

AMENDED IN ASSEMBLY APRIL 30, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2364

Introduced by Assembly Member Wagner

February 24, 2012

An act to amend Sections 482.070, 488.455, 488.460, 488.600, 488.610, 684.110, 700.140, 700.150, 700.160, 701.030, and 703.570 of, and to add ~~Sections 684.115 and 701.015~~ *Section 684.115* to, the Code of Civil Procedure, to amend Sections 1450 and 1620 of the Financial Code, and to amend ~~Section~~ *Sections 1755 and 1755.1* of the Unemployment Insurance Code, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 2364, as amended, Wagner. Civil procedure: attachment.

Existing law establishes procedures for service of various legal processes on financial institutions, and procedures for attachment and execution of levies served on financial institutions. Existing law requires service in connection with a levy to be made upon the branch or at the office that has actual possession of the property levied upon, or where the deposit account levied upon is carried, as specified.

This bill would instead require a financial institution that has more than 9 branch offices in California to designate one or more central locations for service of legal process within the state, and would authorize a financial institution with fewer than 9 branch offices in California to do the same. The bill would establish procedures for service of process and execution of levies at a financial institution's central locations and other branches. The bill would require financial institutions designating central locations to file a notice of the designation with the Department of Financial Institutions. The bill would require the

department to update its online records to reflect the designation, and would require the department to provide a copy of the current notice to any person upon request, as specified. The bill would establish procedures for a judgment creditor to engage in a levy action against a specific deposit account or safe deposit box at a financial institution, including by filing a written request with the financial institution for enforcement against the account or safe deposit box. The bill would require the request to contain specified information and to be signed under penalty of perjury.

By expanding the scope of the offense of perjury, this bill would impose a state-mandated local program.

The bill would require a levying officer to give at least 3 days’ notice to the judgment creditor regarding opening and seizing the contents of a safe deposit box pursuant to these provisions, as specified.

~~The bill would establish procedures for a financial institution to use when a judgment debtor is identified in a legal process by a name that is similar, but not identical to the name in which a deposit account or safe deposit box stands.~~

The bill would make additional conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 482.070 of the Code of Civil Procedure
- 2 is amended to read:
- 3 482.070. (a) (1) Except as otherwise provided in this title,
- 4 legal process required or permitted to be served under this title
- 5 may be served personally or by mail.
- 6 (2) For purposes of this title, the term “legal process” shall refer
- 7 to each and all of the writs, notices, orders, or other papers required
- 8 to be served pursuant to this title.
- 9 (b) Except as otherwise provided in this section, service of legal
- 10 process under this title is governed by Article 1 (commencing with
- 11 Section 684.010) and Article 2 (commencing with Section 684.110)

1 of Chapter 4 of Division 1 of Title 9, including the provisions of
2 Section 684.120 extending time when service is made by mail.

3 (c) For the purpose of subdivision (b), in Article 1 (commencing
4 with Section 684.010) and Article 2 (commencing with Section
5 684.110) of Chapter 4 of Division 1 of Title 9:

6 (1) References to the “judgment debtor” shall be deemed
7 references to the defendant.

8 (2) References to the “judgment creditor” shall be deemed
9 references to the plaintiff.

10 (3) References to a “writ” shall be deemed references to a writ
11 of attachment.

12 (4) References to a “notice of levy” shall be deemed references
13 to a notice of attachment.

14 (d) If the defendant has not appeared in the action and legal
15 process is required to be personally served on the defendant under
16 this title, service shall be made in the same manner as a summons
17 is served under Chapter 4 (commencing with Section 413.10) of
18 Title 5.

19 (e) Except for service of a subpoena or other process to require
20 the attendance of the defendant or service of a paper to bring the
21 defendant into contempt, if the defendant has an attorney of record
22 in the action, service shall be made on the attorney rather than on
23 the defendant.

24 (f) Proof of service under this title is governed by Article 3
25 (commencing with Section 684.210) of Chapter 4 of Division 1
26 of Title 9.

27 SEC. 2. Section 488.455 of the Code of Civil Procedure is
28 amended to read:

29 488.455. (a) Subject to Sections 488.465 and 684.115, to attach
30 a deposit account, the levying officer shall personally serve a copy
31 of the writ of attachment and a notice of levy on the financial
32 institution with which the deposit account is maintained.

33 (b) The attachment lien that arises upon service of a writ of
34 attachment and notice of levy reaches only amounts in a deposit
35 account at the time of service on the financial institution, including
36 the amount of any deposit not yet finally collected, unless the
37 deposit is returned unpaid to the financial institution.

38 (c) The levying officer shall serve a copy of the writ of
39 attachment and a notice of levy on any third person in whose name

1 any deposit account described therein stands. That service shall
2 be made personally or by mail as follows:

3 (1) At the time of levy or promptly thereafter, if the party
4 seeking the levy informs the levying officer of that person and his,
5 her, or its residence or business address.

6 (2) Promptly following the levying officer's receipt of a
7 garnishee's memorandum if service was not accomplished pursuant
8 to paragraph (1), if the garnishee's memorandum identifies that
9 person and his, her, or its residence or business address.

10 (d) The financial institution shall not honor a withdrawal request
11 or a check or other order for the payment of money from the deposit
12 account if presentation of that withdrawal request or item to the
13 financial institution occurs during the time the attachment lien is
14 in effect unless, following that withdrawal or payment, sufficient
15 funds are available to cover the levy. For these purposes, a
16 withdrawal from the deposit account to cover the financial
17 institution's standard fee or charge for processing the levy shall
18 not be considered a payment of money from the account in
19 violation of this subdivision.

20 (e) During the time the attachment lien is in effect, the financial
21 institution is not liable to any person for any of the following:

22 (1) Performance of the duties of a garnishee under the levy.

23 (2) Nonpayment of a check or other order for the payment or
24 transfer of money drawn or presented against the deposit account
25 if the nonpayment is pursuant to the requirements of subdivision
26 (d).

27 (3) Refusal to pay a withdrawal from the deposit account if the
28 refusal is pursuant to the requirements of subdivision (d).

29 (f) For the purposes of this section, none of the following is a
30 third person in whose name the deposit account stands:

31 (1) A person who is only a person named as the beneficiary of
32 a Totten trust account.

33 (2) A person who is only a payee designated in a pay-on-death
34 provision in an account pursuant to Section 18318.5 of the
35 Financial Code or Section 5140 of the Probate Code, or other
36 similar provision.

37 (3) A person who is only acting in a representative or custodial
38 capacity with respect to benefits paid or payable by the United
39 States government. Rather, accounts maintained by the
40 representative or custodian shall be deemed to stand in that

1 beneficiary's name, and the amounts therein shall be covered by
2 a levy against that beneficiary.

3 (g) For purposes of this section, final payment of a deposit shall
4 be deemed to have occurred in accordance with Section 4215 or
5 11210 of the Commercial Code or with automated clearinghouse
6 or Federal Reserve System rule, regulation, operating circular, or
7 similar governing document, as applicable to the deposit. If, for
8 any reason, a deposit is returned by the financial institution upon
9 which it is drawn, that deposit shall not be deemed finally collected
10 for purposes of this subdivision regardless of any later payment
11 by the financial institution upon which the deposit is drawn.

12 (h) When a deposit account has been attached, as an alternative
13 to paying the amount of the deposit account that is attached to the
14 levying officer as required by Section 488.600, the financial
15 institution may continue to hold the deposit account until the
16 deposit account is levied upon after judgment in the action or is
17 earlier released, the deposit account to be held in one of the
18 following manners:

19 (1) If the entire deposit account is attached, the financial
20 institution may hold the deposit account on the terms applicable
21 before the attachment, subject to the requirements of subdivision
22 (d).

