . .	CCP § 704.170		
	Welf & I C § 17409		

**EXEMPTIONS FROM THE ENFORCEMENT OF JUDGMENTS**

(Continued)

<u>Type of Property</u>	<u>Code and Section</u>	<u>Type of Property</u>	<u>Code and Section</u>
Direct Deposit Account:		Motor Vehicle (Including	
Social Security .....	CCP § 704.080	Proceeds) .....	CCP § 704.010
Disability Insurance Benefits .....	CCP § 704.130		CCP § 704.060
Dwelling House .....	CCP § 704.740	Municipal Utility District	
Earnings .....	CCP § 704.070	Retirement Benefits .....	CCP § 704.110
	CCP § 706.050		Pub Util C § 12337
	15 USC § 1673(a)	Peace Officers Retirement	
Educational Grant .....	Ed C § 21116	Benefits .....	CCP § 704.110
Employment Bonds .....	Lab C § 404	Pension Plans:	Govt C § 31913
<b>Federal Emergency Management</b>		Private .....	CCP § 704.115
Agency (FEMA) funds .....	<b>CCP § 704.230</b>	Public .....	CCP § 704.110
Financial Assistance:		Personal Effects .....	CCP § 704.020
Charity .....	CCP § 704.170	Personal Injury Actions	
Public Assistance .....	CCP § 704.170	or Damages .....	CCP § 704.140
	Welf & I C § 17409	Prisoner's Funds .....	CCP § 704.090
Student Aid .....	CCP § 704.190	Property Not Subject to	
Welfare (See Public Assistance)		Enforcement of Money	
Fire Service Retirement .....	CCP § 704.110	Judgments .....	CCP § 704.210
	Govt C § 32210	Prosthetic and Orthopedic	
Fraternal Organizations		Devices .....	CCP § 704.050
Funds and Benefits .....	CCP § 704.130	Provisions (for Residence) .....	CCP § 704.020
	CCP § 704.170	Public Assistance .....	CCP § 704.170
Fuel for Residence .....	CCP § 704.020		Welf & I C § 17409
Furniture .....	CCP § 704.020	Public Employees:	
General Assignment for		Death Benefits .....	CCP § 704.110
Benefit of Creditors .....	CCP § 1801	Pension .....	CCP § 704.110
Health Aids .....	CCP § 704.050	Retirement Benefits .....	CCP § 704.110
Health Insurance Benefits .....	CCP § 704.130	Vacation Credits .....	CCP § 704.113
Home:		Railroad Retirement Benefits .....	45 USC § 2281
Building Materials .....	CCP § 704.030	Railroad Unemployment	
Dwelling House .....	CCP § 704.740	Insurance .....	45 USC § 352(e)
Homestead .....	CCP § 704.720	Relocation Benefits .....	CCP § 704.180
	CCP § 704.730	Retirement Benefits and	
House trailer .....	CCP § 704.710	Contributions:	
Mobilehome .....	CCP § 704.710	Private .....	CCP § 704.115
Homestead .....	CCP § 704.720	Public .....	CCP § 704.110
	CCP § 704.730		Ins C § 10498.5
Household Furnishings .....	CCP § 704.020	Segregated Benefit Funds .....	Ins C § 10498.6
Insurance:		Servicemembers Property .....	50 USC § 523(b)
Disability Insurance .....	CCP § 704.130	Social Security .....	42 USC § 407
Fraternal Benefit Society .....	CCP § 704.110	Social Security Direct Deposit	
Group Life .....	CCP § 704.100	Account .....	CCP § 704.080
Health Insurance Benefits .....	CCP § 704.130	Strike Benefits .....	CCP § 704.120
Individual .....	CCP § 704.100	Student Aid .....	CCP § 704.190
Insurance Proceeds—		Tools of Trade .....	CCP § 704.060
Motor Vehicle .....	CCP § 704.010	Transit District Retirement	
Irrigation System .....	CCP § 704.040	Benefits (Alameda and Contra	
Retirement Benefits .....	CCP § 704.110	Costa Counties) .....	CCP § 704.110
Jewelry .....			Pub Util C § 25337
Judges Survivors Benefits		Travelers Check Sales Proceeds .....	Fin C § 1875
(Federal) .....	28 USC § 376(n)	Unemployment Benefits and	
Legislators Retirement		Contributions .....	CCP § 704.120
Benefits .....	CCP § 704.110	Uniforms .....	CCP § 704.060
	Govt C § 9359.3	Vacation Credits (Public	
Licenses .....	CCP § 695.060	Employees) .....	CCP § 704.113
	CCP § 720(a)(1)	Veterans Benefits .....	38 USC § 3101
Lighthouse Keepers Widows		Veterans Medal of Honor	
Benefits .....	33 USC § 775	Benefits .....	38 USC § 562
Longshore and Harbor Workers		Wages .....	CCP § 704.070
Compensation or Benefits .....	33 USC § 916		CCP § 706.050
Military Benefits:			CCP § 706.051
Retirement .....	10 USC § 1440	Welfare Payments .....	CCP § 704.170
Survivors .....	10 USC § 1450		Welf & I C § 17409
Military Personnel—Property .....	50 USC § 523(b)	Workers Compensation	
		Claims or Awards .....	CCP § 704.160
		Wrongful Death Actions or	
		Damages .....	CCP § 704.150

