



# House of Representatives

**File No. 784**

General Assembly

January Session, 2023

**(Reprint of File No. 536)**

Substitute House Bill No. 6786  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 18, 2023

**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 Section 52-367b of the general statutes is repealed and the  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] an individual, except to the extent such debts are  
6 protected from execution by sections 52-352a, 52-352b, 52-352c of the  
7 general statutes, revision of 1958, revised to 1983, 52-354 of the general  
8 statutes, revision of 1958, revised to 1983, 52-361 of the general statutes,  
9 revision of 1958, revised to 1983 and section 52-361a, as amended by this  
10 act, as well as by any other laws or regulations of this state or of the  
11 United States which exempt such debts from execution.

12 (b) (1) 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)] (A) upon the main office of any  
25 financial institution having its main office within the county of the  
26 serving officer, [(2)] (B) if such main office is not within the serving  
27 officer's county and such financial institution has one or more branch  
28 offices within such county, upon an employee of such a branch office,  
29 such employee and branch office having been designated by the  
30 financial institution in accordance with regulations adopted by the  
31 Banking Commissioner, in accordance with chapter 54, or [(3)] (C) only  
32 upon demand of a financial institution which does not have any main  
33 office or branch office in this state, by certified mail, return receipt  
34 requested, for payment of any such nonexempt debt due to the  
35 judgment debtor and, after having made such demand, shall serve a true  
36 and attested copy of the execution, together with the affidavit and  
37 exemption claim form prescribed by subsection (k) of this section, with  
38 the serving officer's actions endorsed thereon, with the financial  
39 institution upon whom such demand is made. When service is made by  
40 the serving officer by certified mail pursuant to subparagraph (C) of this  
41 subdivision, the officer may collect the actual postage costs incurred, in  
42 addition to the serving officer's fee, from the amount removed from the  
43 judgment debtor's account, if any, pursuant to subsection (h) of this  
44 section. The serving officer shall not serve more than one financial  
45 institution execution per judgment debtor at a time, including copies  
46 thereof. After service of an execution on one financial institution, the

47 serving officer shall not serve the same execution or a copy thereof upon  
48 another financial institution until receiving confirmation from the  
49 preceding financial institution that the judgment debtor had insufficient  
50 funds at the preceding financial institution available for collection to  
51 satisfy the execution, provided any such additional service is made not  
52 later than forty-five days from the receipt by the serving officer of such  
53 execution. The financial institution shall provide the serving officer a  
54 response to the service of such execution in accordance with subdivision  
55 (2) of this subsection. After service of an execution on a financial  
56 institution, the serving officer shall not subsequently serve the same  
57 execution or a copy thereof upon such financial institution if an  
58 electronic direct deposit that is readily identifiable as exempt from  
59 execution was made to the judgment debtor's account during the look-  
60 back period, as described in subsection (c) of this section. If no such  
61 deposit was made, the serving officer may subsequently serve the same  
62 execution or a copy thereof upon such institution, provided such  
63 execution has not expired or otherwise become unenforceable.

64 (2) Not later than the seventh business day after the service of an  
65 execution upon a financial institution, the financial institution shall send  
66 to the serving officer by first class mail, postage prepaid, (A) if the  
67 financial institution has removed funds from the judgment debtor's  
68 account pursuant to the execution and this section, a notice stating the  
69 amount of funds removed from the judgment debtor's account and  
70 referencing the docket number, if provided by the judgment creditor on  
71 the execution form, or (B) if the judgment debtor is not indebted to the  
72 financial institution or if the financial institution has not removed funds  
73 from the judgment debtor's account pursuant to the execution and this  
74 section, a complete set of all the documents served on the financial  
75 institution by the serving officer, including the cover page of the serving  
76 officer, with endorsements from other financial institutions, as the case  
77 may be, the original true and attested copy of the execution served on  
78 the financial institution, and the affidavit and exemption claim form  
79 prescribed by subsection (k) of this section. The response of the financial  
80 institution pursuant to subparagraph (B) of this subdivision shall

81 include a notation on the serving officer's cover page, or at the financial  
82 institution's option, on a separate document prepared by the financial  
83 institution, to the effect that the judgment debtor does not have an  
84 account with the financial institution or that no funds were removed  
85 from the account, provided that such separate document shall be affixed  
86 to, or enclosed contiguous to the financial institution's return of a  
87 particular execution to the serving officer pursuant to this subsection.  
88 The financial institution shall maintain reasonable procedures to  
89 prevent the resubmission of a response provided to the serving officer  
90 pursuant to subparagraph (B) of this subdivision. As used in this  
91 section, "business day" has the same meaning as provided in section 36a-  
92 330.

