

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

W18-02

Title	Action Requested
Forms: Enforcement of Judgment Exemption	Review and submit comments by February 9, 2018
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form EJ-155	September 1, 2018
Proposed by	Contact
Civil and Small Claims Advisory Committee	Susan R. McMullan, 415-865-7990
Hon. Ann I. Jones, Chair	susan.mcmullan@jud.ca.gov

Executive Summary and Origin

Assembly Bill 688 (Calderon; Stats. 2017, ch. 529) amended Welfare and Institutions Code section 4880 to provide an exemption from enforcement of judgments for funds in special savings accounts for persons with disabilities. The amount exempted is \$100,000. To assist court users and to help implement this legislation, the exemption must be added to Judicial Council forms that list exemptions to enforcement of judgments.

The Proposal

The Civil and Small Claims Advisory Committee (CSCAC) recommends that *Exemptions From the Enforcement of Judgments* (form EJ-155) be revised to add an exemption from enforcement of judgments, not to exceed \$100,000, for funds in savings accounts established under the federal Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act). The ABLE Act encourages and assists individuals and families to save private funds in a tax-advantaged savings account to support persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income money used for disability expenses by a beneficiary of a qualified ABLE program established and maintained by a state.

California has a qualified ABLE program (CalABLE) to implement the federal ABLE Act. Effective September 1, 2018, Welfare and Institutions Code section 4880(c) will provide that “moneys in an ABLE account, not to exceed one hundred thousand dollars (\$100,000), shall be exempt from enforcement of a money judgment without making a claim.”

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

Exemptions From the Enforcement of Judgments (form EJ-155) is an optional form that lists assets that may be exempt from levy on a judgment, including the type of property and the particular statute that provides the exemption. This proposal would revise form EJ-155 to add ABLÉ accounts, consistent with recent legislation. It adds the words “ABLE Accounts” in two places on the form: at the top of the list of types of property that are exempt (because the list is in alphabetical order and “ABLE” comes before any other type of property) and under “Deposit Accounts,” which is a current heading on the form. Certain other types of property are listed on the form more than once (e.g., “Building Materials (Residential)” and “Home: Building Materials”), and the committee is interested in comments about where ABLÉ accounts should be listed and whether they should be listed in both places shown in this proposal.

Revising this form to add ABLÉ accounts will inform individuals with these accounts, judges, court personnel, and other parties of this exemption without the need for the person claiming the exemption to file a claim of exemption. (New Welfare and Institutions Code section 4880(c) provides for the exemption up to \$100,000 without the need to file a claim of exemption.)

The form would also be revised to update information in a box discussing the amount of exemptions. It would reference another form, *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156), which lists the amount of exemptions under certain statutes and provides information on amounts that are amended every three years. The current version of the form states the amount of the exemptions is available from the clerk of the court and on the California Courts website. The revision to this box would remove that statement, as the information is now contained in form EJ-156.

Alternatives Considered

Because of the need to assist court users with accurate information on exemptions from enforcement of judgments and the enactment of legislation that adds ABLÉ accounts to the assets that are exemptions from enforcement of judgments, the CSCAC did not consider alternatives. The CSCAC determined that revising this form to refer court users to form EJ-156 for a list of the amount of certain exemptions was preferable to leaving a statement on the form that such a list is available from the clerk of the court and on the California Courts website.

Implementation Requirements, Costs, and Operational Impacts

No significant implementation requirements, costs, or operational impacts are anticipated. Courts that provide paper copies of this form will incur production costs.

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?
- Should ABLE accounts be listed in two places on the form, including under the heading “Deposit Accounts” as shown in this proposal?
- Does the box on “Amount of Exemptions” provide sufficient information about where to find information on the amount of certain exemptions?

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 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Form EJ-155, at p. 4–5
2. Link A: Assembly Bill 688 at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB688

EXEMPTIONS FROM THE ENFORCEMENT OF JUDGMENTS

The following is a list of assets that may be exempt from levy on 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 a claim of exemption form, which you can get from the levying officer.

AMOUNT OF EXEMPTIONS: The amount of an exemption is generally stated in the statute that corresponds to each exemption listed below. 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 (cont.)	
Accounts (See Deposit Accounts)		Relocation Benefits	CCP § 704.180
Appliances	CCP § 704.020	Retirement Benefits and Contributions:	
Art and Heirlooms	CCP § 704.040	Private	CCP § 704.115
Automobiles	CCP § 704.010	Public	CCP § 704.110
BART District Benefits	CCP § 704.110	Segregated Benefit Funds	Ins C § 10498.5
	Pub Util C § 28896	Social Security Benefits	42 USC § 407
Benefit Payments:		Strike Benefits	CCP § 704.120
BART District Benefits	CCP § 704.110	Transit District Retirement Benefits (Alameda and Contra Costa Counties)	CCP § 704.110
	Pub Util C § 28896		Pub Util C § 25337
Charity	CCP § 704.170	Unemployment Benefits and Contributions	CCP § 704.120
Civil Service Retirement Benefits (Federal)	5 USC § 8346	Veterans Benefits	38 USC § 3101
County Employees Retirement Benefits	CCP § 704.110	Veterans Medal of Honor Benefits	38 USC § 562
	Govt C § 31452	Welfare Payments	CCP § 704.170
Disability Insurance Benefits	CCP § 704.130		Welf & I C § 17409
Fire Service Retirement Benefits	CCP § 704.110	Workers Compensation	CCP § 704.160
	Govt C § 32210	Boats	CCP § 704.060
Fraternal Organization 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 Retirement Benefits	CCP § 704.110	Business:	
Judges Survivors Benefits (Federal)	28 USC § 376(n)	Licenses	CCP § 695.060
Legislators Retirement Benefits	CCP § 704.110		CCP § 699.720(a)(1)
	Govt C § 9359.3	Tools of Trade	CCP § 704.060
Life Insurance Benefits:		Cars and Trucks (including proceeds)	CCP § 704.010
Group	CCP § 704.100	Cash	CCP § 704.070
Individual	CCP § 704.100	Cemeteries:	
Lighthouse Keepers Widows Benefits	33 USC § 775	Land Proceeds	Health & SC § 7925
Longshore & Harbor Workers Compensation or Benefits	33 USC § 916	Plots	CCP § 704.200
Military Benefits:		Charity	CCP § 704.170
Retirement	10 USC § 1440	Claims, Actions and Awards:	
Survivors	10 USC § 1450	Personal Injury	CCP § 704.140
Municipal Utility District Retirement Benefits	CCP § 704.110	Worker's Compensation	CCP § 704.160
	Pub Util C § 12337	Wrongful Death	CCP § 704.150
Peace Officers Retirement Benefits	CCP § 704.110	Clothing	CCP § 704.020
	Govt C § 31913	Condemnation Proceeds	CCP § 704.720(b)
Pension Plans (and Death Benefits):		County Employees Retirement Benefits	CCP § 704.110
Private	CCP § 704.115		Govt C § 31452
Public	CCP § 704.110	Damages (See Personal Injury and Wrongful Death)	
Public Assistance	CCP § 704.170	Deposit Accounts:	
	Welf & I C § 17409	ABLE Accounts	Welf & I C § 4880(c)
		Escrow or Trust Funds	Fin C § 17410
		Social Security Direct Deposits	CCP § 704.080

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