23 (2) If less than the entire deposit account is attached:

24 (A) With the consent of the defendant, and any third person in
25 whose name the deposit account stands, the financial institution
26 may hold in the deposit account on the same terms an amount
27 larger than the attached amount as necessary to avoid a penalty or
28 a reduction of the rate of interest.

29 (B) If the defendant, and any third person in whose name the
30 deposit account stands, do not consent as provided in subparagraph
31 (A), the financial institution may hold the attached amount on the
32 same terms affecting the deposit account before the attachment,
33 subject to the requirements of subdivision (d).

34 (3) The financial institution may hold the attached deposit
35 account in any other manner agreed upon by the plaintiff, the
36 defendant, and any third person in whose name the deposit account
37 stands.

38 (i) Subdivision (h) does not prevent a financial institution that
39 is holding an attached deposit account as provided in subdivision
40 (h) from paying the attached amount to the levying officer before

1 the time the financial institution otherwise is required to pay the
2 amount under subdivision (h).

3 SEC. 3. Section 488.460 of the Code of Civil Procedure is
4 amended to read:

5 488.460. (a) Subject to Section 488.465, to attach property in
6 a safe-deposit box, the levying officer shall personally serve a copy
7 of the writ of attachment and a notice of attachment on the financial
8 institution with which the safe-deposit box is maintained.

9 (b) At the time of levy or promptly thereafter, the levying officer
10 shall serve a copy of the writ of attachment and a notice of
11 attachment on any third person in whose name the safe-deposit
12 box stands.

13 (c) During the time the attachment lien is in effect, the financial
14 institution may not permit the removal of any of the contents of
15 the safe-deposit box except as directed by the levying officer.

16 (d) Upon receipt of a garnishee's memorandum from the
17 financial institution, as required by Section 488.610, indicating a
18 safe-deposit box is under levy, the levying officer shall promptly
19 mail a written notice to the judgment creditor demanding an
20 additional fee as required by Section 26723 of the Government
21 Code, plus the costs to open the safe-deposit box and seize and
22 store the contents. The levying officer shall release the levy on the
23 safe-deposit box if the plaintiff does not pay the required fee, plus
24 costs, within three business days plus the extended time period
25 specified in subdivision (a) of Section 1013 for service by mail by
26 the levying officer.

27 (e) The levying officer may first give the person in whose name
28 the safe-deposit box stands an opportunity to open the safe-deposit
29 box to permit the removal pursuant to the attachment of the
30 attached property. The financial institution may refuse to permit
31 the forcible opening of the safe-deposit box to permit the removal
32 of the attached property unless the plaintiff or levying officer pays
33 in advance the cost of forcibly opening the safe-deposit box and
34 of repairing any damage caused thereby.

35 (f) During the time the attachment lien is in effect, the financial
36 institution is not liable to any person for any of the following:

37 (1) Performance of the duties of a garnishee under the
38 attachment.

39 (2) Refusal to permit access to the safe-deposit box by the person
40 in whose name it stands.

1 (3) Removal of any of the contents of the safe-deposit box
2 pursuant to the attachment.

3 (g) If the levying officer removes any property from the
4 safe-deposit box to satisfy the levy, but allows other property to
5 remain in the safe-deposit box, the attachment lien is released
6 automatically with respect to any property that remains in the
7 safe-deposit box.

8 SEC. 4. Section 488.600 of the Code of Civil Procedure is
9 amended to read:

10 488.600. (a) Sections 701.010, 701.015, 701.020, 701.040,
11 701.050, 701.060, and 701.070 prescribe duties and liabilities of
12 a third person under a levy made under this title.

13 (b) For the purposes of this section, references in Sections
14 701.010, 701.015, 701.020, 701.040, 701.050, and 701.060 to:

15 (1) “Amount required to satisfy the judgment” shall be deemed
16 references to the amount required to satisfy the amount to be
17 secured by the attachment.

18 (2) “Execution lien” or “lien” shall be deemed references to the
19 attachment lien.

20 (3) “Judgment creditor” shall be deemed references to the
21 plaintiff.

22 (4) “Judgment debtor” shall be deemed references to the
23 defendant.

24 (5) “Levy” shall be deemed references to levy of attachment.

25 (6) “Notice of levy” shall be deemed references to notice of
26 attachment.

27 (7) “Release” of property shall be deemed references to release
28 of property pursuant to this title.

29 (8) “Satisfaction or discharge of the judgment” shall be deemed
30 references to the satisfaction or termination of the attachment.

31 (9) “Writ” or “writ of execution” shall be deemed references to
32 a writ of attachment.

33 (c) For the purposes of this section, references in Section
34 701.070 to:

35 (1) “Levy” shall be deemed references to levy of attachment.

36 (2) “Notice of the levy” shall be deemed references to notice
37 of attachment.

38 SEC. 5. Section 488.610 of the Code of Civil Procedure is
39 amended to read:

1 488.610. (a) At the time of service of a copy of the writ of
2 attachment and a notice of attachment on a third person, the levying
3 officer shall request the third person to give the levying officer a
4 garnishee's memorandum containing the information required by
5 this section. Within 10 days after the request is made, the third
6 person shall mail or deliver the garnishee's memorandum to the
7 levying officer whether or not the levy is effective.

8 (b) The garnishee's memorandum shall be executed under oath
9 and shall contain the following information:

10 (1) A description of any property of the defendant sought to be
11 attached that is not delivered to the levying officer and the reason
12 for not delivering the property.

13 (2) A statement of the amount and terms of any obligation to
14 the defendant sought to be attached that is due and payable and is
15 not paid to the levying officer and the reason for not paying the
16 obligation.

17 (3) A statement of the amount and terms of any obligation to
18 the defendant sought to be attached that is not due and payable at
19 the time of levy.

20 (4) A description of claims and rights of other persons to the
21 attached property or obligation that are known to the third person
22 and the names and addresses of those other persons.

23 (5) A statement that the garnishee holds neither any property
24 nor any obligations in favor of the judgment debtor.

25 (6) Any information required to be included pursuant to
26 paragraph (1) of subdivision (b) of Section 701.015.

27 (c) If a garnishee's memorandum is received from the third
28 person, the levying officer shall promptly mail or deliver a copy
29 of the memorandum to the plaintiff and attach the original to the
30 writ when it is returned to the court. If a garnishee's memorandum
31 is not received from the third person, the levying officer shall so
32 state in the return.

33 (d) Except as provided in subdivisions (e) and (f), if a third
34 person does not give the levying officer a garnishee's memorandum
35 within the time provided in subdivision (a) or does not provide
36 complete information, the third person may, in the court's
37 discretion, be required to pay the costs and reasonable attorney's
38 fees incurred in any proceedings to obtain the information required
39 in the garnishee's memorandum.

1 (e) Notwithstanding subdivision (a), where a deposit account
2 or property in a safe-deposit box is attached, the financial
3 institution need not give a garnishee’s memorandum to the levying
4 officer if the financial institution fully complies with the levy and,
5 if a garnishee’s memorandum is required, the garnishee’s
6 memorandum need provide information with respect only to
7 property which is carried on the records available at the office or
8 branch where the levy is made, unless the levy has been served at
9 a central location designated by a financial institution in accordance
10 with Section 684.115, in which case the garnishee’s memorandum
11 shall apply to all offices and branches of the financial institution
12 except to the extent acceptance of the levy at that central location
13 is limited pursuant to paragraph (3) of subdivision (a) of Section
14 684.115.

15 (f) Notwithstanding subdivision (a), the third person need not
16 give a garnishee’s memorandum to the levying officer if both of
17 the following conditions are satisfied:

18 (1) The third person has delivered to the levying officer all of
19 the property sought to be attached.

