



General Assembly

January Session, 2019

Raised Bill No. 1087

LCO No. 6008



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

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

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

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2 statutes are repealed and the following is substituted in lieu thereof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

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

12 (b) Execution may be granted pursuant to this section against any
13 debts due from any financial institution to a judgment debtor which is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Statement of Purpose:

To permit additional methods for service of process on out-of-state financial institutions, limited liability companies and registered foreign limited liability companies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]