
OLR Bill Analysis

sSB 1087

AN ACT CONCERNING SERVICE OF PROCESS ON OUT-OF-STATE FINANCIAL INSTITUTIONS, LIMITED LIABILITY COMPANIES AND REGISTERED FOREIGN LIMITED LIABILITY COMPANIES.

SUMMARY

By law, a person who has a court judgment against someone may have an execution issued by the court, served on a financial institution where the judgment debtor has an account. This bill extends this law to include out-of-state financial institutions without a main or branch office in Connecticut, that conduct transactions online or by other electronic means. It provides that such institutions may only be served by certified mail, return receipt requested. Presumably, the creditor would have to comply with any applicable requirements in the other jurisdiction to enforce the judgment.

By law, limited liability companies (LLCs) and registered foreign (i.e., out-of-state) LLCs must designate a registered agent to receive legal process in Connecticut on their behalf. The bill specifies that the agent may be served, by anyone authorized by law to serve process, by leaving a true and attested copy with the agent or at the agent's usual residence in the state.

Under existing law, unchanged by the bill, different requirements apply in certain situations (e.g., if the secretary of the state is appointed as a foreign LLC's agent or the agent cannot be served with reasonable diligence). Also, the law specifies that an LLC or foreign LLC may be served by other methods permitted by law.

The bill also makes conforming changes.

EFFECTIVE DATE: October 1, 2019

EXECUTION AGAINST FINANCIAL INSTITUTION ACCOUNTS

By law, when a person gets a court judgment, a court clerk, upon the plaintiff's application, can issue an execution to a financial institution for payment of the debt from the debtor's deposit account. Under current law, this process applies to financial institutions (e.g., state or federal banks or credit unions) with their main offices in Connecticut and out-of-state institutions with branch offices here. The bill additionally applies this process to out-of-state institutions with no office in Connecticut and for which transactions are made online or through other electronic means.

These statutes differ in some respects depending on whether the debtor is a natural person or an entity. Among other things, the law generally provides that:

1. when a judgment debtor is a natural person, he or she has certain protections and exemptions from execution;
2. serving officers may not serve the same execution on a second institution until receiving confirmation from the first institution that there are insufficient funds to satisfy the judgment;
3. if another party has a security interest in an account that is also subject to an execution, the financial institution must notify the secured party, who can submit to the court a claim for a hearing to determine the relative interests;
4. a similar hearing procedure applies if the debtor who is a natural person claims an exemption;
5. if no claim for interest determination or exemption is made, the financial institution pays the serving officer, and the officer pays the sum, minus his or her fees, to the judgment creditor unless a court orders otherwise; and
6. a financial institution that fails or refuses to pay the amount of the execution to the serving officer is liable in an action to the judgment creditor, and the amount is applied to the amount due

on the execution.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 38 Nay 0 (04/08/2019)