20 (2) The third person has paid to the levying officer the amount
21 due at the time of levy on any obligation to the defendant that was
22 attached and there is no additional amount that thereafter will
23 become payable on the obligation levied upon.

24 SEC. 6. Section 684.110 of the Code of Civil Procedure is
25 amended to read:

26 684.110. (a) (1) Subject to subdivisions (b), (c), and (d), if
27 legal process is required to be personally served under this title,
28 service shall be made in the same manner as a summons is served
29 under Chapter 4 (commencing with Section 413.10) of Title 5.

30 (2) For purposes of this title, the term “legal process” shall refer
31 to each and all of the writs, notices, orders, or other papers required
32 or permitted to be served pursuant to this title.

33 (b) If the legal process is required to be personally served under
34 this title and service on an attorney is required under Article 1
35 (commencing with Section 684.010), service shall be made on the
36 attorney in the manner provided in Section 684.040.

37 (c) If the legal process is required to be personally served on
38 (1) a financial institution in connection with a deposit account or
39 with property held for safekeeping, as collateral for an obligation
40 owed to the financial institution or in a safe-deposit box, (2) a title

1 insurer (as defined in Section 12340.4 of the Insurance Code) or
2 underwritten title company (as defined in Section 12340.5 of the
3 Insurance Code), or (3) an industrial loan company (as defined in
4 Section 18003 of the Financial Code), service shall be made at the
5 office or branch that has actual possession of the property levied
6 upon or at which a deposit account levied upon is carried and shall
7 be made upon the officer, manager, or other person in charge of
8 the office or branch at the time of service. For purposes of this
9 section, the office or branch at which a deposit account levied upon
10 is carried shall mean the branch, office, or other location where
11 the financial institution maintains the account.

12 (d) Notwithstanding subdivision (c), with respect to legal process
13 served on a financial institution, if the financial institution has
14 designated a central location for service of legal process pursuant
15 to Section 684.115, unless the financial institution elects to treat
16 legal process served at a branch or office as effective, that legal
17 process so served on the branch or office will not reach those
18 accounts or property and need not be reported on the financial
19 institution's garnishee memorandum.

20 (e) Notwithstanding subdivision (c), a financial institution, title
21 insurer, or industrial loan company, in its discretion and without
22 violating any obligation to its customer, may act upon service of
23 legal process at any of its offices or branches, whether or not the
24 office or branch is the location wherein accounts or property that
25 may be reached by the process is or are maintained or located.

26 SEC. 7. Section 684.115 is added to the Code of Civil
27 Procedure, to read:

28 684.115. (a) A financial institution may, and if it has more
29 than nine ~~branch~~ *branches or* offices at which it conducts its
30 business within ~~California~~ *this state*, shall, designate one or more
31 central locations for service of legal process within ~~California~~ *this*
32 *state. Each designated location shall be referred to as a "central*
33 *location."* If a financial institution elects or is required to designate
34 a central location for service of legal process, the financial
35 institution shall file a notice of its designation with the Department
36 of Financial Institutions, which filing shall be effective upon filing
37 and shall contain all of the following:

- 38 (1) The physical address of the central location.
- 39 (2) The days and hours during which service will be accepted
40 at the central location.

1 (3) If the central location will not accept service of legal process
2 directed at deposit accounts maintained or property held at all of
3 the financial institution's branches *or offices* within ~~California~~ *this*
4 *state*, or if the service accepted at the central location will not apply
5 to safe-deposit boxes or other property of the judgment debtor held
6 by or for the judgment debtor, the filing shall also contain sufficient
7 information to permit a determination of the limitation or
8 limitations, including, in the case of a limitation applicable to
9 certain branches *or offices*, an identification of the branches *or*
10 *offices* as to which service at the central location will not apply
11 and the nature of the limitation applicable to those branches *or*
12 *offices*. If the limitation will apply to all branches *or offices* of the
13 financial institution within ~~California~~ *this state*, the filing may
14 indicate the nature of the limitation and that it applies to all
15 branches *or offices*, in lieu of an identification of branches *or*
16 *offices* as to which the limitation applies. To the extent that a
17 financial institution's designation of a central location for service
18 of legal process covers the process directed at deposit accounts,
19 safe-deposit boxes, or other property of the judgment debtor held
20 by or for the judgment debtor at a particular branch *or office* located
21 within ~~California~~ *this state*, the branch *or office* shall be a branch
22 *or office* covered by central process.

23 (b) Should a financial institution required to designate a central
24 location fail to do so, each branch of that institution located in
25 ~~California~~ *this state* shall be deemed to be a central location at
26 which service of legal process may be made, and all of the
27 institution's branches *or offices* located within ~~California~~ *this state*
28 shall be deemed to be a branch *or office* covered by central process.

29 (c) Subject to any limitation noted pursuant to paragraph (3) of
30 subdivision (a), service of legal process at a central location of a
31 financial institution shall be effective against all deposit accounts
32 and all property held for safekeeping, as collateral for an obligation
33 owed to the financial institution or in a safe-deposit box if the same
34 is described in the legal process and held by the financial institution
35 at any branch *or office* covered by central process and located
36 within ~~California~~ *this state*. However, while service of legal process
37 at the central location will establish a lien on all property, if any
38 property other than deposit accounts is physically held by the
39 financial institution in a county other than that in which the
40 designated central location is located, the financial institution shall

1 include in its garnishee’s memorandum the location or locations
2 of the property, and the judgment creditor shall obtain a writ of
3 execution covering the property and directed to the levying officer
4 in that county to accomplish the turnover of the property and shall
5 forward the writ and related required documentation to the levying
6 officer in the county in which the property is held.

7 (d) A financial institution may modify or revoke any designation
8 made pursuant to subdivision (a) by filing the modification or
9 revocation with the Department of Financial Institutions. The
10 modification or revocation shall be effective when the Department
11 of Financial Institutions’ records have been updated to reflect the
12 modification or revocation, provided that the judgment creditor
13 may rely upon the superseded designation during the 30-day period
14 following the effective date of the revocation or modification.

15 (e) (1) The Department of Financial Institutions shall update its
16 online records to reflect a filing by a financial institution pursuant
17 to subdivision (a) or a modification or revocation filed by a
18 financial institution pursuant to subdivision (d) within 10 business
19 days following the filing by the financial institution. The
20 Department of Financial Institutions’ *Internet* Web site shall reflect
21 the date its online records for each financial institution have most
22 recently been updated.

23 (2) The Department of Financial Institutions shall provide any
24 person requesting it with a copy of each current filing made by a
25 financial institution pursuant to subdivision (a). The Department
26 of Financial Institutions may satisfy its obligation under this
27 subdivision by posting all current designations of a financial
28 institution, or the pertinent information therein, on an Internet Web
29 site available to the public without charge, and if that information
30 is made available, the Department of Financial Institutions may
31 impose a reasonable fee for furnishing that information in any
32 other manner.

33 (f) As to deposit accounts maintained or property held for
34 safekeeping, as collateral for an obligation owed to the financial
35 institution or in a safe-deposit box at a branch *or office* covered
36 by central process, service of legal process at any location other
37 than a central location designated by the financial institution shall
38 not be effective unless the financial institution, in its absolute
39 discretion, elects to act upon the process at that location *as if it*
40 *were effective.* ~~For these purposes, the mere acceptance by an~~

1 officer or employee of a financial institution of legal process at a
2 place other than a central location designated for service of the
3 process shall not be deemed to constitute an election to act upon
4 that legal process, and any legal process improperly served may,
5 in the bank's absolute discretion, be returned in due course, *In the*
6 *absence of an election, the financial institution may respond to*
7 *the legal process by mailing or delivery of the garnishee's*
8 *memorandum to the levying officer within the time otherwise*
9 *provided therefor*; with a statement on the garnishee's
10 memorandum that the legal process was not properly served at the
11 financial institution's designated location for receiving legal
12 process, *and, therefor, was not processed*, and the address at which
13 the financial institution is to receive legal process.

