
OLR Bill Analysis

sHB 6786

AN ACT CONCERNING SERVICE OF BANK EXECUTIONS, WAGE EXECUTIONS AND TAX WARRANTS BY STATE MARSHALS AND AUTHORIZED SERVICE OF PROCESS BY INDIFFERENT PERSONS.

SUMMARY

This bill makes various changes to the laws relating to service of process.

For executions against financial institution accounts, the bill allows officers serving certain accounts by certified mail to collect actual postage costs and requires the institutions to (1) respond to the execution within five business days and (2) notify the judgment debtor, who is a natural person, of certain court information.

The bill also:

1. expands the instances for which levying officers may mail executions on wages after judgment and allows them to collect actual postage costs incurred,
2. limits when an indifferent person may serve process to specific instances authorized by law, and
3. reconciles two differing minimum fees for serving tax warrants.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2023

§§ 1 & 2 — EXECUTION AGAINST FINANCIAL INSTITUTION ACCOUNTS

By law, a person who has a court judgment against someone may apply to the court clerk to have an execution served on a financial

institution (e.g., a state or federal bank or credit union) for payment of the debt from the debtor's deposit account (see BACKGROUND). This is a type of levy (i.e., legal seizure of property to satisfy debt).

Actual Costs and Fees

For executions at out-of-state financial institutions that lack a main or branch office in Connecticut, but conduct transactions online or by other electronic means, the law allows serving officers to serve the execution by certified mail, return receipt requested. The bill allows the serving officer to collect the actual postage costs incurred from the levy.

For executions where the judgment debtor is a natural person, current law requires financial institutions to receive an \$8 fee from the serving officer as representative of the judgment creditor. The bill instead requires the financial institution to collect this fee from the levy.

Financial Institution Duty to Respond

Under existing law, the serving officer must only serve one financial institution for each debtor at a time and must not serve the same execution on another financial institution until receiving confirmation from the original institution that the judgment debtor had insufficient funds to satisfy the execution.

The bill requires financial institutions to respond to the serving officer about the execution. In the case of no account found, a closed account, or an account with insufficient or protected funds, the institution must respond by endorsing its response on the officer's cover sheet. Within five business days after service is made, the institution must return to the serving officer, by U.S. first class mail, a complete set of the documents served on the financial institution, including the serving officer's cover page, with other financial institutions' endorsements, as the case may be, and return to the officer the complete true and attested copy of the execution as served.

For these executions where the natural person is the judgment debtor, the bill also requires the institution to include with its response an affidavit and exemption forms, which include, among other things, a

checklist and description of the most common exemptions, instructions on how to claim the exemptions, and a space for the debtor to certify these exemptions under penalty of false statement. By law, false statement is a class A misdemeanor (punishable by up to 364 days' imprisonment, up to a \$2,000 fine, or both) (CGS § 53a-157b).

Notice

For executions where the natural person is the judgment debtor, existing law requires the financial institution to notify judgment debtors and any secured party that is party to the control agreement between the financial institution and the secured party if any funds are removed from the judgment debtor's account. The bill also requires the institution to give the judgment debtor the docket number for the execution proceeding that has been granted and the judicial branch's website address to access the proceeding's online records.

§ 3 — EXECUTION ON WAGES AFTER JUDGMENT

Under current law, an officer empowered to serve process must levy on all earnings that are due or become due to the judgment debtor, to the extent specified in the wage execution plus the officer's fees and costs. The bill specifies that the levy on costs is for actual postage costs incurred.

Generally, the law allows state marshals and other proper officers to serve process in their precincts (a state marshal's precinct is the county for which he or she is appointed). But they may serve process outside their precincts in certain circumstances. The bill expands the instances a levying officer may mail executions by allowing him or her to mail service to an address within the officer's precinct or extension of precinct if done following the laws on serving process outside an officer's precinct, instead of just in the officer's appointed precinct.

Current law also allows these officers to serve process by mail in cases involving an employer whose address is not within the officer's appointed jurisdiction to the address the employer designates. The bill specifies that the address must be outside Connecticut with an out-of-state payroll address.

In these instances, the bill requires the service to be made by certified mail, return receipt requested, and the officer may collect the actual postage costs incurred under the levy.

§ 4 — INDIFFERENT PERSON

The bill limits when an indifferent person may serve process to specific instances authorized by law. It does so by eliminating the authority for them to do so (1) if multiple defendants living in different counties in the state are named in the process or (2) in the case of a writ of attachment (an order to seize or attach property), a plaintiff, or his or her agent or attorney, makes an oath before the authority signing the order that he or she is in danger of losing the debt or demand unless an indifferent person is authorized to serve process immediately.

By law, an indifferent person is someone who is not a proper officer and is not involved in the case. The law authorizes an indifferent person to serve process in various instances, such as delivering notice of special and convened sessions to legislators, serving notice to quit possession or occupancy of premises, and carrying out a bench warrant of arrest (CGS §§ 2-7, 47a-23 & 54-64b).

§ 5 — TAX WARRANT MINIMUM AMOUNT

The bill reconciles two differing minimum fees for serving tax warrants. In the tax warrant statute, the minimum amount a serving officer must receive is \$30 while the service officer fees and expenses law has a minimum of \$50. The bill eliminates the \$30 minimum fee.

Under existing law, a state marshal or constable who executes a warrant and collects delinquent municipal taxes receives, in addition to expenses otherwise allowed, 15% of the taxes collected under the warrant (CGS § 52-261).

BACKGROUND

Law on Execution Against Financial Institution Accounts

Under this law, the procedures 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 they get 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 is a natural person who 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 execution amount 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 Substitute

Yea 37 Nay 0 (03/28/2023)