

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 2067 (Dixon)
Version: June 3, 2024
Hearing Date: June 11, 2024
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Financial institutions: service of process

DIGEST

This bill provides that, if a financial institution designates a third-party agent, as defined, to serve as a central location for service of legal process, the financial institution must designate at least one other central location which must be located in a different county than the third-party agent.

EXECUTIVE SUMMARY

Under current law, a financial institution with more than nine branches or offices in the state must designate a central location to accept all service of legal process in the state. This requirement was intended to avoid the need for creditors to serve multiple branches of the same bank with a writ of attachment or writ of execution, and to give financial institutions more certainty regarding where they might be served. Financial institutions with nine or fewer branches or offices may, but are not required to, designate a central location for service as well. The Department of Financial Protection and Innovation (DFPI) maintains a list of the designated locations on its website.

According to the author and sponsor of the bill, the Los Angeles County Sheriff's Department has severely curtailed its availability to issue writs for service at multiple financial institutions in the state, due to a combination of factors arising from the COVID-19 pandemic and staffing shortages. The author and sponsor state that, because many of the financial institutions have designated, as their central location for service, a third-party service agent located within the County of Los Angeles, this has led to a backlog in the service of writs on financial institutions. This bill is intended to alleviate the backlog by specifying that, if a financial institution designates a third-party agent, as defined by the bill, as its central location for service, the financial institution must designate at least one other central location, which must be located in a different county than the designated third-party agent.

This bill is sponsored by the California Association of Legal Support Professionals (CALSPRO). The Committee has not received timely opposition to this bill. If this bill is passed by this Committee, it will then be heard by the Senate Banking and Financial Institutions Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides for prejudgment attachment of property in connection with an action on a claim for money, where the party seeking the attachment applies for and obtains a writ of attachment, as specified. (Code Civ. Proc., pt. 2, tit. 6.5, §§ 481.010 et seq.)
- 2) Permits a range of property to be attached pursuant to 1), including:
 - a) Monies in a deposit account. (Code Civ. Proc., § 488.455.)
 - b) Property in a safe-deposit box. (Code Civ. Proc., § 488.460.)
- 3) Establishes the Enforcement of Judgments Law, which sets forth the procedures for enforcing a civil judgment. (Code Civ. Proc., pt. 2, tit. 9, div. 1, §§ 680.010 et seq.)
- 4) Provides that, when legal process is required to be personally served in connection with a civil judgment, the service shall be made in the same manner as provided for the service of civil summons, with specific exceptions, including:
 - a) If legal process is required to be personally served on a financial institution in connection with a deposit account or with property held for safekeeping, as collateral for an obligation owed to the financial institution or in a safe-deposit box, service must be made at the office or branch that has actual possession of the property levied upon, or at which a deposit levied upon is carried, or at which the financial institution maintains the account, except as provided in 5)-7). Service on the specific office or branch shall be made upon the officer, manager, or other person in charge of the office or branch at the time of service. (Code Civ. Proc., § 684.110(c).)
- 5) Requires a financial institution with more than nine branches or offices at which it conducts its business within the state to designate one or more central locations for service of legal process within the state, as follows:
 - a) Each designated location shall be referred to as a "central location."
 - b) The financial institution shall file a notice of its designation with the DFPI, which is effective upon filing, that includes the physical address of the central location, the days and hours during which the central location will accept service, and information relating to any limitations on the service of process the central location will accept (e.g., if the central location will not accept service of process related to safe-deposit boxes held at other locations).

- c) If a financial institution that is required to designate a central location fails to do so, each branch of that institution located in the state shall be deemed a central location at which service of legal process may be made, and all of the institution's branches or offices located within this state shall be deemed to be a branch or office covered by central process.
 - d) DFPI must provide on its website the central locations designated by each financial institution, and must update the records within 10 days of a financial institution making a modification or revocation. (Code Civ. Proc., § 684.115.)
- 6) Permits, but does not require, a financial institution with fewer than ten branches or offices at which it conducts its business within the state to designate one or more central locations for service, under the same terms as 5). (Code Civ. Proc., § 684.115.)
 - 7) Provides that, where legal process is served on a financial institution other than at a designated central location, the office may, but is not required to, act upon the service, even if the property is located at the location served. (Code Civ. Proc., § 684.110(d), (e).)

This bill:

- 1) Defines "third-party agent" as a non-financial institution entity, such as a corporation, that is in the business of accepting service of legal process on behalf of financial institutions and other businesses; "third-party agent" does not include a licensed attorney or law firm acting on behalf of a financial institution.
- 2) Provides that a financial institution may designate, as its central location for service of legal process, a third-party agent.
- 3) Provides that, if a financial institution designates a third-party agent as its central location for service of process, the financial institution must designate at least one additional central location that is not located in the same county as another designated central location.
 - a) In designating the second location, the financial institution may designate the same third-party agent as multiple locations if the third-party agent maintains physical locations in multiple counties.
- 4) Provides that, if a financial institution designates a third-party agent as its central location for service of process, it must provide the name of the third-party agent to the DFPI for posting on the DFPI's service website.
- 5) Makes nonsubstantive technical and conforming changes.

