



House of Representatives

General Assembly

File No. 536

January Session, 2023

Substitute House Bill No. 6786

House of Representatives, April 12, 2023

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

1 Section 1. Section 52-367b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) Execution may be granted pursuant to this section against any
4 debts due from any financial institution to a judgment debtor who is a
5 natural person, except to the extent such debts are protected from
6 execution by sections 52-352a, 52-352b, 52-352c of the general statutes,
7 revision of 1958, revised to 1983, 52-354 of the general statutes, revision
8 of 1958, revised to 1983, 52-361 of the general statutes, revision of 1958,
9 revised to 1983 and section 52-361a, as amended by this act, as well as
10 by any other laws or regulations of this state or of the United States
11 which exempt such debts from execution.

12 (b) If execution is desired against any such debt, the plaintiff

13 requesting the execution shall make application to the clerk of the court.
14 The application shall be accompanied by a fee of one hundred five
15 dollars payable to the clerk of the court for the administrative costs of
16 complying with the provisions of this section, which fee may be
17 recoverable by the judgment creditor as a taxable cost of the action. In a
18 IV-D case, the request for execution shall be accompanied by an affidavit
19 signed by the serving officer attesting to an overdue support amount of
20 five hundred dollars or more which accrued after the entry of an initial
21 family support judgment. If the papers are in order, the clerk shall issue
22 such execution containing a direction that the officer serving such
23 execution shall, within seven days from the receipt by the serving officer
24 of such execution, make demand (1) upon the main office of any
25 financial institution having its main office within the county of the
26 serving officer, (2) if such main office is not within the serving officer's
27 county and such financial institution has one or more branch offices
28 within such county, upon an employee of such a branch office, such
29 employee and branch office having been designated by the financial
30 institution in accordance with regulations adopted by the Banking
31 Commissioner, in accordance with chapter 54, or (3) only upon demand
32 of a financial institution which does not have any main office or branch
33 office in this state, by certified mail, return receipt requested, for
34 payment of any such nonexempt debt due to the judgment debtor and,
35 after having made such demand, shall serve a true and attested copy of
36 the execution, together with the affidavit and exemption claim form
37 prescribed by subsection (k) of this section, with the serving officer's
38 actions endorsed thereon, with the financial institution upon whom
39 such demand is made. When service is made by the serving officer by
40 certified mail pursuant to subdivision (3) of this subsection, the officer
41 may under the levy collect the actual postage costs incurred. The serving
42 officer shall not serve more than one financial institution execution per
43 judgment debtor at a time, including copies thereof. After service of an
44 execution on one financial institution, the serving officer shall not serve
45 the same execution or a copy thereof upon another financial institution
46 until receiving confirmation from the preceding financial institution
47 that the judgment debtor had insufficient funds at the preceding

48 financial institution available for collection to satisfy the execution,
49 provided any such additional service is made not later than forty-five
50 days from the receipt by the serving officer of such execution. The
51 financial institution shall provide the serving officer a response to the
52 service of such execution. In the case of no account found, a closed
53 account or an account with insufficient funds or protected funds, the
54 financial institution shall respond by endorsing the institution's
55 response on the officer's cover sheet. Not later than five business days
56 after the date on which service is made, the financial institution shall
57 return to the serving officer, by United States first class mail, a complete
58 set of the documents served on the financial institution, including the
59 cover page of the serving officer, with endorsements from other
60 financial institutions, as the case may be, and return to the serving
61 officer the complete true and attested copy of the execution as served,
62 together with the affidavit and exemption claim forms prescribed by
63 subsection (k) of this section. After service of an execution on a financial
64 institution, the serving officer shall not subsequently serve the same
65 execution or a copy thereof upon such financial institution if an
66 electronic direct deposit that is readily identifiable as exempt from
67 execution was made to the judgment debtor's account during the look-
68 back period, as described in subsection (c) of this section. If no such
69 deposit was made, the serving officer may subsequently serve the same
70 execution or a copy thereof upon such institution, provided such
71 execution has not expired or otherwise become unenforceable.

72 (c) (1) Except as provided in subdivision (2) of this subsection, if any
73 such financial institution upon which such execution is served and upon
74 which such demand is made is indebted to the judgment debtor, the
75 financial institution shall remove from the judgment debtor's account
76 the amount of such indebtedness not exceeding the amount due on such
77 execution before its midnight deadline, as defined in section 42a-4-104.