14 (g) If any legal process is served at a central location of a
15 financial institution pursuant to this section, all related papers to
16 be served on the financial institution shall be served at that location,
17 unless agreed to the contrary between the serving party and the
18 financial institution.

19 (h) This subdivision shall apply whenever a financial institution
20 operates within ~~California~~ *this state* at least one branch or office
21 in addition to its head office or main office, as applicable, or a
22 financial institution headquartered in another state operates more
23 than one branch *or office* within ~~California~~ *this state*, and no central
24 location has been ~~designed~~ *designated* or deemed to have been
25 designated by the institution for service of legal process relating
26 to deposit accounts maintained at the financial institution's head
27 office or main office, as applicable, and branches located within
28 ~~California~~ *this state*. If a judgment creditor reasonably believes
29 that, pursuant to Section 700.140 and, if applicable, Section
30 700.160, any act of enforcement would be effective against a
31 specific deposit account maintained at a financial institution
32 described in this subdivision, the judgment creditor may file with
33 the financial institution a written request that the financial
34 institution identify the branch *or office* within ~~California~~ *this state*
35 at which a specified account might be maintained by the financial
36 institution. The written request shall contain the following
37 statements or information:

38 (1) The name of the person reasonably believed by the judgment
39 creditor to be a person in whose name the specified deposit account
40 stands.

1 (2) If the name of the person reasonably believed by the
 2 judgment creditor to be a person in whose name the specified
 3 deposit account stands is not a judgment debtor identified in the
 4 writ of execution, a statement that a person reasonably believed
 5 by the judgment creditor to be a person in whose name the specified
 6 deposit account stands will be appropriately identified in the legal
 7 process to be served pursuant to Section 700.160, including any
 8 supplementary papers, such as a court order or affidavit if the same
 9 will be required by Section 700.160.

10 (3) The specific identifying number of the account reasonably
 11 believed to be maintained with the financial institution and standing
 12 in the name of the judgment debtor or other person.

13 (4) The address of the requesting party.

14 (5) A declaration by the judgment creditor or the judgment
 15 creditor's counsel stating substantially the following:

16

17 ¶

18 I hereby declare that this *deposit* account location request
 19 complies with Section 684.115 of the Code of Civil Procedure,
 20 that the account or accounts of the judgment debtor or other person
 21 or persons appropriately identified in the legal process and
 22 specified herein are subject to a valid writ of execution, or court
 23 order, that I have a reasonable belief, formed after an inquiry
 24 reasonable under the circumstances, that the financial institution
 25 receiving this *deposit* account location request has an account
 26 standing in the name of the judgment debtor or other person or
 27 persons appropriately identified in the legal process, and that
 28 information pertaining to the location of the account will assist the
 29 judgment creditor in enforcing the judgment.²² *judgment*.

30

31 (i) The request contemplated by subdivision (h) shall be signed
 32 by the judgment creditor or the judgment creditor's counsel under
 33 penalty of perjury in accordance with the provisions of Section
 34 2015.5 and filed at the financial institution's head office located
 35 within ~~California~~ *this state* or, if the financial institution's head
 36 office is in another state, at one of its branches *or offices* within
 37 ~~California~~ *this state*. Failure to comply with the requirements of
 38 subdivision (h) and this subdivision shall be sufficient basis for
 39 the financial institution to refuse to produce the information that
 40 would otherwise be required by subdivision (j).

1 (j) Within 10 banking days following receipt by a financial
2 institution at the applicable location specified in subdivision (i) of
3 a request contemplated by subdivision (h), as to each specific
4 *deposit* account identified in the request contemplated by
5 subdivision (h), the financial institution shall respond by mailing,
6 by first-class mail with postage prepaid, to the requester's address
7 as specified in the request a response indicating the branch *or office*
8 location of the financial institution at which the specified deposit
9 account might be maintained, or, if the specified deposit account,
10 if it exists, would not be maintained at a specific location, at least
11 one place within ~~California~~ *this state* at which legal process relating
12 to the deposit account should or may be served. The response to
13 be furnished pursuant to this subdivision shall not require the
14 financial institution to determine whether an account exists or, if
15 an account does exist, whether it would be reached by the legal
16 process, rather, the branch *or office* location shall be determined
17 and reported by the financial institution based solely upon its
18 determination that an account with the identifying number provided
19 by the requester would be maintained at that branch if an account
20 did exist, and the response shall not contain any information about
21 the name in which the account stands or any other information
22 concerning the account, if it exists. If more than one account
23 number is specified in the request, the financial institution's
24 responses as to some or all of those account numbers may be
25 combined in a single writing.

26 (k) A response furnished in good faith by the financial institution
27 pursuant to subdivision (j) shall not be deemed to violate the
28 privacy of any person in whose name the specified *deposit* account
29 stands nor the privacy of any other person, and shall not require
30 the consent of the person in whose name the account stands nor
31 that of any other person.

32 (l) A financial institution shall not notify the person in whose
33 name the specified *deposit* account stands or any other person
34 related to the specified account of the receipt of any request made
35 pursuant to ~~this~~ subdivision (h) and affecting that person's or
36 persons' accounts at the financial institution, provided that the
37 financial institution shall have no liability for its failure to comply
38 with the provisions of this subdivision.

39 SEC. 8. Section 700.140 of the Code of Civil Procedure is
40 amended to read:

1 700.140. (a) Subject to Sections 684.115 and 700.160, to levy
2 upon a deposit account, the levying officer shall personally serve
3 a copy of the writ of execution and a notice of levy on the financial
4 institution with which the deposit account is maintained.

5 (b) The execution lien that arises upon service of a writ of
6 execution and notice of levy reaches only amounts in a deposit
7 account at the time of service on the financial institution, including
8 the amount of any deposit not yet finally collected unless the
9 deposit is returned unpaid to the financial institution.

10 (c) The levying officer shall serve a copy of the writ of execution
11 and a notice of levy on any third person in whose name any deposit
12 account described therein stands. Service shall be made personally
13 or by mail as follows:

14 (1) At the time of levy or promptly thereafter, if the party
15 seeking the levy informs the levying officer of the person and his,
16 her, or its residence or business address.

17 (2) Promptly following the levying officer's receipt of a
18 garnishee's memorandum if service was not accomplished pursuant
19 to paragraph (1) if the garnishee's memorandum identifies the
20 person and his, her, or its residence or business address.

21 (d) The financial institution shall not honor a withdrawal request
22 or a check or other order for the payment of money from the deposit
23 account if presentment of the withdrawal request or item to the
24 financial institution occurs during the time the execution lien is in
25 effect unless, following the withdrawal or payment, sufficient
26 funds are available to cover the levy. For these purposes, a
27 withdrawal from the deposit account to cover the financial
28 institution's standard fee or charge for processing the levy shall
29 not be considered a payment of money from the account in
30 violation of this subdivision.

31 (e) During the time the execution lien is in effect, the financial
32 institution is not liable to any person for any of the following:

33 (1) Performance of the duties of a garnishee under the levy.

34 (2) Nonpayment of a check or other order for the payment or
35 transfer of money drawn or presented against the deposit account
36 if the nonpayment is pursuant to the requirements of subdivision
37 (d).