COMMENTS

1. Author's comment

According to the author:

AB 2067 seeks to provide more flexibility to legal service of process by expanding on the number of financial institutions which wish to limit the number of branches eligible to receive legal process. Existing law allows financial institutions, with ten or more California branches, with the option to designate one or more central locations for receiving legal process, such as service of writs of attachment and execution of bank levies, for all deposit accounts. This bill is in direct response to the COVID-19 pandemic which limited Sheriff Departments' ability to timely issue writs and levies, particularly in Los Angeles County. This growing backlog could be alleviated by allowing more than just one location to receive legal service of process and AB 2067 seeks to make such change.

2. Background: executing a writ of attachment or judgment against property held by a financial institution

California law permits a party to exercise control – temporarily or permanently – over another party's property to satisfy a debt or judgment, or in anticipation of a judgment. A "writ of execution" is a court order directing a sheriff or other officer to enforce a judgment, thereby allowing the judgment creditor to take or seize property in execution of a judgment that has been issued against the debtor.¹ A "writ of attachment" allows a creditor to seize the debtor's property while an action for a judgment in excess of \$500 is pending so that, if a judgment is entered, the creditor is able to use that property to satisfy the judgment.² Both types of writs may be executed against property held by a financial institution, including money, financial instruments, and items held in safety deposit boxes.³

In the event that a creditor needs to execute a writ against property held at a financial institution, the writ must be served on that financial institution. Prior to 2013, a creditor would have to determine the specific branch at which the property was held or the monies were deposited, which could require service at multiple locations of the same bank. In 2012, to simplify the process and prevent gamesmanship in the judgment collection process, the Legislature passed AB 2364 (Wagner, Ch. 484, Stats 2012), which required financial institutions with more than nine branches or offices in the state to designate a single branch for the service of all writs of execution or attachment, and permits financial institutions with nine or fewer branches or offices in the state to do the same. Under the regime implemented by AB 2364, the financial institution must

¹ Code Civ. Proc., § 699.510.

² *Id.*, § 483.010.

³ *Id.*, §§ 488.455, 488.460, 699.710.

provide its designated location to the Department of Financial Protection and Innovation (DFPI), and the DFPI must post the location, along with any limitations on the designation (e.g., excluding property kept in safety deposit boxes from attachment through service at the designated location) on its website.⁴

3. This bill requires a financial institutions that designates a third-party agent as its central location for service of process to designate at least one other central location, which must be located in a different county

According to the author and sponsors of the bill, the AB 2364 regime has hit a snag: many of the state's financial institutions have designated, as their central service locations, a third-party agent for service of process in the County of Los Angeles, and the Los Angeles County Sheriff's Department is severely backlogged in its ability to serve writs of execution or attachment.⁵ As a result, there is a statewide slowdown on the service of writs of execution and attachment, even for property held at a branch or office located outside the County of Los Angeles.

This bill is intended to circumvent the service logjam in Los Angeles by specifying that, if a financial institution designates a third-party agent as its central location, the financial institution must additionally designate a second central location; that second central location must be located in a different county than the first central location. The bill defines a third-party agent as a non-financial entity that is in the business of accepting service of legal process on behalf of financial institutions and other businesses, and expressly excludes attorneys and law firms from the definition; this definition appears adequate to ensure that financial institutions are designating only those entities that are adequately equipped to accept service. The bill also clarifies that a financial institution that designates a third-party agent as its central location must provide the name of the third-party agent to the DFPI for inclusion on the DFPI's website.

4. Arguments in support

According to CALSPro, the sponsor of the bill:

During the pandemic, the Los Angeles Sheriff's Department began limiting the number of requests for issuance of writs of attachment and execution of bank levies. Like many agencies during and after the pandemic, the department made these changes due primarily to staffing and resource limitations. CALSPro has worked collaboratively with the Los Angeles Sheriff's Department to address

⁴ *Id.*, § 684.115.

⁵ A private registered process server may serve a writ on a financial institution, but before doing so they must deposit a copy of the writ with, and pay a fee to, the Sheriff's Office in the county in which the writ will be served. (Code Civ. Proc., § 699.080.) Accordingly, the backlog cannot be avoided through the use of private process servers.

this limitation; unfortunately, the existing backlog continues. This backlog is a significant problem for the timely execution of valid writs and levies.

AB 2067 directs large financial institutions who designate a third-party agent to receive legal service of process to designate another location in a different county. Specifically, this bill allows a financial institution to designate a third-party agent as a non-financial institution who is in the business of accepting legal process on behalf of the institution. By requiring one additional location in a different county, this bill helps sheriffs with the timely issuance of writs and levies by allowing process to be spread amongst several counties while also helping prevent judgment debtors from dodging payment....

We acknowledge and appreciate the stakeholders for working with us, specifically the California Bankers Association, California Credit Union League, and California Community Banking Network. We believe that this compromise is a fair solution for all – financial institutions, legal support professionals, and parties seeking to enforce a writ or levy.

SUPPORT

CALSPPro

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation: AB 2364 (Wagner, Ch. 484, Stats 2012) required a financial institution with more than nine locations in the state to designate a single location for the service of writs. AB 2364 is discussed in greater detail in Part 2 of this analysis.

PRIOR VOTES:

Assembly Floor (Ayes 72, Noes 0)
Assembly Appropriations Committee (Ayes 14, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