78 (2) Notwithstanding the provisions of subdivision (1) of this
79 subsection, the financial institution shall leave in the judgment debtor's
80 account (A) the full amount of electronic direct deposits that are readily
81 identifiable as exempt federal veterans' benefits, Social Security benefits,

82 including, but not limited to, retirement, survivors' and disability
83 benefits, supplemental security income benefits, exempt benefits paid
84 by the federal Railroad Retirement Board or the federal Office of
85 Personnel Management, unemployment compensation benefits exempt
86 under section 52-352b, and child support payments processed and
87 received pursuant to Title IV-D of the Social Security Act, and (B) the
88 amount of electronic direct deposits, not to exceed one thousand dollars,
89 that are readily identifiable as wages, provided such deposits were
90 made to the judgment debtor's account during the look-back period of
91 two months preceding the date that the execution was served on the
92 financial institution, or, with regard to federal benefits, such greater
93 period as required by federal law. If no such deposits have been made
94 to the judgment debtor's account during the look-back period, or if such
95 readily identifiable funds are less than one thousand dollars, the
96 financial institution shall leave in the judgment debtor's account as
97 exempt pursuant to subdivision (18) of section 52-352b the lesser of the
98 account balance or one thousand dollars in the aggregate. To the extent
99 that such funds are left in the judgment debtor's account as exempt
100 pursuant to subdivision (18) of section 52-352b, the provisions of said
101 subsection shall not be the basis for a claim of exemption pursuant to
102 this subsection in response to a levy of execution.

103 (3) Nothing in this subsection shall be construed to limit a financial
104 institution's right or obligation to remove such funds from the judgment
105 debtor's account if required by any other provision of law or by a court
106 order. The judgment debtor shall have full and customary access to such
107 funds left in the judgment debtor's account pursuant to this subsection.
108 The financial institution may notify the judgment creditor that funds
109 have been left in the judgment debtor's account pursuant to this
110 subsection. Nothing in this subsection shall alter the exempt status of
111 funds which are exempt from execution under subsection (a) of this
112 section or under any other provision of state or federal law, or the right
113 of a judgment debtor to claim such exemption. Nothing in this
114 subsection shall be construed to affect any other rights or obligations of
115 the financial institution with regard to the funds in the judgment
116 debtor's account.

117 (d) If any funds are removed from the judgment debtor's account
118 pursuant to subsection (c) of this section, upon receipt of the execution
119 and exemption claim form from the serving officer, the financial
120 institution shall (1) forthwith mail copies thereof, postage prepaid, to
121 the judgment debtor and to any secured party that is party to a control
122 agreement between the financial institution and such secured party
123 under article 9 of title 42a at the last-known address of the judgment
124 debtor and of any such secured party with respect to the affected
125 accounts on the records of the financial institution, [and] (2) mail notice
126 to the judgment debtor as required by 31 CFR 212.6 and 212.7, and (3)
127 provide the judgment debtor the docket number of the proceeding for
128 an execution that has been granted and the Internet web site address of
129 the Judicial Branch for accessing online records to such proceeding. The
130 financial institution shall hold the amount removed from the judgment
131 debtor's account pursuant to subsection (c) of this section for fifteen
132 days from the date of the mailing to the judgment debtor and any such
133 secured party, and during such period shall not pay the serving officer.

134 (e) To prevent the financial institution from paying the serving
135 officer, as provided in subsection (h) of this section, the judgment debtor
136 shall give notice of a claim of exemption by delivering to the financial
137 institution, by mail or other means, the exemption claim form or other
138 written notice that an exemption is being claimed and any such secured
139 party shall give notice of its claim of a prior perfected security interest
140 in such deposit account by delivering to the financial institution, by mail
141 or other means, written notice thereof. The financial institution may
142 designate an address to which the notice of a claim of exemption, or a
143 secured party claim notice, shall be delivered. Upon receipt of such
144 notice, the financial institution shall, within two business days, send a
145 copy of such notice to the clerk of the court which issued the execution.