**CURRENT DOLLAR AMOUNTS OF EXEMPTIONS FROM ENFORCEMENT OF JUDGMENTS**  
**Code of Civil Procedure sections 703.140(b) and 704.010 et seq.**

**EXEMPTIONS UNDER SECTION 703.140(b)**

The following lists the current dollar amounts of exemptions from enforcement of judgment under Code of Civil Procedure section 703.140(b).

These amounts are effective April 1, 2019. Unless otherwise provided by statute after that date, they will be adjusted at each three-year interval, ending on March 31. The amount of the adjustment to the prior amounts is based on the change in the annual California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on the preceding December 31, with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(d).)

<u>Code Civ. Proc., § 703.140(b)</u>	<u>Type of Property</u>	<u>Amount of Exemption</u>
(1)	The debtor's aggregate interest in real property or personal property that the debtor or a dependent of the debtor uses as a residence, or in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence,	\$ 29,275
(2)	The debtor's interest in one or more motor vehicles	\$ 5,850
(3)	The debtor's interest in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor (value is of any particular item)	\$ 725
(4)	The debtor's aggregate interest in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor	\$ 1,750
(5)	The debtor's aggregate interest, plus any unused amount of the exemption provided under paragraph (1), in any property	\$ 1,550
(6)	The debtor's aggregate interest in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor	\$ 8,725
(8)	The debtor's aggregate interest in any accrued dividend or interest under, or loan value of, any unmaturing life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent	\$ 15,650
(11)(D)	The debtor's right to receive, or property traceable to, a payment on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent	\$ 29,275

**CURRENT DOLLAR AMOUNTS OF EXEMPTIONS FROM ENFORCEMENT OF JUDGMENTS****Code of Civil Procedure sections 703.140(b) and 704.010 et seq.****EXEMPTIONS UNDER SECTION 704.010 et seq.**

The following lists the current dollar amounts of exemptions from enforcement of judgment under title 9, division 2, chapter 4, article 3 (commencing with section 704.010) of the Code of Civil Procedure.

The amount of the automatic exemption for a deposit account under section 704.220(a) is effective September 1, 2020, and unless otherwise provided by statute after that date, will be adjusted annually effective July 1 by the Department of Social Services.\*

The other amounts are all effective April 1, 2019. Unless otherwise provided by statute after that date, they will be adjusted at each three-year interval, ending on March 31. The amount of the adjustment to the prior amounts is based on the change in the annual California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on the preceding December 31, with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(d).)