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

99 (2) Notwithstanding the provisions of subdivision (1) of this  
100 subsection, the financial institution shall leave in the judgment debtor's  
101 account (A) the full amount of electronic direct deposits that are readily  
102 identifiable as exempt federal veterans' benefits, Social Security benefits,  
103 including, but not limited to, retirement, survivors' and disability  
104 benefits, supplemental security income benefits, exempt benefits paid  
105 by the federal Railroad Retirement Board or the federal Office of  
106 Personnel Management, unemployment compensation benefits exempt  
107 under section 52-352b, and child support payments processed and  
108 received pursuant to Title IV-D of the Social Security Act, and (B) the  
109 amount of electronic direct deposits, not to exceed one thousand dollars,  
110 that are readily identifiable as wages, provided such deposits were  
111 made to the judgment debtor's account during the look-back period of  
112 two months preceding the date that the execution was served on the  
113 financial institution, or, with regard to federal benefits, such greater  
114 period as required by federal law. If no such deposits have been made

115 to the judgment debtor's account during the look-back period, or if such  
116 readily identifiable funds are less than one thousand dollars, the  
117 financial institution shall leave in the judgment debtor's account as  
118 exempt pursuant to subdivision (18) of section 52-352b the lesser of the  
119 account balance or one thousand dollars in the aggregate. To the extent  
120 that such funds are left in the judgment debtor's account as exempt  
121 pursuant to subdivision (18) of section 52-352b, the provisions of said  
122 subsection shall not be the basis for a claim of exemption pursuant to  
123 this subsection in response to a levy of execution.

124 (3) Nothing in this subsection shall be construed to limit a financial  
125 institution's right or obligation to remove such funds from the judgment  
126 debtor's account if required by any other provision of law or by a court  
127 order. The judgment debtor shall have full and customary access to such  
128 funds left in the judgment debtor's account pursuant to this subsection.  
129 The financial institution may notify the judgment creditor that funds  
130 have been left in the judgment debtor's account pursuant to this  
131 subsection. Nothing in this subsection shall alter the exempt status of  
132 funds which are exempt from execution under subsection (a) of this  
133 section or under any other provision of state or federal law, or the right  
134 of a judgment debtor to claim such exemption. Nothing in this  
135 subsection shall be construed to affect any other rights or obligations of  
136 the financial institution with regard to the funds in the judgment  
137 debtor's account.

138 (d) (1) If any funds are removed from the judgment debtor's account  
139 pursuant to subsection (c) of this section, upon receipt of the execution  
140 and exemption claim form from the serving officer, the financial  
141 institution shall ~~[(1)]~~ (A) forthwith mail copies thereof, postage prepaid,  
142 to the judgment debtor and to any secured party that is party to a control  
143 agreement between the financial institution and such secured party  
144 under article 9 of title 42a at the last-known address of the judgment  
145 debtor and of any such secured party with respect to the affected  
146 accounts on the records of the financial institution, and ~~[(2)]~~ (B) mail  
147 notice to the judgment debtor as required by 31 CFR 212.6 and 212.7.  
148 The financial institution may note that funds have been removed from

149 the judgment debtor's account on any records for such account,  
150 including electronic records, available to the judgment debtor, but shall  
151 not display, or otherwise provide to the judgment debtor, the name or  
152 contact information of the serving officer. The financial institution shall  
153 hold the amount removed from the judgment debtor's account pursuant  
154 to subsection (c) of this section for fifteen days from the date of the  
155 mailing to the judgment debtor and any such secured party, and during  
156 such period shall not pay the serving officer.

157 (2) In the event the judgment debtor directs questions to the financial  
158 institution concerning the execution, the financial institution may  
159 instruct the judgment debtor to direct such questions regarding the  
160 execution to the judgment creditor or the judgment creditor's attorney  
161 at the telephone number provided on the execution. The financial  
162 institution may also direct the judgment debtor to direct such questions  
163 to the applicable clerk of the court identified on the execution form.

164 (e) To prevent the financial institution from paying the serving  
165 officer, as provided in subsection (h) of this section, the judgment debtor  
166 shall give notice of a claim of exemption by delivering to the financial  
167 institution, by mail or other means, the exemption claim form or other  
168 written notice that an exemption is being claimed and any such secured  
169 party shall give notice of its claim of a prior perfected security interest  
170 in such deposit account by delivering to the financial institution, by mail  
171 or other means, written notice thereof. The financial institution may  
172 designate an address to which the notice of a claim of exemption, or a  
173 secured party claim notice, shall be delivered. Upon receipt of such  
174 notice, the financial institution shall, within two business days, send a  
175 copy of such notice to the clerk of the court which issued the execution,  
176 and send a copy of such notice, or a separate notice prepared by the  
177 financial institution indicating that the judgment debtor has submitted  
178 a claim of exemption, to the serving officer.