146 (f) (1) Upon receipt of an exemption claim form or a secured party
147 claim notice, the clerk of the court shall enter the appearance of the
148 judgment debtor or such secured party with the address set forth in the
149 exemption claim form or secured party claim notice. The clerk shall
150 forthwith send file-stamped copies of the exemption claim form or

151 secured party claim notice to the judgment creditor and judgment
152 debtor with a notice stating that the disputed funds are being held for
153 forty-five days from the date the exemption claim form or secured party
154 claim notice was received by the financial institution or until a court
155 order is entered regarding the disposition of the funds, whichever
156 occurs earlier, and the clerk shall promptly schedule the matter for a
157 hearing. The claim of exemption filed by such judgment debtor shall be
158 prima facie evidence at such hearing of the existence of the exemption.

159 (2) Upon receipt of notice from the financial institution pursuant to
160 subsection (c) of this section, a judgment creditor may, on an ex parte
161 basis, present to a judge of the Superior Court an affidavit sworn under
162 oath by a competent party demonstrating a reasonable belief that such
163 judgment debtor's account contains funds which are not exempt from
164 execution and the amount of such nonexempt funds. Such affidavit shall
165 not be conclusory but is required to show the factual basis upon which
166 the reasonable belief is based. If such judge finds that the judgment
167 creditor has demonstrated a reasonable belief that such judgment
168 debtor's account contains funds which are not exempt from execution,
169 such judge shall authorize the judgment creditor to submit a written
170 application to the clerk of the court for a hearing on the exempt status
171 of funds left in the judgment debtor's account pursuant to subsection (c)
172 of this section. The judgment creditor shall promptly send a copy of the
173 application and the supporting affidavit to the judgment debtor and to
174 any secured party shown on a secured party claim notice sent to the
175 judgment creditor pursuant to subdivision (1) of this subsection. Upon
176 receipt of such application, the clerk of the court shall promptly
177 schedule the matter for a hearing and shall give written notice to the
178 judgment creditor, the judgment debtor and any secured party shown
179 on a secured party claim notice received by the clerk of the court. The
180 notice to the judgment creditor pursuant to subsection (c) of this section
181 shall be prima facie evidence at such hearing that the funds in the
182 account are exempt funds. The burden of proof shall be upon the
183 judgment creditor to establish the amount of funds which are not
184 exempt.

185 (g) If an exemption claim is made or a secured party claim notice is
186 given pursuant to subsection (e) of this section, the financial institution
187 shall continue to hold the amount removed from the judgment debtor's
188 account for forty-five days or until a court order is received regarding
189 disposition of the funds, whichever occurs earlier. If no such order is
190 received within forty-five days of the date the financial institution sends
191 a copy of the exemption claim form or notice of exemption or a secured
192 party claim notice to the clerk of the court, the financial institution shall
193 return the funds to the judgment debtor's account.

194 (h) If no claim of exemption or secured party claim notice is received
195 by the financial institution within fifteen days of the mailing to the
196 judgment debtor and any secured party of the execution and exemption
197 claim form pursuant to subsection (d) of this section, the financial
198 institution shall, upon demand, forthwith pay the serving officer the
199 amount removed from the judgment debtor's account, and the serving
200 officer shall thereupon pay such sum, less such serving officer's fees, to
201 the judgment creditor, except to the extent otherwise ordered by a court.

202 (i) The court, after a hearing conducted pursuant to subsection (f) of
203 this section, shall enter an order determining the issues raised by the
204 claim of exemption and claim by a secured party of a prior perfected
205 security interest in such deposit account. The clerk of the court shall
206 forthwith send a copy of such order to the financial institution. Such
207 order shall be deemed to be a final judgment for the purposes of appeal.
208 No appeal shall be taken except within seven days of the rendering of
209 the order. The order of the court may be implemented during such
210 seven-day period, unless stayed by the court.

211 (j) Except as otherwise provided in subsection (c) of this section, if
212 both exempt and nonexempt moneys have been deposited into an
213 account, for the purposes of determining which moneys are exempt
214 under this section, the moneys most recently deposited as of the time
215 the execution is served shall be deemed to be the moneys remaining in
216 the account.

217 (k) The execution, exemption claim form and clerk's notice regarding

218 the filing of a claim of exemption shall be in such form as prescribed by
219 the judges of the Superior Court or their designee. The exemption claim
220 form shall be dated and include a checklist and description of the most
221 common exemptions, instructions on the manner of claiming the
222 exemptions and a space for the judgment debtor to certify those
223 exemptions claimed under penalty of false statement.