<u>Code Civ. Proc. Section</u>	<u>Type of Property</u>	<u>Amount of Exemption</u>
704.010	Motor vehicle (any combination of aggregate equity, proceeds of execution sale, and proceeds of insurance or other indemnification for loss, damage, or destruction)	\$ 3,325
704.030	Material to be applied to repair or maintenance of residence	\$ 3,500
704.040	Jewelry, heirlooms, art	\$ 8,725
704.060	Personal property used in debtor's or debtor's spouse's trade, business, or profession (amount of exemption for commercial motor vehicle not to exceed \$4,850)	\$ 8,725
704.060	Personal property used in debtor's and spouse's common trade, business, or profession (amount of exemption for commercial motor vehicle not to exceed \$9,700)	\$ 17,450
704.220	Deposit account, generally (exemption without claim; amount per judgment debtor, section 704.220(a),(e)) <sup>1</sup>	\$ 1,724*
704.080	Deposit account with direct payment of social security or public benefits (exemption without claim, section 704.080(b)) <sup>2</sup>	
	• Public benefits, one depositor is designated payee	\$ 1,750
	• Social security benefits, one depositor is designated payee	\$ 3,500
	• Public benefits, two or more depositors are designated payees <sup>3</sup>	\$ 2,600
	• Social security benefits, two or more depositors are designated payees <sup>3</sup>	\$ 5,250
704.090	Inmate trust account	\$ 1,750
	Inmate trust account (restitution fine or order)	\$ 325 <sup>4</sup>
704.100	Aggregate loan value of unmaturing life insurance policies	\$ 13,975

<sup>1</sup> This exemption does not preclude or reduce other exemptions for deposit accounts. However, if the exemption amount for the deposit account applicable under other automatic exemptions—such as those applicable for direct deposit of social security benefits or public benefits—is greater under the other exemptions, then those apply instead of this one. (Code Civ. Proc., § 704.220(b).)

<sup>2</sup> The amount of a deposit account with direct deposited funds that exceeds exemption amounts shown is also exempt to the extent it consists of payments of public benefits or social security benefits. (Code Civ. Proc., § 704.080(c).)

<sup>3</sup> If only one joint payee is a beneficiary of the payment, the exemption is in the amount available to a single designated payee. (Code Civ. Proc., § 704.080(b)(3) and (4).)

<sup>4</sup> This amount is not subject to adjustments under Code Civ. Proc., § 703.150.

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>name and address</i> ): After recording, return to:  TEL NO.: _____ FAX NO. (optional): _____ E-MAIL ADDRESS ( <i>optional</i> ): _____ <input type="checkbox"/> ATTORNEY FOR <input type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD	FOR COURT USE ONLY  <b>DRAFT</b>  <b>12-02-19</b>  <b>Not approved by the Judicial Council</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____  STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	LEVYING OFFICER ( <i>name and address</i> ): _____  _____ _____
PLAINTIFF: _____  DEFENDANT: _____	LEVYING OFFICER FILE NO.: _____    COURT CASE NO.: _____
<b>EX PARTE APPLICATION FOR ORDER ON DEPOSIT ACCOUNT EXEMPTION</b>  <input type="checkbox"/> Without hearing <input type="checkbox"/> Hearing on shortened time	

Read *Instructions for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157-INFO) before filing this application. That form describes the requirements for giving notice of this application.

1. Applicant (*check one*)
  - Judgment Debtor (defendant) (*name*): \_\_\_\_\_
  - Judgment Creditor (plaintiff or assignee of record) (*name*): \_\_\_\_\_

applies for a court order as to how and to which of the judgment debtor's multiple deposit accounts the exemption from enforcement of a civil money judgment under Code of Civil Procedure section 704.220 should be applied.
2. This application is being made because
  - a.  judgment debtor has multiple deposit accounts in one financial institution.
  - b.  judgment debtor has deposit accounts in multiple financial institutions.
3. A *Writ of Execution (Money Judgment)* was issued in this case and states that the underlying judgment is not for unpaid wages, child support, or spousal support. *Date issued*: \_\_\_\_\_ . (*Attach a copy.*)
4. A *Notice of Levy* has been issued based on the writ in item 3 to the following financial institutions (*identify and attach copy of each notice*):

<b><u>Financial Institution</u></b>	<b><u>Date of Issuance</u></b>
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Check here if there is not enough space to list all current notices of levy, and continue the list on an attached sheet titled Attachment 3.

