

Legal Assistance Resource Center

❖ of Connecticut, Inc. ❖

363 Main Street, Suite 301 ❖ Hartford, Connecticut 06106
(860) 616-4472 ❖ cell (860) 836-6355 ❖ RPodolsky@LARCC.org

S.B. 129 -- Execution on exempt funds in bank accounts

Banks Committee public hearing – February 25, 2014

Testimony of Raphael L. Podolsky

Recommended Committee action: APPROVAL WITH TECHNICAL CHANGE

This is the same bill approved unanimously by the Banks Committee last year as S.B. 979 and adopted unanimously by the Senate with a clarifying technical amendment. It failed to be called in the House on the last day of the session. The Senate amendment, which was entirely technical and was agreed to by all parties, appears to have been unintentionally omitted from this year's Raised Committee bill. I urge the Committee to include the 2013 Senate amendment (which is printed at the end of this testimony) and move the bill forward.

S.B. 129 makes two types of adjustment to C.G.S. 52-367b: (1) it recognizes that directly-deposited unemployment compensation benefits are readily identifiable to banks as exempt from execution and therefore includes them in the existing "readily identifiable" procedure for bank account executions and (2) it conforms several parts of state law on bank account executions to federal law. It does not in any way change the law as to what funds are exempt from execution.

- Unemployment compensation: The bill adds directly-deposited unemployment compensation benefits to the list of readily identifiable exempt benefits. The practical effect is that, as with other readily identifiable exempt benefits, the bank will not freeze the first \$1,000 in the account if an execution is levied. This makes it unnecessary for the debtor to go through a month or more court process to get them back. If the debtor lives on these deposits, freezing the funds makes it impossible to buy groceries, pay rent, or use an ATM or debit card while the funds are frozen and defeats the purpose of exempting the funds from creditors.
- Lookback period: It increases the lookback period for exempt direct deposits to 60 days. This is already required by federal law for federal benefits and is thus already part of the routine account review by banks when an execution is served.
- Federally-exempt benefits: It adds directly-deposited federal Railroad Retirement and federal Office of Personnel Management retirement benefits to the list of readily identifiable exempt direct deposits. This is already required by federal law.
- Informational notice: It incorporates a federally-required informational notice that the bank must send to the debtor. This is already required by federal law.
- Resubmission of execution: It prohibits a marshal from submitting the same execution twice to the same bank if, upon first submission, the bank determines that there has been a readily identifiable direct deposit of exempt funds. This is already required for federal benefits. The bill does not preclude submitting the same execution seriatim to different banks or to service of a new execution on the same bank.

(see reverse side for technical amendment)

Proposed technical amendment to S.B. 129

In lines 50 to 54 and lines 306 to 310, change

"was made to the judgment debtor's account during the sixty-day period preceding the date of the subsequent service or, with regard to federal benefit, such greater period of time preceding such date as is required by federal law"

to

"during the lookback period, as defined in subsection (c) of this section".

In line 75 [which is part of subsection (c)], after "law", insert

"which periods shall be known as the look-back period,"