179 (f) (1) Upon receipt of an exemption claim form or a secured party  
180 claim notice, the clerk of the court shall enter the appearance of the  
181 judgment debtor or such secured party with the address set forth in the

182 exemption claim form or secured party claim notice. The clerk shall  
183 forthwith send file-stamped copies of the exemption claim form or  
184 secured party claim notice to the judgment creditor and judgment  
185 debtor with a notice stating that the disputed funds are being held for  
186 forty-five days from the date the exemption claim form or secured party  
187 claim notice was received by the financial institution or until a court  
188 order is entered regarding the disposition of the funds, whichever  
189 occurs earlier, and the clerk shall promptly schedule the matter for a  
190 hearing. The claim of exemption filed by such judgment debtor shall be  
191 prima facie evidence at such hearing of the existence of the exemption.

192 (2) Upon receipt of notice from the financial institution pursuant to  
193 subsection (c) of this section, a judgment creditor may, on an ex parte  
194 basis, present to a judge of the Superior Court an affidavit sworn under  
195 oath by a competent party demonstrating a reasonable belief that such  
196 judgment debtor's account contains funds which are not exempt from  
197 execution and the amount of such nonexempt funds. Such affidavit shall  
198 not be conclusory but is required to show the factual basis upon which  
199 the reasonable belief is based. If such judge finds that the judgment  
200 creditor has demonstrated a reasonable belief that such judgment  
201 debtor's account contains funds which are not exempt from execution,  
202 such judge shall authorize the judgment creditor to submit a written  
203 application to the clerk of the court for a hearing on the exempt status  
204 of funds left in the judgment debtor's account pursuant to subsection (c)  
205 of this section. The judgment creditor shall promptly send a copy of the  
206 application and the supporting affidavit to the judgment debtor and to  
207 any secured party shown on a secured party claim notice sent to the  
208 judgment creditor pursuant to subdivision (1) of this subsection. Upon  
209 receipt of such application, the clerk of the court shall promptly  
210 schedule the matter for a hearing and shall give written notice to the  
211 judgment creditor, the judgment debtor and any secured party shown  
212 on a secured party claim notice received by the clerk of the court. The  
213 notice to the judgment creditor pursuant to subsection (c) of this section  
214 shall be prima facie evidence at such hearing that the funds in the  
215 account are exempt funds. The burden of proof shall be upon the

216 judgment creditor to establish the amount of funds which are not  
217 exempt.

218 (g) If an exemption claim is made or a secured party claim notice is  
219 given pursuant to subsection (e) of this section, the financial institution  
220 shall continue to hold the amount removed from the judgment debtor's  
221 account for forty-five days or until a court order is received regarding  
222 disposition of the funds, whichever occurs earlier. If no such order is  
223 received within forty-five days of the date the financial institution sends  
224 a copy of the exemption claim form or notice of exemption or a secured  
225 party claim notice to the clerk of the court, the financial institution shall  
226 return the funds to the judgment debtor's account.

227 (h) If no claim of exemption or secured party claim notice is received  
228 by the financial institution within fifteen days of the mailing to the  
229 judgment debtor and any secured party of the execution and exemption  
230 claim form pursuant to subsection (d) of this section, the financial  
231 institution shall, upon demand, forthwith pay the serving officer the  
232 amount removed from the judgment debtor's account, and the serving  
233 officer shall thereupon pay such sum, less such serving officer's fees and  
234 costs owing to such serving officer under this section, to the judgment  
235 creditor, except to the extent otherwise ordered by a court.

236 (i) The court, after a hearing conducted pursuant to subsection (f) of  
237 this section, shall enter an order determining the issues raised by the  
238 claim of exemption and claim by a secured party of a prior perfected  
239 security interest in such deposit account. The clerk of the court shall  
240 forthwith send a copy of such order to the financial institution. Such  
241 order shall be deemed to be a final judgment for the purposes of appeal.  
242 No appeal shall be taken except within seven days of the rendering of  
243 the order. The order of the court may be implemented during such  
244 seven-day period, unless stayed by the court.

245 (j) Except as otherwise provided in subsection (c) of this section, if  
246 both exempt and nonexempt moneys have been deposited into an  
247 account, for the purposes of determining which moneys are exempt



248 under this section, the moneys most recently deposited as of the time  
249 the execution is served shall be deemed to be the moneys remaining in  
250 the account.