38 (3) Refusal to pay a withdrawal from the deposit account if the
39 refusal is pursuant to the requirements of subdivision (d).

1 (f) When the amount levied upon pursuant to this section is paid
2 to the levying officer, the execution lien on the deposit account
3 levied upon terminates.

4 (g) For the purposes of this section, none of the following is a
5 third person in whose name the deposit account stands:

6 (1) A person who is only a person named as the beneficiary of
7 a Totten trust account.

8 (2) A person who is only a payee designated in a pay-on-death
9 provision in an account pursuant to Section 18318.5 of the
10 Financial Code or Section 5140 of the Probate Code, or other
11 similar provision.

12 (3) A person who is only acting in a representative or custodial
13 capacity with respect to benefits paid or payable by the United
14 States government. Rather, accounts maintained by the
15 representative or custodian shall be deemed to stand in the
16 beneficiary's name, and the amounts therein shall be covered by
17 a levy against the beneficiary.

18 (h) For purposes of this section, final payment of a deposit shall
19 be deemed to have occurred in accordance with Section 4215 or
20 11210 of the Commercial Code or with automated clearinghouse
21 or Federal Reserve System rule, regulation, operating circular, or
22 similar governing document, as applicable to the deposit. If, for
23 any reason, a deposit is returned by the financial institution upon
24 which it is drawn, the deposit shall not be deemed finally collected
25 for purposes of this subdivision regardless of any later payment
26 by the financial institution upon which the deposit is drawn.

27 SEC. 9. Section 700.150 of the Code of Civil Procedure is
28 amended to read:

29 700.150. (a) Subject to Section 700.160, to levy upon property
30 in a safe-deposit box, the levying officer shall personally serve a
31 copy of the writ of execution and a notice of levy on the financial
32 institution with which the safe-deposit box is maintained.

33 (b) At the time of the levy or promptly thereafter, the levying
34 officer shall serve a copy of the writ of execution and a notice of
35 levy on any third person in whose name the safe-deposit box stands.
36 Service shall be made personally or by mail.

37 (c) During the time the execution lien is in effect, the financial
38 institution may not permit the removal of any of the contents of
39 the safe-deposit box except as directed by the levying officer.

1 (d) Upon receipt of a garnishee's memorandum from the
2 financial institution indicating a safe-deposit box is under levy,
3 the levying officer shall promptly mail a written notice to the
4 judgment creditor demanding an additional fee as required by
5 Section 26723 of the Government Code, plus the costs to open the
6 safe-deposit box and seize and store the contents. The levying
7 officer shall release the levy on the safe-deposit box if the judgment
8 creditor does not pay the required fee, plus costs, within three
9 business days plus the extended time period specified in
10 subdivision (a) of Section 1013 for service by mail by the levying
11 officer.

12 (e) The levying officer may first give the person in whose name
13 the safe-deposit box stands an opportunity to open the safe-deposit
14 box to permit the removal pursuant to the levy of the property
15 levied upon. The financial institution may refuse to permit the
16 forcible opening of the safe-deposit box to permit the removal of
17 the property levied upon unless the levying officer or the judgment
18 creditor pays in advance the cost of forcibly opening the
19 safe-deposit box and of repairing any damage caused thereby.

20 (f) The levying officer shall give the judgment creditor at least
21 three court-~~days~~ *days*' advance notice of the date and time the
22 levying officer will open the safe-deposit box and seize the contents
23 thereof, and the judgment creditor shall be entitled to be present
24 at that time.

25 (g) During the time the execution lien is in effect, the financial
26 institution is not liable to any person for any of the following:

27 (1) Performance of the duties of a garnishee under the levy.

28 (2) Refusal to permit access to the safe-deposit box by the person
29 in whose name it stands.

30 (3) Removal of any of the contents of the safe-deposit box
31 pursuant to the levy.

32 (h) If the levying officer removes any property from the
33 safe-deposit box to satisfy the levy, but allows other property to
34 remain in the safe-deposit box, the execution lien is released
35 automatically with respect to any property that remains in the
36 safe-deposit box.

37 SEC. 10. Section 700.160 of the Code of Civil Procedure is
38 amended to read:

39 700.160. (a) Except as provided in subdivision (b), a deposit
40 account or safe-deposit box standing in the name of a person other

1 than the judgment debtor, either alone or together with third
2 persons, is not subject to levy under Section 700.140 or 700.150
3 unless the legal process served on the third party includes a court
4 order authorizing the levy.

5 (b) A court order is not required to levy on a deposit account
6 or safe-deposit box standing in the name of any of the following:

7 (1) The judgment debtor, whether alone or together with third
8 persons.

9 (2) The judgment debtor's spouse or registered domestic partner,
10 whether alone or together with other ~~third~~ persons, provided an
11 affidavit is delivered to the financial institution at the time of levy
12 showing that person is the judgment debtor's spouse or registered
13 domestic partner.

14 (3) A fictitious business name, provided a copy of an unexpired
15 statement certified in accordance with Section 17926 of the
16 Business and Professions Code is delivered to the financial
17 institution at the time of levy, the fictitious business name statement
18 does not list any person other than the judgment debtor, the
19 judgment debtor's spouse or the judgment debtor's registered
20 domestic partner as the person or persons doing business under
21 the fictitious business name, and, if a person other than the
22 judgment debtor is listed in the statement, an affidavit stating that
23 the other person is the judgment debtor's spouse or registered
24 domestic partner is delivered to the financial institution at the time
25 of the levy.

26 (4) The additional name of a judgment debtor listed on the legal
27 process pursuant to an affidavit of identity as provided by Section
28 680.135, whether alone or together with third persons.

29 (c) In any case where a deposit account in the name of a person
30 other than the judgment debtor, whether alone or together with the
31 judgment debtor, is levied upon, the financial institution shall not
32 pay to the levying officer the amount levied upon until being
33 notified to do so by the levying officer. The levying officer may
34 not require the financial institution to pay the amount levied upon
35 until the expiration of 15 days after service of notice of levy on
36 the third person.

37 ~~SEC. 11. Section 701.015 is added to the Code of Civil~~
38 ~~Procedure, to read:~~

39 ~~701.015. (a) The Legislature finds and declares the following:~~

1 ~~(1) The decision in *Da-Green Electronics, Ltd. v. Bank of Yorba*~~
2 ~~*Linda*, (1989) 891 F.2d 1396, which interpreted the law of this~~
3 ~~state, rendered the law of this state unclear regarding the duties of~~
4 ~~a financial institution that has been served with legal process when~~
5 ~~the records of the financial institution indicate that a deposit~~
6 ~~account stands in the name of a person who has a name similar~~
7 ~~but not identical to the person identified in the legal process as the~~
8 ~~judgment debtor, or a person operating under an organizational~~
9 ~~structure that is different than the identified organizational~~
10 ~~structure, if any, of the judgment debtor whose funds are sought~~
11 ~~by the legal process, such as when the judgment debtor is a~~
12 ~~corporation and the depositor is a partnership or limited liability~~
13 ~~company with the same or a substantially similar name as the~~
14 ~~corporation.~~

15 ~~(2) While being mindful of the rights of judgment creditors to~~
16 ~~recover their judgments, and of individuals, businesses, and other~~
17 ~~organizations who hold deposit accounts to access or realize on~~
18 ~~those accounts, the Legislature seeks to provide procedures for the~~
19 ~~affected parties to follow when a legal process fails to identify the~~
20 ~~judgment debtor in exactly the same fashion as the depositor is~~
21 ~~identified on the records of financial institution.~~