224 (l) If records or testimony are subpoenaed from a financial institution
225 in connection with a hearing conducted pursuant to subsection (f) of this
226 section, the reasonable costs and expenses of the financial institution in
227 complying with the subpoena shall be recoverable by the financial
228 institution from the party requiring such records or testimony,
229 provided, the financial institution shall be under no obligation to
230 attempt to obtain records or documentation relating to the account
231 executed against which are held by any other financial institution. The
232 records of a financial institution as to the dates and amounts of deposits
233 into an account in the financial institution shall, if certified as true and
234 accurate by an officer of the financial institution, be admissible as
235 evidence without the presence of the officer in any hearing conducted
236 pursuant to subsection (f) of this section to determine the legitimacy of
237 a claim of exemption made under this section.

238 (m) If there are moneys to be removed from the judgment debtor's
239 account, prior to the removal of such moneys pursuant to subsection (c)
240 of this section, the financial institution shall [receive from the serving
241 officer as representative of the judgment creditor] collect from the levy
242 a fee of eight dollars for the financial institution's costs in complying
243 with the provisions of this section which fee may be recoverable by the
244 judgment creditor as a taxable cost of the action.

245 (n) If the financial institution fails or refuses to pay over to the serving
246 officer the amount of such debt, not exceeding the amount due on such
247 execution, such financial institution shall be liable in an action therefor
248 to the judgment creditor named in such execution for the amount of
249 nonexempt moneys which the financial institution failed or refused to
250 pay over, excluding funds of up to one thousand dollars which the

251 financial institution in good faith allowed the judgment debtor to access
252 pursuant to subsection (c) of this section. The amount so recovered by
253 such judgment creditor shall be applied toward the payment of the
254 amount due on such execution. Thereupon, the rights of the financial
255 institution shall be subrogated to the rights of the judgment creditor. If
256 such financial institution pays exempt moneys from the account of the
257 judgment debtor over to the serving officer contrary to the provisions of
258 this section, such financial institution shall be liable in an action therefor
259 to the judgment debtor for any exempt moneys so paid and such
260 financial institution shall refund or waive any charges or fees by the
261 financial institution, including, but not limited to, dishonored check
262 fees, overdraft fees or minimum balance service charges and legal
263 process fees, which were assessed as a result of such payment of exempt
264 moneys. Thereupon, the rights of the financial institution shall be
265 subrogated to the rights of the judgment debtor.

266 (o) Except as provided in subsection (n) of this section, no financial
267 institution or any officer, director or employee of such financial
268 institution shall be liable to any person with respect to any act done or
269 omitted in good faith or through the commission of a bona fide error
270 that occurred despite reasonable procedures maintained by the financial
271 institution to prevent such errors in complying with the provisions of
272 this section.

273 (p) Nothing in this section shall in any way restrict the rights and
274 remedies otherwise available to a judgment debtor or any such secured
275 party at law or in equity.

276 (q) Nothing in this section shall in any way affect any rights of the
277 financial institution with respect to uncollected funds credited to the
278 account of the judgment debtor, which rights shall be superior to those
279 of the judgment creditor.

280 (r) For the purposes of this subsection, "exempt" has the same
281 meaning as provided in subdivision (3) of section 52-352a. Funds
282 deposited in an account that has been established for the express
283 purpose of receiving electronic direct deposits of public assistance or of

284 Title IV-D child support payments from the Department of Social
285 Services shall be exempt.

286 Sec. 2. Section 52-367a of the general statutes is repealed and the
287 following is substituted in lieu thereof (*Effective October 1, 2023*):

288 (a) As used in this section and section 52-367b, as amended by this
289 act, "financial institution" means any bank, savings bank, savings and
290 loan association or credit union organized, chartered or licensed under
291 the laws of this state or the United States and having its main office in
292 this state, any similar out-of-state institution having a branch office in
293 this state or any similar out-of-state institution having no main office or
294 branch office in this state and where transactions are made via the
295 Internet or electronic means.