251 (k) The execution, exemption claim form and clerk's notice regarding  
252 the filing of a claim of exemption shall be in such form as prescribed by  
253 the judges of the Superior Court or their designee. The exemption claim  
254 form shall be dated and include a checklist and description of the most  
255 common exemptions, instructions on the manner of claiming the  
256 exemptions and a space for the judgment debtor to certify those  
257 exemptions claimed under penalty of false statement.

258 (l) If records or testimony are subpoenaed from a financial institution  
259 in connection with a hearing conducted pursuant to subsection (f) of this  
260 section, the reasonable costs and expenses of the financial institution in  
261 complying with the subpoena shall be recoverable by the financial  
262 institution from the party requiring such records or testimony,  
263 provided, the financial institution shall be under no obligation to  
264 attempt to obtain records or documentation relating to the account  
265 executed against which are held by any other financial institution. The  
266 records of a financial institution as to the dates and amounts of deposits  
267 into an account in the financial institution shall, if certified as true and  
268 accurate by an officer of the financial institution, be admissible as  
269 evidence without the presence of the officer in any hearing conducted  
270 pursuant to subsection (f) of this section to determine the legitimacy of  
271 a claim of exemption made under this section.

272 (m) If there are moneys to be removed from the judgment debtor's  
273 account, prior to the removal of such moneys pursuant to subsection (c)  
274 of this section, the financial institution shall receive from the serving  
275 officer as representative of the judgment creditor a fee of eight dollars  
276 for the financial institution's costs in complying with the provisions of  
277 this section which fee (1) shall be deducted by the financial institution  
278 from the amount that is paid to the serving officer pursuant to this  
279 section, and (2) may be recoverable by the judgment creditor as a taxable  
280 cost of the action. Such fee shall not be considered a deposit account

281 charge pursuant to section 36a-316.

282 (n) If the financial institution fails or refuses to pay over to the serving  
283 officer the amount of such debt, not exceeding the amount due on such  
284 execution, such financial institution shall be liable in an action therefor  
285 to the judgment creditor named in such execution for the amount of  
286 nonexempt moneys which the financial institution failed or refused to  
287 pay over, excluding funds of up to one thousand dollars which the  
288 financial institution in good faith allowed the judgment debtor to access  
289 pursuant to subsection (c) of this section. The amount so recovered by  
290 such judgment creditor shall be applied toward the payment of the  
291 amount due on such execution. Thereupon, the rights of the financial  
292 institution shall be subrogated to the rights of the judgment creditor. If  
293 such financial institution pays exempt moneys from the account of the  
294 judgment debtor over to the serving officer contrary to the provisions of  
295 this section, such financial institution shall be liable in an action therefor  
296 to the judgment debtor for any exempt moneys so paid and such  
297 financial institution shall refund or waive any charges or fees by the  
298 financial institution, including, but not limited to, dishonored check  
299 fees, overdraft fees or minimum balance service charges and legal  
300 process fees, which were assessed as a result of such payment of exempt  
301 moneys. Thereupon, the rights of the financial institution shall be  
302 subrogated to the rights of the judgment debtor.

303 (o) Except as provided in subsection (n) of this section, no financial  
304 institution or any officer, director or employee of such financial  
305 institution shall be liable to any person with respect to any act done or  
306 omitted in good faith or through the commission of a bona fide error  
307 that occurred despite reasonable procedures maintained by the financial  
308 institution to prevent such errors in complying with the provisions of  
309 this section.

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

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

317 (r) For the purposes of this subsection, "exempt" has the same  
318 meaning as provided in subdivision (3) of section 52-352a. Funds  
319 deposited in an account that has been established for the express  
320 purpose of receiving electronic direct deposits of public assistance or of  
321 Title IV-D child support payments from the Department of Social  
322 Services shall be exempt.

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

325 (a) As used in this section and section 52-367b, as amended by this  
326 act, "financial institution" means any bank, savings bank, savings and  
327 loan association or credit union organized, chartered or licensed under  
328 the laws of this state or the United States and having its main office in  
329 this state, any similar out-of-state institution having a branch office in  
330 this state or any similar out-of-state institution having no main office or  
331 branch office in this state and where transactions are made via the  
332 Internet or electronic means.