SHORT TITLE:	LEVYING OFFICER FILE NO.:	COURT CASE NO.:
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5. Applicant requests that the judgment creditor's deposit account exemption under Code of Civil Procedure section 704.220(a) be applied (*check one*)

- a.  to deposit account number (*last four digits only*): \_\_\_\_\_ at (*financial institution*): \_\_\_\_\_
- b.  spread across multiple deposit accounts as follows:

<u>Name of financial institution</u>	<u>Deposit account number</u> <i>(last four digits only)</i>	<u>Amount of exemption to be applied to account</u> <i>(Total cannot exceed total amount of exemption (See form EJ-156).)</i>
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- 6. a.  This matter may be set for hearing.
- b.  Applicant is seeking this order without further hearing to help prevent immediate loss to a deposit account subject to exemption or enforcement. The facts supporting this need for immediate issuance of an order are (*explain circumstances*):

Check here if there is not enough space, and continue the item on an attached sheet titled Attachment 6.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)	▶	(SIGNATURE)
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**Declaration by Applicant**

I \_\_\_\_\_ declare under penalty of perjury under the law of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)	▶	(SIGNATURE)
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- Judgment creditor       Judgment debtor
- Assignee of record

## INSTRUCTIONS FOR EX PARTE APPLICATION FOR ORDER ON DEPOSIT ACCOUNT EXEMPTION

1. **Applicable Law.** Code of Civil Procedure section 704.220 provides that financial institutions must apply an automatic exemption when served a *Notice of Levy* on a judgment debtor's deposit account, if the underlying judgment is not based on wages owed or child or spousal support. The exemption (the amount of which can be found on form EJ-156) is per judgment debtor, not per account. If the judgment debtor has multiple deposit accounts, either the judgment debtor or judgment creditor may make an ex parte application to a court for an order designating how and to which deposit account the automatic exemption is to be applied. (See Code Civ. Proc., § 704.220(e).)
2. **A judgment debtor (defendant) applying for an order to designate a specific account or how to allocate the exemption among multiple accounts should do so as soon as receiving a notice of a levy, because the financial institution is required to act promptly in sending funds to the levying officer.**
3. **Rules for Making the Application.** The ex parte application must be filed in the court in which the judgment was issued. The applicant must check with that court for local rules and timing as to when and where the applicant is to appear at court to have the court consider the ex parte application. The applicant must follow the rules relating to ex parte applications that are set out in California Rules of Court, rules 3.1203-3.1207, which describe the following requirements:

**Notice of the application.** Notice of the ex parte application must generally be given to the other party in the case. Notice may be in person or by phone, fax, overnight mail, or email (if permitted in the case already). The party must be informed by 10:00 a.m. the day before the ex parte application is to be considered by the court, unless there is a good reason such notice could not or should not be given. How the notice was given, or why it was not, must be described in the declaration regarding notice and service (form EJ-158).

**Service of papers.** Copies of the application and all related papers must be given to the other party as soon as reasonable and before the court appearance, if possible (how this was done or why it was not must also be described in form EJ-158).

**Appearance at court.** The applicant must be available at the time the court is considering the application, either in person at the courthouse or by telephone. (If by phone, the applicant must inform the court and the other parties in advance, and must comply with Cal. Rules of Court, rule 3.670(d), which requires that the application papers must be filed by 10:00 a.m. *two court days* before the application is to be considered.)

4. **Forms to Complete.** Before the time the court is scheduled to consider the application, the applicant must complete and file the following forms with the court:
  - *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157);
  - *Declaration Regarding Notice and Service for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-158);
  - *Order on Application for Designation of Deposit Account Exemption* (form EJ-159) (complete caption and item 1 only).

Take note of the following when completing form EJ-157:

- The contents of the application must be provided under penalty of perjury.
  - If the applicant has good cause for why the court should act immediately, with no further hearing or briefing, the box under the title of form EJ-157 stating "Without hearing" should be checked and item 6b completed to explain why. Otherwise the box under the title for "Hearing on shortened time" and item 6a should be checked.
  - Copies of the *Writ of Execution* (form EJ-130) and any *Notice of Levy* (EJ-150) that have been issued to a financial institution must be attached to the application form.
  - Item 5 must include the specific account or accounts to which the court is being asked to order that the exemption apply. If the judgment debtor is asking that the exemption be allocated among multiple accounts, the total amount allocated may not be more than the total amount of the deposit account exemption. (See form EJ-156 for the amount.)
5. **Filing With the Court.** The completed forms should be filed with the court clerk. There will be a filing fee unless the party is eligible for a fee waiver. (If a party cannot afford the fee and has not already received a fee waiver, the party may file a *Request to Waive Court Fees* (form FW-001) with the other forms.) Take extra copies of all the forms to the court so the clerk can give back a stamped copy.
  6. **What to Do With Order.** The court may rule on the application immediately if a delay could result in loss to a deposit account subject to exemption or enforcement, or may order that a hearing be held to consider the application and any opposition.
    - Once an order is issued by the court on form EJ-159, the applicant should serve the order on all other parties in the case as soon as possible. If the order sets a hearing date, it must be served by the date in item 4b on the order.
    - If the order sets a hearing date, the applicant should appear at the hearing either in person or by phone (if by phone, notice must be given in advance to the court and other side).
    - If the order designates the deposit account or accounts to which the exemption applies, without any further hearing, the applicant should serve the financial institution and levying officer as well as the other parties.

Once an order has been issued by the court, the applicant should serve the order on all other parties in the case as soon as possible.

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:  <b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>12-02-19</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<b>DECLARATION REGARDING NOTICE AND SERVICE OF EX PARTE APPLICATION FOR ORDER ON DEPOSIT ACCOUNT EXEMPTION</b>	CASE NUMBER:

*This form must be filed anytime an Ex Parte Application (form EJ-157) is filed.*

1. I am (specify)  attorney for  judgment creditor  judgment debtor
2. I  did  did not give notice that papers will be submitted to the court asking a judicial officer how and to which of judgment debtor's deposit accounts the exemption under Code of Civil Procedure section 704.220 should apply, and that the court will consider the request on the date, time, and location indicated below:

a. Date: \_\_\_\_\_ Time: \_\_\_\_\_  Dept.: \_\_\_\_\_

b. Address of court:  same as noted above  other (specify): \_\_\_\_\_

3. **NOTICE** (If you gave notice, complete item 3a. If you did not give notice, complete item 3b or 3c.)

a.  I gave notice as described in items (1) through (5):

(1) I gave notice to (select all that apply)

- judgment debtor.  judgment debtor's attorney.  
 judgment creditor.  judgment creditor's attorney.  
 Other (specify): \_\_\_\_\_

(2) I gave notice on (date): \_\_\_\_\_ at:  a.m.  p.m.

- personally at (location): \_\_\_\_\_, California.  
 by telephone using telephone no.: \_\_\_\_\_  
 by fax using fax no.: \_\_\_\_\_  
 by voicemail using voicemail no.: \_\_\_\_\_  
 by electronic means (if permitted) (specify electronic service address of person): \_\_\_\_\_  
 by overnight mail or other overnight carrier (specify address of delivery): \_\_\_\_\_

(3) I gave notice (select one)

- by 10 a.m. the court day before this ex parte appearance.  
 after 10 a.m. the court day before this ex parte appearance because of the following exceptional circumstances (specify): \_\_\_\_\_

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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3. a. (4) I notified the person in 3a(1) that an order is being requested designating that the exemption under section 704.220 should be applied to the following accounts (*specify*):

(5) The person in 3a(1) responded as follows:

(6) I  do  do not believe that the person in 3a(1) will oppose the ex parte application.

b.  **Request for waiver of notice.** I did not give notice about the ex parte application. I ask that the court waive notice to the other party for the following reasons (*identify the exceptional circumstances*):

Attachment 3b.

c.  **Unable to provide notice.** I did not give notice about the ex parte application. I used my best efforts to tell the opposing party when and where this hearing would take place but was unable to do so. The efforts I made to inform the other person were (*specify below*):

Attachment 3c.

