



Senate

General Assembly

File No. 802

January Session, 2019

Substitute Senate Bill No. 1087

Senate, April 25, 2019

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (a) and (b) of section 52-367a of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2019*):

4 (a) As used in this section and section 52-367b, as amended by this
5 act, "financial institution" means any bank, savings bank, savings and
6 loan association or credit union organized, chartered or licensed under
7 the laws of this state or the United States and having its main office in
8 this state, [or] any similar out-of-state institution having a branch office
9 in this state or any similar out-of-state institution having no main
10 office or branch office in this state and where transactions are made via
11 the Internet or electronic means.

12 (b) Execution may be granted pursuant to this section against any

13 debts due from any financial institution to a judgment debtor which is
14 not a natural person. If execution is desired against any such debt, the
15 plaintiff requesting the execution shall make application to the clerk of
16 the court. The application shall be accompanied by a fee of one
17 hundred five dollars payable to the clerk of the court for the
18 administrative costs of complying with the provisions of this section
19 which fee may be recoverable by the judgment creditor as a taxable
20 cost of the action. The clerk shall issue such execution containing a
21 direction that the officer serving such execution shall make demand (1)
22 upon the main office of any financial institution having its main office
23 within the county of the serving officer, [or] (2) if such main office is
24 not within the serving officer's county and such financial institution
25 has one or more branch offices within such county, upon an employee
26 of such a branch office, such employee and branch office having been
27 designated by the financial institution in accordance with regulations
28 adopted by the Banking Commissioner, in accordance with chapter 54,
29 or (3) only upon demand of a financial institution which does not have
30 any main office or branch office in this state, by certified mail, return
31 receipt requested, for the payment of any debt due to the judgment
32 debtor, and, after having made such demand, shall serve a true and
33 attested copy thereof, with the serving officer's actions thereon
34 endorsed, with the financial institution [officer] upon whom such
35 demand is made. The serving officer shall not serve more than one
36 financial institution execution per judgment debtor at a time, including
37 copies thereof. After service of an execution on one financial
38 institution, the serving officer shall not serve the same execution or a
39 copy thereof upon another financial institution until receiving
40 confirmation from the preceding financial institution that the judgment
41 debtor had insufficient funds at the preceding financial institution
42 available for collection to satisfy the execution. If the serving officer
43 does not receive within twenty-five days of the service of the demand
44 a response from the financial institution that was served indicating
45 whether or not the taxpayer has funds at the financial institution
46 available for collection, the serving officer may assume that sufficient
47 funds are not available for collection and may proceed to serve another

48 financial institution in accordance with this subsection.

49 Sec. 2. Subsection (b) of section 52-367b of the general statutes is
50 repealed and the following is substituted in lieu thereof (*Effective*
51 *October 1, 2019*):

52 (b) If execution is desired against any such debt, the plaintiff
53 requesting the execution shall make application to the clerk of the
54 court. The application shall be accompanied by a fee of one hundred
55 five dollars payable to the clerk of the court for the administrative costs
56 of complying with the provisions of this section, which fee may be
57 recoverable by the judgment creditor as a taxable cost of the action. In
58 a IV-D case, the request for execution shall be accompanied by an
59 affidavit signed by the serving officer attesting to an overdue support
60 amount of five hundred dollars or more which accrued after the entry
61 of an initial family support judgment. If the papers are in order, the
62 clerk shall issue such execution containing a direction that the officer
63 serving such execution shall, within seven days from the receipt by the
64 serving officer of such execution, make demand (1) upon the main
65 office of any financial institution having its main office within the
66 county of the serving officer, [or] (2) if such main office is not within
67 the serving officer's county and such financial institution has one or
68 more branch offices within such county, upon an employee of such a
69 branch office, such employee and branch office having been
70 designated by the financial institution in accordance with regulations
71 adopted by the Banking Commissioner, in accordance with chapter 54,
72 or (3) only upon demand of a financial institution which does not have
73 any main office or branch office in this state, by certified mail, return
74 receipt requested, for payment of any such nonexempt debt due to the
75 judgment debtor and, after having made such demand, shall serve a
76 true and attested copy of the execution, together with the affidavit and
77 exemption claim form prescribed by subsection (k) of this section, with
78 the serving officer's actions endorsed thereon, with the financial
79 institution [officer] upon whom such demand is made. The serving
80 officer shall not serve more than one financial institution execution per
81 judgment debtor at a time, including copies thereof. After service of an