333 (b) (1) Execution may be granted pursuant to this section against any  
334 debts due from any financial institution to a judgment debtor which is  
335 not [a natural person] an individual. If execution is desired against any  
336 such debt, the plaintiff requesting the execution shall make application  
337 to the clerk of the court. The application shall be accompanied by a fee  
338 of one hundred five dollars payable to the clerk of the court for the  
339 administrative costs of complying with the provisions of this section  
340 which fee may be recoverable by the judgment creditor as a taxable cost  
341 of the action. The clerk shall issue such execution containing a direction  
342 that the officer serving such execution shall make demand [(1)] (A) upon  
343 the main office of any financial institution having its main office within  
344 the county of the serving officer, [(2)] (B) if such main office is not within

345 the serving officer's county and such financial institution has one or  
346 more branch offices within such county, upon an employee of such a  
347 branch office, such employee and branch office having been designated  
348 by the financial institution in accordance with regulations adopted by  
349 the Banking Commissioner, in accordance with chapter 54, or [(3)] (C)  
350 only upon demand of a financial institution which does not have any  
351 main office or branch office in this state, by certified mail, return receipt  
352 requested, for the payment of any debt due to the judgment debtor, and,  
353 after having made such demand, shall serve a true and attested copy  
354 thereof, with the serving officer's actions thereon endorsed, with the  
355 financial institution upon whom such demand is made. When service is  
356 made by the serving officer by certified mail pursuant to subparagraph  
357 (C) of this subdivision, the serving officer may collect the actual postage  
358 costs incurred, in addition to the serving officer's fee, from the amount  
359 removed from the judgment debtor's account, if any, pursuant to  
360 subsection (c) of this section. The serving officer shall not serve more  
361 than one financial institution execution per judgment debtor at a time,  
362 including copies thereof. After service of an execution on one financial  
363 institution, the serving officer shall not serve the same execution or a  
364 copy thereof upon another financial institution until receiving  
365 confirmation from the preceding financial institution that the judgment  
366 debtor had insufficient funds at the preceding financial institution  
367 available for collection to satisfy the execution. [If the serving officer  
368 does not receive within twenty-five days of the service of the demand a  
369 response from the financial institution that was served indicating  
370 whether or not the taxpayer has funds at the financial institution  
371 available for collection, the serving officer may assume that sufficient  
372 funds are not available for collection and may proceed to serve another  
373 financial institution in accordance with this subsection.] The financial  
374 institution shall provide the serving officer a response to the service of  
375 such execution in accordance with subdivision (2) of this subsection.

376 (2) Not later than the seventh business day after the service of an  
377 execution upon a financial institution, the financial institution shall send  
378 to the serving officer by first class mail, postage prepaid, (A) if the

379 financial institution has removed funds from the judgment debtor's  
380 account pursuant to the execution and this section, a notice stating the  
381 amount of funds removed from the judgment debtor's account and  
382 referencing the docket number, if provided by the judgment creditor on  
383 the execution form, or (B) if the judgment debtor is not indebted to the  
384 financial institution or if the financial institution has not removed funds  
385 from the judgment debtor's account pursuant to the execution and this  
386 section, a complete set of all the documents served on the financial  
387 institution by the serving officer, including the cover page of the serving  
388 officer, with endorsements from other financial institutions, as the case  
389 may be, and the original true and attested copy of the execution served  
390 on the financial institution. The response of the financial institution  
391 pursuant to subparagraph (B) of this subdivision shall include a  
392 notation on the serving officer's cover page, or at the financial  
393 institution's option, on a separate document prepared by the financial  
394 institution, to the effect that the judgment debtor does not have an  
395 account with the financial institution or that no funds were removed  
396 from the account, provided that such separate document be affixed to,  
397 or enclosed contiguous to the financial intuition's return of a particular  
398 execution to the serving officer pursuant to this subsection. The financial  
399 institution shall maintain reasonable procedures to prevent the  
400 resubmission of a response provided to the serving officer pursuant to  
401 subparagraph (B) of this subdivision. As used in this section, "business  
402 day" has the same meaning as provided in section 36a-330.

403 (c) If any such financial institution upon which such execution is  
404 served and upon which such demand is made is indebted to the  
405 judgment debtor, the financial institution shall remove from the  
406 judgment debtor's account the amount of such indebtedness not  
407 exceeding the amount due on such execution. Except as provided in  
408 subsection (d) of this section, the financial institution shall immediately  
409 pay to such serving officer the amount removed from the judgment  
410 debtor's account, which amount shall be received and applied on such  
411 execution by such serving officer. Such financial institution shall act  
412 upon such execution according to section 42a-4-303 before its midnight

413 deadline, as defined in section 42a-4-104. Nothing in this subsection  
414 shall be construed to affect any other rights or obligations of the  
415 financial institution with regard to funds in the judgment debtor's  
416 account.

417 (d) If the deposit account is subject to a security interest of a secured  
418 party, other than the financial institution upon which such execution is  
419 served and upon which such demand is made, pursuant to a control  
420 agreement between the financial institution and such secured party  
421 under article 9 of title 42a, and if any funds are removed from the  
422 judgment debtor's account pursuant to subsection (c) of this section, the  
423 financial institution shall forthwith mail a copy of the execution when  
424 received from the serving officer, postage prepaid, to the judgment  
425 debtor and to such other secured party at the last-known address of such  
426 parties with respect to the affected accounts on the records of the  
427 financial institution. The financial institution shall hold the amount  
428 removed from the judgment debtor's account pursuant to subsection (c)  
429 of this section for twenty days from the date of the mailing to the  
430 judgment debtor and such other secured party, and during such period  
431 shall not pay the serving officer.