4.  **SERVICE OF FORMS**

a. An unfiled copy of *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157) and related documents were served on

judgment debtor.       judgment debtor's attorney.  
 judgment creditor.       judgment creditor's attorney.  
 Other (*specify*):

b. Documents were served on (*date*): \_\_\_\_\_ at:  a.m.  p.m.  
 personally      at (*location*): \_\_\_\_\_, California.  
 by fax      using fax no.: \_\_\_\_\_  
 by electronic means (*if permitted*) (*specify electronic service address of person*): \_\_\_\_\_  
 by overnight mail or other overnight carrier (*specify address of delivery*): \_\_\_\_\_

c.  **Documents were not served on the opposing party** because of the exceptional circumstances specified in  3b, above     3c, above     Attachment 4c.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)

  
 \_\_\_\_\_  
 (SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>name and address</i> ): After recording, return to:  TEL NO.: _____ FAX NO. (optional): _____ E-MAIL ADDRESS ( <i>optional</i> ): _____ <input type="checkbox"/> ATTORNEY FOR <input type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD	FOR COURT USE ONLY  <b>DRAFT</b>  <b>12-02-19</b>  <b>Not approved by the Judicial Council</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	LEVYING OFFICER ( <i>name and address</i> ): _____
PLAINTIFF: _____ DEFENDANT: _____	LEVYING OFFICER FILE NO.: _____    COURT CASE NO.: _____
<b>ORDER ON APPLICATION FOR DESIGNATION OF DEPOSIT ACCOUNT EXEMPTION</b>	

1. Applicant (*check one*)

- Judgment Debtor (defendant) (*name*):
- Judgment Creditor (plaintiff or assignee) (*name*):

applied ex parte for an order as to how and to which of the judgment debtor's multiple deposit accounts the exemption from enforcement of a civil money judgment under Code of Civil Procedure section 704.220 should be applied.

2. The court, having reviewed the application, makes the following ruling.

3.  **Application Denied.** The court denies the application.

- a.  The application is incomplete.
- b.  The application did not meet the requirements for providing notice or service of the application.
- c.  There is no showing that judgment debtor has multiple deposit accounts subject to the deposit account exemption in section 104.220.
- d.  Other:

4.  **Order Shortening Time.** A hearing will be held on the application, as follows.

a. The hearing will be on the date, time, and location indicated below:

Date: _____	Time: _____	<input type="checkbox"/> Dept.: _____	<input type="checkbox"/> Room: _____
Address of court: <input type="checkbox"/> same as noted above <input type="checkbox"/> other ( <i>specify</i> ): _____			

b. Applicant must serve this order and the *Ex Parte Application* (form EJ-157) on all other parties by (*date*):

c. Any papers in opposition must be served on all other parties and filed by (*date*):

5.  **Ex Parte Order.** The court finds that delay in ruling would result in loss or damage to deposit accounts subject to enforcement of judgment in this matter, and therefore rules ex parte to designate the account subject to exemption, as stated below.

6.  **Order After Hearing.** This ruling is made after the application was heard on shortened time at

a. Date: \_\_\_\_\_ Time: \_\_\_\_\_  Dept.: \_\_\_\_\_  Room: \_\_\_\_\_

b. The following were present at the hearing:

- Judgment debtor                       Judgment debtor's attorney
- Judgment creditor                       Judgment creditor's attorney
- Other:

SHORT TITLE:	LEVYING OFFICER FILE NO.:	COURT CASE NO.:
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7.  **Findings.** The court makes the following findings:

- a.  The underlying judgment in this case is not based on unpaid wages or child or spousal support.
- b.  A *Notice of Levy* has been issued in this case to the following financial institutions (*identify*):

**Financial Institution**

**Date of Issuance**

- c. Applicant has requested that the court designate to which among multiple deposit accounts the exemption under Code of Civil Procedure section 704.220(a) be applied, and has specified that account or accounts in the application.
- d.  An alternative designation was requested by  judgment debtor  judgment creditor.
- e.  Other findings:

8. **Designation of Deposit Account.** The exemption under Code of Civil Procedure section 704.220(a) from enforcement of civil money judgment is to be applied (*check one*)

- a.  to deposit account number (*last four digits only*) \_\_\_\_\_ at (*financial institution*) \_\_\_\_\_.
- b.  spread across multiple deposit accounts, because the exemption amount is greater than the amount in a single deposit account, as follows:

**Name of financial institution**

**Deposit accounts**  
(*last four digits only*)

**Amount of exemption to be applied**

9. **Other Rulings.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Judicial Officer