296 (b) Execution may be granted pursuant to this section against any
297 debts due from any financial institution to a judgment debtor which is
298 not a natural person. If execution is desired against any such debt, the
299 plaintiff requesting the execution shall make application to the clerk of
300 the court. The application shall be accompanied by a fee of one hundred
301 five dollars payable to the clerk of the court for the administrative costs
302 of complying with the provisions of this section which fee may be
303 recoverable by the judgment creditor as a taxable cost of the action. The
304 clerk shall issue such execution containing a direction that the officer
305 serving such execution shall make demand (1) upon the main office of
306 any financial institution having its main office within the county of the
307 serving officer, (2) if such main office is not within the serving officer's
308 county and such financial institution has one or more branch offices
309 within such county, upon an employee of such a branch office, such
310 employee and branch office having been designated by the financial
311 institution in accordance with regulations adopted by the Banking
312 Commissioner, in accordance with chapter 54, or (3) only upon demand
313 of a financial institution which does not have any main office or branch
314 office in this state, by certified mail, return receipt requested, for the
315 payment of any debt due to the judgment debtor, and, after having
316 made such demand, shall serve a true and attested copy thereof, with

317 the serving officer's actions thereon endorsed, with the financial
318 institution upon whom such demand is made. When service is made by
319 the serving officer by certified mail pursuant to subdivision (3) of this
320 subsection, the officer may under the levy collect the actual postage
321 costs incurred. The serving officer shall not serve more than one
322 financial institution execution per judgment debtor at a time, including
323 copies thereof. After service of an execution on one financial institution,
324 the serving officer shall not serve the same execution or a copy thereof
325 upon another financial institution until receiving confirmation from the
326 preceding financial institution that the judgment debtor had insufficient
327 funds at the preceding financial institution available for collection to
328 satisfy the execution. The financial institution shall provide the serving
329 officer a response to the service of such execution. In the case of no
330 account found, a closed account or an account with insufficient funds or
331 protected funds, the financial institution shall respond by endorsing the
332 institution's response on the officer's cover sheet. Not later than five
333 business days after the date on which service is made, the financial
334 institution shall return to the serving officer, by United States first class
335 mail, a complete set of the documents served on the financial institution,
336 including the cover page of the serving officer, with endorsements from
337 other financial institutions, as the case may be, and return to the serving
338 officer the complete true and attested copy of the execution as served. If
339 the serving officer does not receive within twenty-five days of the
340 service of the demand a response from the financial institution that was
341 served indicating whether or not the taxpayer or judgment debtor has
342 funds at the financial institution available for collection, the serving
343 officer may assume that sufficient funds are not available for collection
344 and may proceed to serve another financial institution in accordance
345 with this subsection.

346 (c) If any such financial institution upon which such execution is
347 served and upon which such demand is made is indebted to the
348 judgment debtor, the financial institution shall remove from the
349 judgment debtor's account the amount of such indebtedness not
350 exceeding the amount due on such execution. Except as provided in
351 subsection (d) of this section, the financial institution shall immediately

352 pay to such serving officer the amount removed from the judgment
353 debtor's account, which amount shall be received and applied on such
354 execution by such serving officer. Such financial institution shall act
355 upon such execution according to section 42a-4-303 before its midnight
356 deadline, as defined in section 42a-4-104. Nothing in this subsection
357 shall be construed to affect any other rights or obligations of the
358 financial institution with regard to funds in the judgment debtor's
359 account.

360 (d) If the deposit account is subject to a security interest of a secured
361 party, other than the financial institution upon which such execution is
362 served and upon which such demand is made, pursuant to a control
363 agreement between the financial institution and such secured party
364 under article 9 of title 42a, and if any funds are removed from the
365 judgment debtor's account pursuant to subsection (c) of this section, the
366 financial institution shall forthwith mail a copy of the execution when
367 received from the serving officer, postage prepaid, to the judgment
368 debtor and to such other secured party at the last-known address of such
369 parties with respect to the affected accounts on the records of the
370 financial institution. The financial institution shall hold the amount
371 removed from the judgment debtor's account pursuant to subsection (c)
372 of this section for twenty days from the date of the mailing to the
373 judgment debtor and such other secured party, and during such period
374 shall not pay the serving officer.

375 (e) To prevent the financial institution from paying the serving
376 officer, as provided in subsection (h) of this section, such other secured
377 party shall give notice of its prior perfected security interest in such
378 deposit account, by delivering to the clerk of the court that issued the
379 execution a written claim for determination of interests in property
380 pursuant to section 52-356c and by delivering a copy of such claim to
381 the financial institution upon which such execution is served.

