



PA 23-23—sHB 6786

Judiciary Committee

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 act makes various changes in the laws on service of process.

For executions against financial institution accounts, the act 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 act:

1. expands the instances for which levying officers (e.g., state marshals) 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 an officer of any precinct to serve process on the comptroller in any action where process is allowed.

The act 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).

Fees and Postage Costs

For executions at out-of-state financial institutions lacking a main or branch office in Connecticut, but that conduct transactions online or by other electronic means, the law allows serving officers to serve the execution by certified mail, return receipt requested. The act 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 an individual (i.e., natural person), prior law required financial institutions to receive an \$8 fee from the serving officer as representative of the judgment creditor. The act maintains the fee, but instead

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requires the institution to deduct it from the amount paid to the serving officer. The act 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 act 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. The notice must (1) have the amount of funds removed and (2) reference the docket number, if it was on the execution.

If the judgment debtor is not indebted to the financial institution or if funds were not removed 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 served documents including the cover page, with endorsements from other financial institutions as applicable, and the original true and attested copy of the execution. For executions where the judgment debtor is an individual, it must also include the affidavit and exemption claim form. The institution's response must note on the serving officer's cover page or 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 returned material. The act requires the institution to maintain reasonable procedures to prevent the resubmission of a response to the serving officer.

The act also makes a conforming change by eliminating a provision for executions where the judgment debtor is not a natural person (i.e., legal entity), which allowed serving officers to assume that sufficient funds were unavailable for collection and proceed to serve another institution if the institution did not respond within 25 days after being served.

Individual Judgment Debtor

For executions where an individual is the judgment debtor, existing law requires the financial institution to notify judgment debtors and any secured party that is party to a control agreement with the financial institution if any funds are removed from the judgment debtor's account. The act allows institutions to note that funds were removed from a debtor's account on any account records available to the debtor, including electronic ones.

It also prohibits institutions from displaying or giving the debtor the serving officer's name or contact information. If the debtor asks the institution about the execution, the institution may direct the debtor to the creditor's or the creditor's attorney's telephone number or the applicable court clerk listed on the execution.

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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, within two business days, must send a copy of it to the court clerk who issued the execution. The act requires the institution to send an additional copy of the exemption notice, or a separate one the institution prepares, to the serving officer stating that the debtor submitted an exemption claim.

Entity Judgment Debtor

For executions where the judgment debtor is an entity, 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 secured party's appearance 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 act requires the creditor to also send a copy to the serving officer.

§ 3 — EXECUTION ON WAGES AFTER JUDGMENT

Fees and Costs

Under prior law, an officer empowered to serve process had to levy on all earnings that were due or became due to the judgment debtor, to the extent specified in the wage execution, plus the officer's fees and costs. The act specifies that the levy for costs is for actual postage costs incurred.

Under the act, 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, the creditor or agent must pay the levying officer's fee (or portion of it) and postage costs.

Service Jurisdiction

Generally, the law allows levying officers to serve process in their precincts (e.g., a state marshal's precinct is the county for which he or she is appointed). The act 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. Prior law also allowed these officers to serve process by mail to an employer's designated address if the address was not within the officer's appointed jurisdiction. The act specifies that the address must be an out-of-state payroll address for this exception to apply.

In these instances, the act 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.

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§ 4 — INDIFFERENT PERSON

By law, an indifferent person is someone who is not a proper officer and is not involved in the case. The act eliminates the authority for them to serve process (1) for multiple defendants living in different counties in the state who are named in the process and (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.

The law still allows an indifferent person to serve process when specifically authorized to, like delivering notice of special and convened sessions to legislators, serve 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 FEE MINIMUM AMOUNT

The act 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 law on service officer fees and expenses has a minimum of \$50. The act 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

Prior law only allowed officers 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 act allows them to also serve process on the comptroller. Existing law considers this service to be within the officer's precinct.

BACKGROUND

Law on Execution Against Financial Institution Accounts

By law, the procedures differ in some respects depending on whether the debtor is an individual or an entity. Among other things, the law generally provides that:

1. when a judgment debtor is an individual, 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

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- interests;
4. a similar hearing procedure applies if the debtor is an individual 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.