22 ~~(b) If the judgment debtor is identified in the legal process by~~
23 ~~a name that is similar but not identical to the name in which the~~
24 ~~deposit account or safe deposit box stands according to the financial~~
25 ~~institution's records, and, after applying the financial institution's~~
26 ~~usual procedures designed to locate accounts and property of~~
27 ~~judgment debtors and taking into consideration all of the~~
28 ~~circumstances, including, but not limited to, possible spelling errors~~
29 ~~and any other information contained in the legal process, and,~~
30 ~~including, but not limited to, the judgment debtor's address and~~
31 ~~tax identification number, if provided, and comparable information~~
32 ~~about the person in whose name the deposit account or safe deposit~~
33 ~~box stands contained in the financial institution's records, the~~
34 ~~financial institution reasonably concludes that the judgment debtor~~
35 ~~and the person in whose name the deposit account or safe deposit~~
36 ~~box stands may be the same person, the financial institution shall:~~

37 ~~(1) Describe the basis for its decision in its garnishee's~~
38 ~~memorandum furnished pursuant to Section 701.030, including~~
39 ~~the name of the person in whose name the deposit account or safe~~
40 ~~deposit box stands according to the financial institution's records.~~

1 ~~(2) Hold the funds in the account as specified in Section~~
2 ~~700.140, or in the case of a safe deposit box, maintain the safe~~
3 ~~deposit box as specified in Section 700.150, and furnish one copy~~
4 ~~of the garnishee's memorandum to counsel for the judgment~~
5 ~~creditor on the same day as the garnishee's memorandum is~~
6 ~~furnished to the levying officer pursuant to Section 701.030. The~~
7 ~~copy shall be furnished to counsel through the use of that counsel's~~
8 ~~electronic mail address, if indicated in the legal process, or, if an~~
9 ~~electronic mail address is not indicated in the legal process, through~~
10 ~~the use of that counsel's facsimile telephone number, if indicated~~
11 ~~in the legal process, or, if neither an electronic mail address or a~~
12 ~~facsimile telephone number for that counsel is indicated in the~~
13 ~~legal process, by first-class mail addressed to that counsel at the~~
14 ~~address indicated in the legal process, and the copy shall be deemed~~
15 ~~furnished when it is transmitted by electronic mail or telecopy, or~~
16 ~~posted by mail, as applicable.~~

17 ~~(3) Provisionally assume that the legal process applies to the~~
18 ~~deposit account or safe deposit box, as applicable, and hold the~~
19 ~~funds in the account as specified in Section 700.140, or in the case~~
20 ~~of a safe deposit box, maintain the safe deposit box as specified~~
21 ~~in Section 700.150, in each case without liability to the person in~~
22 ~~whose name the deposit account or safe deposit box stands. The~~
23 ~~financial institution shall not pay to the levying officer the amount~~
24 ~~in question unless the financial institution is directed in writing to~~
25 ~~do so by the levying officer or a court order received by the~~
26 ~~financial institution before the close of its business on the fifth~~
27 ~~court day after the garnishee's memorandum was furnished as~~
28 ~~herein provided. If, by the close of its business on the fifth court~~
29 ~~day after the garnishee's memorandum was furnished as herein~~
30 ~~provided, the financial institution has not been served with written~~
31 ~~directions from the levying officer or a court order instructing the~~
32 ~~financial institution to pay the levying officer the amount in~~
33 ~~question, or if, before that time the financial institution is served~~
34 ~~with written directions from the levying officer or a court order~~
35 ~~instructing the financial institution to release the deposit to the~~
36 ~~depositor, the financial institution shall thereafter and without~~
37 ~~further notice to any party conclusively presume that the legal~~
38 ~~process does not apply to the deposit account and release that~~
39 ~~account or safe deposit box to the person in whose name the deposit~~

1 account or safe deposit box stands without liability to the judgment
2 creditor.

3 (e) (1) If the name or other information about the judgment
4 debtor contained in the legal process indicates or suggests that the
5 judgment debtor operates under a different organizational structure
6 than the structure indicated by the name in which the deposit
7 account or safe deposit box stands or by other information in the
8 financial institution's records for the account or safe deposit box,
9 the financial institution shall neither treat the deposit account or
10 safe deposit box as affected by the legal process, nor refer to the
11 deposit account or safe deposit box in its garnishee's memorandum
12 furnished pursuant to Section 701.030, even if the name of the
13 judgment debtor is identical or similar to the name of the person
14 in whose name the deposit account or safe deposit box stands.

15 (2) If the name or names of the judgment debtor, contained in
16 the legal process, is identical or similar to the name of the person
17 in whose name the deposit account or safe deposit box stands and
18 the name or other information about the judgment debtor identified
19 in the legal process is ambiguous with regard to the organizational
20 structure under which the judgment debtor operates, but the
21 financial institution reasonably concludes that the ambiguous
22 organizational structure may be consistent with the structure
23 indicated by the name in which the deposit account or safe deposit
24 box stands or by other information in the financial institution's
25 records for the account or safe deposit box the provisions of
26 subdivision (b) shall apply.

27 (3) If the name or names of the judgment debtor contained in
28 the legal process, regardless of any identified organizational
29 structure, is identical or similar to the fictitious business name used
30 by a person in whose name the deposit account or safe deposit box
31 stands, but is not identical or similar to the owner of that fictitious
32 business name as shown on the financial institution's records, the
33 legal process shall not apply to the deposit account or safe deposit
34 box and the provisions of subdivision (b) shall not apply.

35 (d) If the judgment creditor's counsel receives a copy of the
36 garnishee's memorandum from the financial institution, as
37 contemplated by paragraph (2) of subdivision (b), the judgment
38 creditor may apply to the court, ex parte, for a determination
39 whether the financial institution shall forward to the levying officer
40 any funds held provisionally pursuant to paragraph (3) of

1 ~~subdivision (b) or make the safe deposit box available to the~~
2 ~~levying officer, and, in accordance with such subdivision the~~
3 ~~financial institution shall act upon any resulting court order timely~~
4 ~~received.~~

5 (e) ~~If the legal process does not identify the judgment creditor's~~
6 ~~counsel, all references in this section to that counsel shall instead~~
7 ~~refer to the judgment creditor.~~

8 ~~SEC. 12.~~

9 *SEC. 11.* Section 701.030 of the Code of Civil Procedure is
10 amended to read:

11 701.030. (a) At the time of service of a copy of the legal
12 process on a third person, the levying officer shall request the third
13 person to give the levying officer a garnishee's memorandum
14 containing the information required by this section. Within 10 days
15 after the legal process is served, the third person shall mail or
16 deliver the garnishee's memorandum to the levying officer whether
17 or not the levy is effective.

18 (b) The garnishee's memorandum shall be executed under oath
19 and shall contain the following information, as applicable:

20 (1) A description of any property of the judgment debtor sought
21 to be levied upon that is not delivered to the levying officer and
22 the reason for not delivering the property.

23 (2) A description of any property of the judgment debtor not
24 sought to be levied upon that is in the possession or under the
25 control of the third person at the time of levy.

26 (3) A statement of the amount and terms of any obligation to
27 the judgment debtor sought to be levied upon that is due and
28 payable and is not paid to the levying officer, and the reason for
29 not paying the obligation.

30 (4) A statement of the amount and terms of any obligation to
31 the judgment debtor sought to be levied upon that is not due and
32 payable at the time of levy.

33 (5) A statement of the amount and terms of any obligation to
34 the judgment debtor at the time of levy not sought to be levied
35 upon.

36 (6) A description of claims and rights of other persons to the
37 property or obligation levied upon that are known to the third
38 person and the names and addresses of those other persons.

39 (7) A statement that the garnishee holds neither any property
40 nor any obligations in favor of the judgment debtor.