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

439 (f) Upon receipt of a written claim for determination of interests in  
440 property made pursuant to subsection (e) of this section, the clerk of the  
441 court shall enter the appearance of the secured party with the address  
442 set forth in the written claim. The clerk shall forthwith send file-stamped  
443 copies of the written claim to the judgment creditor, the judgment  
444 debtor and the financial institution upon which such execution was  
445 served with a notice stating that the disputed funds are being held until

446 a court order is entered regarding the disposition of the funds. The  
447 judgment creditor shall thereafter send a copy of such written claim to  
448 the serving officer.

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

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

460 (i) If a written claim for determination of interests in property is made  
461 pursuant to subsection (e) of this section, the clerk of the court, after a  
462 judgment or order is entered pursuant to section 52-356c, shall forthwith  
463 send a copy of such judgment or order to the financial institution. Such  
464 judgment or order shall be deemed to be a final judgment for the  
465 purposes of appeal. No appeal shall be taken except within seven days  
466 of the rendering of the judgment or order. The judgment or order of the  
467 court may be implemented during such seven-day period, unless stayed  
468 by the court.

469 (j) If records or testimony are subpoenaed from a financial institution  
470 in connection with a hearing conducted pursuant to section 52-356c on  
471 a written claim for determination of interests in property made pursuant  
472 to subsection (e) of this section, the reasonable costs and expenses of the  
473 financial institution in complying with the subpoena shall be  
474 recoverable by the financial institution from the party requiring such  
475 records or testimony, provided the financial institution shall be under  
476 no obligation to attempt to obtain records or documentation relating to  
477 the account executed against that are held by any other financial

478 institution. The records of a financial institution as to the dates and  
479 amounts of deposits into an account in the financial institution shall, if  
480 certified as true and accurate by an officer of the financial institution, be  
481 admissible as evidence without the presence of the officer in any hearing  
482 conducted pursuant to section 52-356c to determine the legitimacy of a  
483 claim of an interest in property made under subsection (e) of this section.

484 (k) If such financial institution fails or refuses to pay over to such  
485 serving officer the amount of such debt, not exceeding the amount due  
486 on such execution, such financial institution shall be liable in an action  
487 therefor to the judgment creditor named in such execution, and the  
488 amount so recovered by such judgment creditor shall be applied toward  
489 the payment of the amount due on such execution.

490 (l) Except as provided in subsection (k) of this section, no financial  
491 institution or any officer, director or employee of such financial  
492 institution shall be liable to any person with respect to any act done or  
493 omitted in good faith or through the commission of a bona fide error  
494 that occurred despite reasonable procedures maintained by the financial  
495 institution to prevent such errors in complying with the provisions of  
496 this section.

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

500 Sec. 3. Subsection (d) of section 52-361a of the general statutes is  
501 repealed and the following is substituted in lieu thereof (*Effective October*  
502 *1, 2023*):

503 (d) The levying officer shall levy on all earnings which are due or  
504 become due to the judgment debtor to the extent specified in the wage  
505 execution plus the levying officer's fee and [costs] any actual postage  
506 costs incurred in accordance with this section, until the judgment is  
507 satisfied, or the execution is modified or set aside, by serving the  
508 employer with the wage execution, the required notice of rights and the  
509 claim forms. On receipt thereof, the employer shall forthwith deliver a



510 copy thereof to the judgment debtor, or mail such copy postage prepaid  
511 to the judgment debtor at his last-known address. On service of the  
512 wage execution on the employer, the wage execution shall automatically  
513 be stayed for a period of twenty days and shall thereafter immediately  
514 become a lien and continuing levy on such portion of the judgment  
515 debtor's earnings as is specified in the wage execution, provided if a  
516 claim is filed in accordance with subsection (d) of section 52-361b within  
517 twenty days of such service on the employer, the stay shall continue  
518 until determination of the claim. If the levying officer has served the  
519 employer of the judgment debtor in accordance with this section, and  
520 the debt is later satisfied in whole or in part by payment directly to the  
521 creditor or creditor's agent instead of the levying officer, the creditor or  
522 the creditor's agent is responsible for payment of the levying officer's fee  
523 or portion thereof, and any actual postage costs incurred in accordance  
524 with this section. Any service of process or other notice required under  
525 this section may be made in accordance with section 52-57 or by certified  
526 mail, return receipt requested, provided a levying officer may make  
527 such service by mail to (1) an address within such officer's [appointed  
528 jurisdiction] precinct or extension of precinct in accordance with section  
529 52-56, as amended by this act, or (2) in a case involving an employer  
530 whose [address is not within such levying officer's appointed  
531 jurisdiction, to the address designated by the employer] payroll address  
532 is outside the state, to the out-of-state payroll address designated by the  
533 employer. When service is made by the serving officer by certified mail,  
534 return receipt requested, pursuant to this subsection, the officer may  
535 under the levy first collect the actual postage costs incurred.