382 (f) Upon receipt of a written claim for determination of interests in
383 property made pursuant to subsection (e) of this section, the clerk of the
384 court shall enter the appearance of the secured party with the address

385 set forth in the written claim. The clerk shall forthwith send file-stamped
386 copies of the written claim to the judgment creditor, the judgment
387 debtor and the financial institution upon which such execution was
388 served with a notice stating that the disputed funds are being held until
389 a court order is entered regarding the disposition of the funds.

390 (g) If a written claim for determination of interests in property is
391 made pursuant to subsection (e) of this section, the financial institution
392 shall continue to hold the amount removed from the judgment debtor's
393 account until a court order is received regarding disposition of the
394 funds.

395 (h) If no written claim for determination of interests in property is
396 made pursuant to subsection (e) of this section, the financial institution
397 shall, upon demand, forthwith pay the serving officer the amount
398 removed from the judgment debtor's account, and the serving officer
399 shall thereupon pay such sum, less such serving officer's fees, to the
400 judgment creditor, except to the extent otherwise ordered by a court.

401 (i) If a written claim for determination of interests in property is made
402 pursuant to subsection (e) of this section, the clerk of the court, after a
403 judgment or order is entered pursuant to section 52-356c, shall forthwith
404 send a copy of such judgment or order to the financial institution. Such
405 judgment or order shall be deemed to be a final judgment for the
406 purposes of appeal. No appeal shall be taken except within seven days
407 of the rendering of the judgment or order. The judgment or order of the
408 court may be implemented during such seven-day period, unless stayed
409 by the court.

410 (j) If records or testimony are subpoenaed from a financial institution
411 in connection with a hearing conducted pursuant to section 52-356c on
412 a written claim for determination of interests in property made pursuant
413 to subsection (e) of this section, the reasonable costs and expenses of the
414 financial institution in complying with the subpoena shall be
415 recoverable by the financial institution from the party requiring such
416 records or testimony, provided the financial institution shall be under
417 no obligation to attempt to obtain records or documentation relating to

418 the account executed against that are held by any other financial
419 institution. The records of a financial institution as to the dates and
420 amounts of deposits into an account in the financial institution shall, if
421 certified as true and accurate by an officer of the financial institution, be
422 admissible as evidence without the presence of the officer in any hearing
423 conducted pursuant to section 52-356c to determine the legitimacy of a
424 claim of an interest in property made under subsection (e) of this section.

425 (k) If such financial institution fails or refuses to pay over to such
426 serving officer the amount of such debt, not exceeding the amount due
427 on such execution, such financial institution shall be liable in an action
428 therefor to the judgment creditor named in such execution, and the
429 amount so recovered by such judgment creditor shall be applied toward
430 the payment of the amount due on such execution.

431 (l) Except as provided in subsection (k) of this section, no financial
432 institution or any officer, director or employee of such financial
433 institution shall be liable to any person with respect to any act done or
434 omitted in good faith or through the commission of a bona fide error
435 that occurred despite reasonable procedures maintained by the financial
436 institution to prevent such errors in complying with the provisions of
437 this section.

438 (m) Nothing in this section shall in any way restrict the rights and
439 remedies otherwise available to a judgment debtor or to any such
440 secured party at law or in equity.

441 Sec. 3. Subsection (d) of section 52-361a of the general statutes is
442 repealed and the following is substituted in lieu thereof (*Effective October*
443 *1, 2023*):

444 (d) The levying officer shall levy on all earnings which are due or
445 become due to the judgment debtor to the extent specified in the wage
446 execution plus the levying officer's fee and [costs] any actual postage
447 costs incurred, until the judgment is satisfied, or the execution is
448 modified or set aside, by serving the employer with the wage execution,
449 the required notice of rights and the claim forms. On receipt thereof, the

450 employer shall forthwith deliver a copy thereof to the judgment debtor,
451 or mail such copy postage prepaid to the judgment debtor at his last-
452 known address. On service of the wage execution on the employer, the
453 wage execution shall automatically be stayed for a period of twenty
454 days and shall thereafter immediately become a lien and continuing
455 levy on such portion of the judgment debtor's earnings as is specified in
456 the wage execution, provided if a claim is filed in accordance with
457 subsection (d) of section 52-361b within twenty days of such service on
458 the employer, the stay shall continue until determination of the claim.
459 Any service of process or other notice required under this section may
460 be made in accordance with section 52-57 or by certified mail, return
461 receipt requested, provided a levying officer may make such service by
462 mail to (1) an address within such officer's [appointed jurisdiction]
463 precinct or extension of precinct in accordance with section 52-56, or (2)
464 in a case involving an employer whose [address is not within such
465 levying officer's appointed jurisdiction, to the address designated by the
466 employer] payroll address is outside the state, to the out-of-state payroll
467 address designated by the employer. When service is made by the
468 serving officer by certified mail, return receipt requested, pursuant to
469 this subsection, the officer may under the levy collect the actual postage
470 costs incurred.

