

# London & London

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Statement before the Banks Committee re: Raised Bill No. 979

To: Members of the Banks Committee:

My name is Russell London, and I am an attorney at London & London, a law firm in Newington, Connecticut. I have been practicing law for over 20 years now, and have a great deal of experience in both Superior and Small Claims Courts in Connecticut. I am also a member of the Connecticut Creditor Bar Association. I am here on Raised SB 979. I do believe that sections of Connecticut General Statute 52-367b need clarification in three particular respects.

Specifically: (1) the same bank may be levied upon to try to satisfy a judgment, particularly if an account has been actually located; (2) true and attested copies of executions should be permitted to prevent mayhem when an original is lost or misplaced by a bank clerk; and finally, (3) subsequent execution applications should have no extra cost associated with it.

SB 979 looks to impose a restriction on the state marshal so he or she cannot go back to the same bank or financial institution. The proposed language reads as follows: "*After service of an execution on a financial institution, the serving officer shall not subsequently serve the same execution or copy thereof upon such financial institution.*"

Why is this language needed? Is the proponent of this bill attempting to thwart the efforts of an aggrieved party, who has obtained a legal judgment, of a perfectly legitimate legal remedy to collect on that judgment? Time and time again, we obtain judgments for businesses and we have to tell them that there is very little we can do in Connecticut to collect on that judgment. They are surprised and often scoff at the legal process in our state and comment on how it is so shamelessly skewed in favor of debtors. Often, many of these businesses have their own financial difficulties. They need the ability to collect on their legal judgments in order to stay in business and continue to hire Connecticut residents.

When a marshal serves an execution on a bank, one of three things typically happen: one, the marshal could find money; two, the marshal might be told that no account exists at the bank; or three, the marshal might be told that there are no funds available at this time. If no funds are currently available, there is good likelihood that funds may be available within the 45 day time period. By not allowing the marshal to go back to that same institution, where an account was found, makes it even more difficult for judgment creditors to collect on these legally recognized obligations.

Accordingly, I would suggest that the language being inserted into this section specifically allow the state marshal to go back to the same institution, particularly if he or she believes that there might be funds available within the 45 day window which could satisfy the execution.

Second, as a practical matter, I checked with several marshals and they typically do not leave the original execution at the bank for processing to avoid the document from being lost or misplaced by the bank. They use true and attested copies and retain the original execution to be returned to the forwarding party with their findings. There is no good reason to prohibit true and attested copies from being used for legitimate, court approved executions.

Third, the statute, as I read it, was intended to allow the state marshal to continue on his quest to find monies that are owed to a particular judgment creditor for 45 days. Most of the time, our executions come back fully unsatisfied. Recently, in one case while we were successful in locating an account, the marshal returned a grand total of \$4.34 and our client incurred \$100.00 in additional court costs to obtain that execution. Connecticut should not enact or interpret its statutes in a way which makes it difficult or impossible for legitimate creditors to collect in Connecticut. Walking away from debts and legal obligations should not be encouraged by our legislature. No economy can function in this way.

Further, and equally important, if not more so, the \$100.00 application fee for bank garnishments should be limited to \$100.00 per court case. Several people within the judicial administration, that I spoke with last year when fees were being raised, were actually unaware that this fee was being imposed when a creditor has to apply for a subsequent execution on the same judgment. The main reason a judgment creditor seeks an execution is in hopes of trying to collect on a judgment where the defendant has defied a court order and failed to make payment. I remember a time when there was no fee for a bank execution. Within the last three years, the filing fee has almost tripled, being increased from \$35.00 to \$100.00. Applying for a bank execution does *not* guarantee success. If a creditor seeks three executions to try to get its judgment satisfied, the total cost is \$300.00. If the original claim is \$500.00, then the judgment debtor is now faced with an additional \$390.00 in costs (\$90.00 small claims filing fee and 3 execution fees at \$100.00 a piece). Piling on the expenses that judgment creditors have to pay to try to collect on valid judgments in Connecticut adds insult to injury. There should only be one execution fee per case. The plaintiff/judgment creditor has already been adversely impacted financially.

Rather than making it more difficult for companies and individuals to do business in Connecticut, our legislature should do everything possible to retain businesses and make it easier for commerce to exist and thrive in our state. Businesses that can collect on their accounts receivable, and, thereby stay in business, translates into jobs staying in Connecticut. Conversely, making it more difficult to collect in Connecticut puts undue stress on our struggling economy.

If anyone requires any additional information or has any questions, I would be happy to answer those questions or discuss those matters further. Thank you.

Very truly yours,



Russell L. London