

Legal Assistance Resource Center of Connecticut, Inc.

44 Capitol Avenue, Suite 301 ❖ Hartford, Connecticut 06106
(860) 278-5688 x203 ❖ cell (860) 836-6355 ❖ fax (860) 278-2957 ❖ RPodolsky@LARCC.org

S.B. 979 -- Execution on exempt funds in bank accounts

Banks Committee public hearing – March 7, 2013

Testimony of Raphael L. Podolsky

Recommended Committee action: APPROVAL OF THE BILL

Under state law, federal law, or both, certain funds, such as Social Security, veteran's benefits, child support, unemployment compensation, workers' compensation, pensions, and a portion of wages, are exempt from "execution" by creditors. The exemption stays with the funds when they are deposited into a bank account. To claim the exemption, the account holder must go through a complicated process by which the bank freezes the money while the account holder files a form with the court for a hearing on the exemption claim. During this procedure (which usually takes about 25 to 45 days), the funds are frozen, checks will bounce, and debit and ATM withdrawals will be denied. A person living off exempt funds won't have access to those funds to buy groceries or pay rent or other bills. To ease this burden, Connecticut law exempts the first \$1,000 in the account from the freeze if it is readily identifiable to the bank through direct deposit as being Social Security, veteran's benefits, or child support paid through the Title IV-D system. The claim form procedure must be used for everything else.

In 2011, the federal government adopted procedural standards for protecting directly-deposited federal benefits (e.g., Social Security and veterans' benefits) that are stronger than those in Connecticut law. This has compelled changes in how banks handle executions in all cases. S.B. 979 incorporates these new federal standards into Connecticut law. It also applies state law to directly-deposited unemployment compensation benefits, which meet the readily identifiable standard. More specifically:

Changes that conform state to federal law:

- The bill increases the lookback period for federal direct deposits to 60 days.
- It adds directly-deposited federal Railroad Retirement and federal Office of Personnel Management retirement benefits, which are covered by the federal rules.
- It incorporates a federally-required informational notice to be sent to the debtor.
- It prohibits a marshal from submitting the same execution twice to the same bank. It does not preclude submitting the same execution seriatim to different banks, nor does it prohibit a service of a new execution on a bank that has been previously served. These changes are all required by federal law.

Comparable changes for state-exempt funds:

- It adds unemployment compensation to the list of readily identifiable directly-deposited state-exempt benefits.
- It applies the 60-day look-back period to directly-deposited state-exempt funds.