471 Sec. 4. Section 52-50 of the general statutes is repealed and the
472 following is substituted in lieu thereof (*Effective October 1, 2023*):

473 (a) All process shall be directed to a state marshal, a constable or other
474 proper officer authorized by statute, or, subject to the provisions of
475 subsection (b) of this section, to an indifferent person. A direction on the
476 process "to any proper officer" shall be sufficient to direct the process to
477 a state marshal, constable or other proper officer.

478 (b) Process shall not be directed to an indifferent person unless [more
479 defendants than one are named in the process and are described to
480 reside in different counties in the state, or unless, in case of a writ of
481 attachment, the plaintiff or one of the plaintiffs, or his or their agent or
482 attorney, makes oath before the authority signing the writ that the

483 affiant truly believes the plaintiff is in danger of losing his debt or
484 demand unless an indifferent person is deputed for the immediate
485 service of the writ or other process. The authority signing the writ shall
486 certify on the writ that he administered the oath and insert in the writ
487 the name of the person to whom it is directed, but he need not insert the
488 reason for such direction. Any process directed to an indifferent person
489 by reason of such an affidavit shall be abatable on proof that the party
490 making the affidavit did not have reasonable grounds, at the time of
491 making it, for believing the statements in the affidavit to be true]
492 authorized by statute. Any indifferent person who, knowing that he is
493 not authorized to do so under this section or any other provision of the
494 general statutes, serves process shall be guilty of a class A misdemeanor.

495 (c) Service of motions for modification, motions for contempt and
496 wage withholdings in any matter involving a beneficiary of care or
497 assistance from the state and in other IV-D child support cases may be
498 made by any investigator employed by the Commissioner of
499 Administrative Services or the Commissioner of Social Services.

500 (d) Service of motions for modification, motions for contempt and
501 wage withholdings in any matter involving child support, including,
502 but not limited to, petitions for support authorized under sections 17b-
503 745 and 46b-215, and those matters involving a beneficiary of care or
504 assistance from the state, and service of other process in IV-D support
505 cases, as defined in subdivision (13) of subsection (b) of section 46b-231,
506 may be made by a support enforcement officer or support services
507 investigator of the Superior Court.

508 (e) Borough bailiffs may, within their respective boroughs, execute all
509 legal process which state marshals or constables may execute.

510 Sec. 5. Subsection (c) of section 12-162 of the general statutes is
511 repealed and the following is substituted in lieu thereof (*Effective October*
512 *1, 2023*):

513 (c) Any officer serving an alias tax warrant pursuant to this section
514 shall make return to the collector of such officer's actions thereon within

515 ten days of the completion of such service and shall be entitled to collect
 516 from such person the fees allowed by law for serving executions issued
 517 by any court. Any state marshal or constable, authorized as provided in
 518 this section, who executes such warrant and collects any delinquent
 519 municipal taxes or water or sanitation charges as a result thereof shall
 520 receive, in addition to expenses otherwise allowed, a percentage of the
 521 taxes or the water or sanitation charges collected pursuant to such
 522 warrant, calculated at the rate applicable for the levy of an execution as
 523 provided in section 52-261. [The minimum fee for such service shall be
 524 thirty dollars.] Any officer unable to serve such warrant shall, within
 525 sixty days after the date of issuance, return such warrant to the collector
 526 and in writing state the reason it was not served.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	52-367b
Sec. 2	October 1, 2023	52-367a
Sec. 3	October 1, 2023	52-361a(d)
Sec. 4	October 1, 2023	52-50
Sec. 5	October 1, 2023	12-162(c)

JUD *Joint Favorable Subst.*

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

This bill does not have a fiscal impact to the state as the associated costs are the responsibility of the private sector.

The Out Years

State Impact: None

Municipal Impact: None

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)