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

538 (a) All process shall be directed to a state marshal, a constable or other  
539 proper officer authorized by statute, or, subject to the provisions of  
540 subsection (b) of this section, to an indifferent person. A direction on the  
541 process "to any proper officer" shall be sufficient to direct the process to  
542 a state marshal, constable or other proper officer.

543 (b) Process shall not be directed to an indifferent person unless [more  
544 defendants than one are named in the process and are described to  
545 reside in different counties in the state, or unless, in case of a writ of  
546 attachment, the plaintiff or one of the plaintiffs, or his or their agent or  
547 attorney, makes oath before the authority signing the writ that the  
548 affiant truly believes the plaintiff is in danger of losing his debt or  
549 demand unless an indifferent person is deputed for the immediate  
550 service of the writ or other process. The authority signing the writ shall  
551 certify on the writ that he administered the oath and insert in the writ  
552 the name of the person to whom it is directed, but he need not insert the  
553 reason for such direction. Any process directed to an indifferent person  
554 by reason of such an affidavit shall be abatable on proof that the party  
555 making the affidavit did not have reasonable grounds, at the time of  
556 making it, for believing the statements in the affidavit to be true]  
557 authorized by statute. Any indifferent person who, knowing that he is  
558 not authorized to do so under this section or any other provision of the  
559 general statutes, serves process shall be guilty of a class A misdemeanor.

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

565 (d) Service of motions for modification, motions for contempt and  
566 wage withholdings in any matter involving child support, including,  
567 but not limited to, petitions for support authorized under sections 17b-  
568 745 and 46b-215, and those matters involving a beneficiary of care or  
569 assistance from the state, and service of other process in IV-D support  
570 cases, as defined in subdivision (13) of subsection (b) of section 46b-231,  
571 may be made by a support enforcement officer or support services  
572 investigator of the Superior Court.

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

575 Sec. 5. Subsection (c) of section 12-162 of the general statutes is  
576 repealed and the following is substituted in lieu thereof (*Effective October*  
577 *1, 2023*):

578 (c) Any officer serving an alias tax warrant pursuant to this section  
579 shall make return to the collector of such officer's actions thereon within  
580 ten days of the completion of such service and shall be entitled to collect  
581 from such person the fees allowed by law for serving executions issued  
582 by any court. Any state marshal or constable, authorized as provided in  
583 this section, who executes such warrant and collects any delinquent  
584 municipal taxes or water or sanitation charges as a result thereof shall  
585 receive, in addition to expenses otherwise allowed, a percentage of the  
586 taxes or the water or sanitation charges collected pursuant to such  
587 warrant, calculated at the rate applicable for the levy of an execution as  
588 provided in section 52-261. [The minimum fee for such service shall be  
589 thirty dollars.] Any officer unable to serve such warrant shall, within  
590 sixty days after the date of issuance, return such warrant to the collector  
591 and in writing state the reason it was not served.

592 Sec. 6. Subsection (c) of section 52-56 of the general statutes is  
593 repealed and the following is substituted in lieu thereof (*Effective October*  
594 *1, 2023*):

595 (c) In any action where process is permitted to be served upon the  
596 Secretary of the State, the Commissioner of Motor Vehicles, the Attorney  
597 General, [or] the Insurance Commissioner or the Comptroller, service of  
598 such process may be made by any officer of any precinct having such  
599 process in his hands for service. Service by an officer upon the Secretary  
600 of the State, the Commissioner of Motor Vehicles, the Attorney General,  
601 [or] the Insurance Commissioner or the Comptroller pursuant to this  
602 subsection shall constitute the commencement of service within such  
603 officer's precinct and such officer may then complete service as  
604 provided in subsection (a) or (b) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	52-367b
Sec. 2	<i>October 1, 2023</i>	52-367a
Sec. 3	<i>October 1, 2023</i>	52-361a(d)
Sec. 4	<i>October 1, 2023</i>	52-50
Sec. 5	<i>October 1, 2023</i>	12-162(c)
Sec. 6	<i>October 1, 2023</i>	52-56(c)

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.

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill does not result in a fiscal impact to the state as the associated costs are the responsibility of the private sector.