- 1 (8) Any information required to be included pursuant to
2 paragraph (1) of subdivision (b) of Section 701.015.
- 3 (c) If a garnishee’s memorandum is received from the third
4 person, the levying officer shall retain a copy and promptly mail
5 or deliver a copy of the memorandum to the judgment creditor.
- 6 (d) Except as provided in subdivisions (e) and (f), if a third
7 person does not give the levying officer a garnishee’s memorandum
8 within the time provided in subdivision (a), or does not provide
9 complete information, the third person may, in the court’s
10 discretion, be required to pay the costs and reasonable attorney’s
11 fees incurred in any proceedings to obtain the information required
12 in the garnishee’s memorandum.
- 13 (e) Notwithstanding subdivision (a), when the levy is made
14 upon a deposit account or upon property in a safe-deposit box, the
15 financial institution need not give a garnishee’s memorandum to
16 the levying officer if the financial institution fully complies with
17 the levy and, if a garnishee’s memorandum is required, the
18 garnishee’s memorandum needs to provide information with
19 respect only to property that is carried on the records available at
20 the office or branch where the levy is made provided that if a levy
21 has been served at a central location designated by a financial
22 institution in accordance with Section 684.115, the garnishee’s
23 memorandum shall apply to all offices and branches of the financial
24 institution except to the extent acceptance of the levy at those
25 central locations is limited pursuant to paragraph (3) of subdivision
26 (a) of Section 684.115.
- 27 (f) Notwithstanding subdivision (a), the third person need not
28 give a garnishee’s memorandum to the levying officer if both of
29 the following conditions are satisfied:
- 30 (1) The third person has delivered to the levying officer all of
31 the property sought to be levied upon.
- 32 (2) The third person has paid to the levying officer the amount
33 due at the time of levy on any obligation to the judgment debtor
34 that was levied upon, and there is no additional amount that
35 thereafter will become payable on the obligation levied upon.
- 36 (g) The garnishee may electronically transmit the garnishee’s
37 memorandum to the levying officer pursuant to Chapter 2
38 (commencing with Section 263) of Title 4 of Part 1.

1 ~~SEC. 13.~~

2 ~~SEC. 12.~~ Section 703.570 of the Code of Civil Procedure is
3 amended to read:

4 703.570. (a) The hearing on the motion shall be held not later
5 than 30 days from the date the notice of motion was filed with the
6 court unless continued by the court for good cause.

7 (b) Not less than 10 days prior to the hearing, the judgment
8 creditor shall serve a notice of the hearing and a copy of the notice
9 of opposition to the claim of exemption on the claimant and on
10 the judgment debtor, if other than the claimant. Service shall be
11 made personally or by mail.

12 ~~SEC. 14.~~

13 ~~SEC. 13.~~ Section 1450 of the Financial Code is amended to
14 read:

15 1450. Notice to any bank of an adverse claim (the person
16 making the adverse claim being ~~hereinafter~~ *hereafter* called
17 “adverse claimant”) to a deposit standing on its books to the credit
18 of or to personal property held for the account of any person shall
19 be disregarded, and the bank, notwithstanding the notice, shall
20 honor the checks, notes, or other instruments requiring payment
21 of money by or for the account of the person to whose credit the
22 account stands and on demand shall deliver that property to, or on
23 the order of, the person for whose account the property is held,
24 without any liability on the part of the bank; subject, however, to
25 the exceptions provided in subdivisions (a) and (b):

26 (a) If an adverse claimant delivers to the bank at the office at
27 which the deposit is carried or at which the property is held an
28 affidavit of the adverse claimant stating that of the adverse
29 claimant’s own knowledge the person to whose credit the deposit
30 stands or for whose account the property is held is a fiduciary for
31 the adverse claimant and that the adverse claimant has reason to
32 believe the fiduciary is about to misappropriate the deposit or the
33 property, and stating the facts on which the claim of fiduciary
34 relationship and the belief are founded, the bank shall refuse
35 payment of the deposit and shall refuse to deliver the property for
36 a period of not more than three court days (including the day of
37 delivery) from the date that the bank received the adverse
38 claimant’s affidavit, without liability on its part and without
39 liability for the sufficiency or truth of the facts alleged in the
40 affidavit.

1 (b) If at any time, either before, after, or in the absence of the
 2 filing of an affidavit by the adverse claimant, the adverse claimant
 3 procures and serves upon the bank at the office at which the deposit
 4 is carried or at which the property is held a restraining order,
 5 injunction, or other appropriate order against the bank from a court
 6 of competent jurisdiction in an action in which the adverse claimant
 7 and all persons in whose names the deposit stands or for whose
 8 account the property is held are parties, the bank shall comply with
 9 the order or injunction, without liability on its part.

10 (c) This section shall be applicable even though the name of the
 11 person appearing on the bank’s books to whose credit the deposit
 12 stands or for whose account the property is held is modified by a
 13 qualifying or descriptive term such as “agent,” “trustee,” or other
 14 word or phrase indicating that the person may not be the owner in
 15 his or her own right of the deposit or property.

16 (d) Nothing in the California Multiple-Party Accounts Law
 17 contained in Part 2 (commencing with Section 5100) of Division
 18 5 of the Probate Code limits the applicability of this section.

19 (e) For purposes of this section, the term “office at which the
 20 deposit is carried” shall mean the branch, office, or other location
 21 where the account containing the subject deposit is carried or
 22 maintained.

23 (f) Notwithstanding subdivisions (a) and (b), if a central location
 24 has been designated by the bank pursuant Section 684.115 of the
 25 Code of Civil Procedure for service of legal process, as that term
 26 is defined in Section 684.110 of the Code of Civil Procedure, the
 27 adverse claimant shall serve a notice of adverse claim or related
 28 affidavit, order, injunction, or other order contemplated herein at
 29 the central location. If a central location has not but should have
 30 been designated by the bank pursuant Section 684.115 of the Code
 31 of Civil Procedure for service of legal process, as that term is
 32 defined in Section 684.110 of the Code of Civil Procedure, the
 33 adverse claimant may serve a notice of adverse claim or related
 34 affidavit, order, injunction, or other order contemplated herein at
 35 any branch of the institution located in California.

36 ~~SEC. 15.~~

37 *SEC. 14.* Section 1620 of the Financial Code is amended to
 38 read:

39 1620. Notice to a bank operating a safety deposit department
 40 or to a company conducting a safety deposit business of an adverse

1 claim (the person making the adverse claim being hereafter in this
2 section called “adverse claimant”) to any personal property in a
3 ~~safety deposit~~ *safe-deposit* box maintained by a bank or company
4 and rented to any person, or to any personal property held by the
5 bank or company in safekeeping or storage for any person shall
6 be disregarded, and the bank or company, notwithstanding such
7 notice, shall permit access to the box to the person to whom it is
8 rented or shall deliver the contents thereof to or on the order of
9 the person or shall deliver the property held in storage or
10 safekeeping to or on the order of the person for whom it is held,
11 without any liability on the part of the bank or company; subject,
12 however, to the exceptions provided in subdivisions (a) and (b) of
13 this section:

14 (a) If an adverse claimant delivers to the bank at the office at
15 which the ~~safety deposit~~ *safe-deposit* box is maintained or the
16 property is held his or her affidavit stating that of his or her own
17 knowledge the person in whose name the box stands or for whom
18 the property is held is a fiduciary for the adverse claimant and that
19 he or she has reason to believe that fiduciary is about to
20 misappropriate the contents of the box or the property, and stating
21 the facts upon which the claim of fiduciary relationship and the
22 belief are founded, the bank or company shall refuse access to the
23 ~~safety deposit~~ *safe-deposit* box or refuse to deliver the personal
24 property for a period of not more than three court days (including
25 the day of delivery) from the date that the bank or company
26 received the adverse claimant’s affidavit, without liability on its
27 part and without liability for the sufficiency or truth of the facts
28 alleged in the affidavit.