82 execution on one financial institution, the serving officer shall not
83 serve the same execution or a copy thereof upon another financial
84 institution until receiving confirmation from the preceding financial
85 institution that the judgment debtor had insufficient funds at the
86 preceding financial institution available for collection to satisfy the
87 execution, provided any such additional service is made not later than
88 forty-five days from the receipt by the serving officer of such
89 execution. After service of an execution on a financial institution, the
90 serving officer shall not subsequently serve the same execution or a
91 copy thereof upon such financial institution if an electronic direct
92 deposit from a readily identifiable source described in subsection (c) of
93 this section was made to the judgment debtor's account during the
94 look-back period, as described in subsection (c) of this section. If no
95 such deposit was made, the serving officer may subsequently serve the
96 same execution or a copy thereof upon such institution, provided such
97 execution has not expired or otherwise become unenforceable.

98 Sec. 3. Section 34-243r of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective October 1, 2019*):

100 (a) A limited liability company or registered foreign limited liability
101 company may be served with any process, notice or demand required
102 or permitted by law [by serving its registered agent] by any proper
103 officer or other person lawfully empowered to make service leaving a
104 true and attested copy with such company's registered agent, or at his
105 or her usual place of abode in this state.

106 (b) When the Secretary of the State and the Secretary of the State's
107 successors in office have been appointed a foreign limited liability
108 company's agent for service of process, the foreign limited liability
109 company may be served by any proper officer or other person lawfully
110 empowered to make service leaving two true and attested copies of
111 such process together with the required fee at the office of the
112 Secretary of the State or depositing the same in the United States mail,
113 by registered or certified mail, postage prepaid, addressed to said
114 office. The Secretary of the State shall file one copy of such process and

115 keep a record of the date and hour of such receipt, and, within two
116 business days after such service, forward by registered or certified mail
117 the other copy of such process to the foreign limited liability company
118 at the address of the office designated in the application for
119 registration filed pursuant to subdivision (4) of section 34-275b. Service
120 so made shall be effective as of the date and hour received by the
121 Secretary of the State as shown on the Secretary of the State's records.

122 (c) If a limited liability company or registered foreign limited
123 liability company ceases to have a registered agent, or if its registered
124 agent cannot with reasonable diligence be served by any proper officer
125 or other person lawfully empowered to make service, the company or
126 foreign company may be served by registered or certified mail, return
127 receipt requested, or by similar commercial delivery service, addressed
128 to the company or foreign company at its principal office. The address
129 of the principal office shall be as shown on the company's or foreign
130 company's most recent annual report filed by the Secretary of the State.
131 Service is effected under this subsection on the earliest of: (1) The date
132 the company or foreign company receives the mail or delivery by the
133 commercial delivery service; (2) the date shown on the return receipt,
134 if signed by the company or foreign company; or (3) five days after its
135 deposit with the United States Postal Service, or with the commercial
136 delivery service, if correctly addressed and with sufficient postage or
137 payment.

138 (d) If process, notice or demand cannot be served on a limited
139 liability company or registered foreign limited liability company
140 pursuant to subsection (a) or (b) of this section, service may be made
141 by any proper officer or other person lawfully empowered to make
142 service handing a copy to the individual in charge of any regular place
143 of business or activity of the company or foreign company if the
144 individual served is not a plaintiff in the action.

145 (e) Service of process, notice or demand on a registered agent shall
146 be in a written record.

147 (f) Service of process, notice or demand may be made by other

148 means under law other than the provisions of sections 34-243 to 34-
149 283d, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	52-367a(a) and (b)
Sec. 2	October 1, 2019	52-367b(b)
Sec. 3	October 1, 2019	34-243r

Statement of Legislative Commissioners:

In Section 3(a), new language was moved and combined with the other new language at the end of the subsection for clarity.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which extends the law regarding service of process to include certain out-of-state financial institutions, is not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

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)