House "A" makes various clarifying and technical changes that do not result in a fiscal impact.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****sHB 6786 (as amended by House "A")\******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 in the laws on 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 respond to the execution within seven business days. It also adds requirements for institutions and creditors to notify the serving officer about certain information.

Additionally, the bill:

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,
3. reconciles two differing minimum fees for serving tax warrants, and
4. allows any officer of any precinct to serve process on the comptroller in any action where process is allowed.

The bill also makes technical and conforming changes.

\*House Amendment "A" (1) for executions against financial

institutions, (a) extends how much time a financial institution has to respond to an execution from five business days, as under the underlying bill, to seven business days; (b) modifies what an institution must give in response to a serving officer depending on the action it took when responding to the execution; and (c) adds requirements for institutions and creditors to notify the serving officer; (2) for wage executions after judgments, requires creditors to pay the levying officer's fee and actual postage costs in instances where the debt is paid directly; (3) adds the provision allowing any officer of any precinct to serve process on the comptroller; and (4) makes various minor 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).

### ***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, in addition to the serving officer's fee, from the amount removed from the judgment debtor's account, if any.

For executions where the judgment debtor is a natural person (i.e., an individual), 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 deduct the fee from the amount that is paid to the serving officer. The bill specifies that this fee is not a deposit account charge. As under existing law, the fee may

be recoverable by the judgment creditor as a taxable cost of the action.

### ***Financial Institution Duty to Respond***

Under existing law, the serving officer must only serve one financial institution for each debtor at a time and 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 by the seventh business day after the execution is served. Specifically, an institution must send the serving officer by first class mail, postage prepaid, notice on whether the institution removed funds from the judgment debtor's account under the execution with the amount of funds removed and referencing the docket number, if it was on the execution.

If the judgment debtor is not indebted to the financial institution or if the institution has not removed funds from the debtor's account under the execution, the institution must return to the serving officer by first class mail, postage prepaid, a complete set of all the documents the serving officer served including the cover page, with endorsements from other financial institutions, as the case may be, and the original true and attested copy of the execution. For executions where the judgment debtor is a natural person, it must also include the affidavit and exemption claim form. The institution's response must note on the serving officer's cover page, or if it chooses, on a separate document it prepares, that the debtor has no account with the institution or that no funds were removed from the account. The separate document must be affixed to or enclosed with the institution's return of the required material. The bill requires the institution to maintain reasonable procedures to prevent the resubmission of a response to the serving officer.

The bill also makes a conforming change by eliminating a provision for executions where the judgment debtor is not a natural person, that



allows a serving officer to assume that sufficient funds are unavailable for collection and proceed to serve another institution if the institution does not respond within 25 days after being served the demand.

### ***Natural Person Judgment Debtor***

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 allows institutions to note that funds were removed from a debtor's account on any account records available to debtor, including electronic ones. But it prohibits institutions from displaying or giving the debtor the serving officer's name or contact information.

Under the bill, if the debtor asks the institution about the execution, the institution may direct the debtor to the creditor or the creditor's attorney at the telephone number on the execution or to the applicable court clerk also identified on the execution form.

Existing law requires a judgment debtor to give notice of an exemption claim to the financial institution to prevent the institution from paying the serving officer. Upon receiving this notice, the institution must, within two business days, send a copy of it to the court clerk who issued the execution. The bill also requires the institution to send a copy of the notice, or a separate one the institution prepares, to the serving officer stating that the debtor submitted an exemption claim.

### ***Non-natural Person Judgment Debtor***

For executions where the judgment debtor is not a natural person, if the court clerk receives a written claim for determining property interests from another secured party, existing law requires the clerk to (1) enter the appearance of the secured party and (2) send copies of the written claim to the creditor, debtor, and financial institution where the execution was served with a notice that the disputed funds are being held until there is a court order for fund disposition. The bill requires

the creditor to send a copy of the written claim to the serving officer.

### **§ 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 for costs is for actual postage costs incurred.

Under the bill, if the levying officer served the judgment debtor's employer and the debt is later satisfied in whole or in part by payment directly to the creditor or his or her agent instead of the levying officer, the creditor or agent must pay the levying officer's fee or portion of it, and the actual postage costs.

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 service to be made by certified mail, return receipt requested, and the officer may first 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 this 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), when 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, like 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).

#### **§ 6 —SERVING THE COMPTROLLER**

Current law allows any officer of any precinct to serve process, in any action where process is allowed, on the Secretary of the State, motor vehicles or insurance commissioners, or the attorney general. The bill also allows any officer to serve process on the comptroller. By law, this service is considered to be within the officer's precinct.

#### **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 (i.e., an individual) 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)