29 (b) If at any time, either before, after, or in the absence of the
30 filing of an affidavit by the adverse claimant, the adverse claimant
31 procures and serves upon the bank or company at the office at
32 which the ~~safety deposit~~ *safe-deposit* box is maintained or the
33 property is held a restraining order, injunction, or other appropriate
34 order against the bank or company from a court of competent
35 jurisdiction in an action in which the adverse claimant and all
36 persons in whose names the box stands or for whom the property
37 is held are parties, the bank or company shall comply with that
38 order or injunction, without liability on its part.

39 (c) The provisions of this section shall be applicable even though
40 the name of the person appearing on the bank’s or company’s

1 books as the renter of the box or as the depositor of the property
2 held in storage or safekeeping is modified by a qualifying or
3 descriptive term such as “agent,” “trustee,” or other word or phrase
4 indicating that the person may not be the owner in his or her own
5 right of the contents of the box or of the property held in storage
6 or safekeeping.

7 (d) Before giving access to any safe-deposit box, the bank or
8 company may demand payment to it of all costs and expenses of
9 opening the safe-deposit box and all costs and expenses of repairing
10 any damage to the safe-deposit box caused by the opening thereof.

11 (e) Notwithstanding subdivisions (a) and (b), if a central location
12 has been designated by the bank pursuant Section 684.115 of the
13 Code of Civil Procedure for service of legal process, as that term
14 is defined in Section 684.110 of the Code of Civil Procedure, the
15 adverse claimant shall serve a notice of adverse claim or related
16 affidavit, order, injunction, or other order contemplated herein at
17 the central location. If a central location has not but should have
18 been designated by the bank pursuant Section 684.115 of the Code
19 of Civil Procedure for service of legal process, as that term is
20 defined in Section 684.110 of the Code of Civil Procedure, the
21 adverse claimant may serve a notice of adverse claim or related
22 affidavit, order, injunction, or other order contemplated herein at
23 any branch of the institution located in California.

24 ~~SEC. 16.~~

25 *SEC. 15.* Section 1755 of the Unemployment Insurance Code
26 is amended to read:

27 1755. (a) If any person or employing unit is delinquent in the
28 payment of any contributions, penalties, or interest provided for
29 in this division, the director may, not later than three years after
30 the payment became delinquent or within 10 years after the last
31 entry of a judgment under Article 5 (commencing with Section
32 1815) or within 10 years after the last recording or filing of a notice
33 of state tax lien under Section 7171 of the Government Code,
34 collect the delinquency or enforce any liens by levy served either
35 personally or by first-class mail, to all persons having in their
36 possession or under their control any credits or personal property
37 belonging to the delinquent person or employing unit, or owing
38 any debts to the person or employing unit at the time of the receipt
39 of the notice of levy or coming into their possession or under their
40 control for the period of one year from the time of receipt of the

1 notice of levy. Any person upon whom a levy has been served
2 having in his or her possession or under his or her control any
3 credits or personal property belonging to the delinquent person or
4 employing unit or owing any debts to the person or employing
5 unit at the time of the receipt of the levy or coming into his or her
6 possession or under his or her control for the period of one year
7 from the time of receipt of the notice of levy, shall surrender the
8 credits or personal property to the director or pay to the director
9 the amount of any debt owing the delinquent employer within five
10 days of service of the levy, and shall surrender the credits or
11 personal property, or the amount of any debt owing to the
12 delinquent employer coming into his or her possession or under
13 his or her control within one year of receipt of the notice of levy
14 within five days of the date of coming into possession or control
15 of the credits or personal property, or the amount of any debt owing
16 to the delinquent employer is incurred. Any person in possession
17 of any credits or personal property or owing any debts to the
18 delinquent person or employing unit who surrenders the credits or
19 personal property or pays the debts owing the delinquent person
20 or employing unit shall be discharged from any obligation or
21 liability to the delinquent person or employing unit with respect
22 to the credits or personal property surrendered or debts paid to the
23 director. ~~H~~

24 (b) (1) *If the levy is made on a deposit or credits or personal*
25 *property in the possession or under the control of a bank or savings*
26 *and loan association, the notice of levy shall be delivered or mailed*
27 *to the centralized processing unit or location designated by that*
28 *bank or savings and loan association where the credits or other*
29 *property are held. For financial institution the notice of levy shall*
30 *be served on that financial institution at the same location as legal*
31 *process is required to be served pursuant to Section 684.115 of*
32 *the Code of Civil Procedure, and the levy will apply to all credits*
33 *or personal property in the deposit account only at the time that*
34 *notice of levy is received by the financial institution.*

35 (2) *For purposes of this section, the term “office at which the*
36 *deposit is carried” shall mean the branch, office, or other location*
37 *where the account containing the subject deposit is carried or*
38 *maintained. section:*

39 (b) ~~If the person to be served with a levy pursuant to subdivision~~
40 (a) ~~is a financial institution, the levy will apply to that deposit only~~

1 to the extent of the funds held on deposit at the time the notice of
 2 levy is received by the financial institution.

3 ~~(e) Notwithstanding subdivision (a), if the person to be served~~
 4 ~~with a levy pursuant to subdivision (a) is a financial institution~~
 5 ~~and the levy applies to a deposit account maintained by that~~
 6 ~~financial institution, and a central location has been designated by~~
 7 ~~the bank pursuant Section 684.115 of the Code of Civil Procedure~~
 8 ~~for service of legal process, as that term is defined in Section~~
 9 ~~684.110 of the Code of Civil Procedure, the adverse claimant shall~~
 10 ~~serve a levy contemplated herein at the central location. If a central~~
 11 ~~location has not but should have been designated by the bank~~
 12 ~~pursuant Section 684.115 of the Code of Civil Procedure for service~~
 13 ~~of legal process, as that term is defined in Section 684.110 of the~~
 14 ~~Code of Civil Procedure, the adverse claimant may serve a levy~~
 15 ~~contemplated herein at any branch of that institution located in~~
 16 ~~California.~~

17 (A) *“Deposit account” has the same meaning as in paragraph*
 18 *(29) of subdivision (a) of Section 9102 of the Commercial Code.*

19 (B) *“Financial institution” has the same meaning as in Section*
 20 *481.113 of the Code of Civil Procedure.*

21 (C) *“Legal process” has the same meaning as in Section*
 22 *482.070 of the Code of Civil Procedure.*

23 *SEC. 16. Section 1755.1 of the Unemployment Insurance Code*
 24 *is amended to read:*

25 1755.1. (a) In order to implement Section 1755, the department
 26 may serve notice to an address for any ~~bank or savings and loan~~
 27 ~~association~~ *financial institution, as defined in Section 481.113 of*
 28 *the Code of Civil Procedure, by means of magnetic media,*
 29 *electronic transmission, or other electronic technology.*

30 (b) For purposes of this section, the term “address” shall mean
 31 a telephone or modem number, facsimile machine, or any other
 32 reference number designated by the ~~bank or savings and loan~~
 33 ~~association~~ *financial institution* to receive data by electronic means.

34 *SEC. 17. No reimbursement is required by this act pursuant to*
 35 *Section 6 of Article XIII B of the California Constitution because*
 36 *the only costs that may be incurred by a local agency or school*
 37 *district will be incurred because this act creates a new crime or*
 38 *infraction, eliminates a crime or infraction, or changes the penalty*
 39 *for a crime or infraction, within the meaning of Section 17556 of*
 40 *the Government Code, or changes the definition of a crime within*

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O