
OLR Bill Analysis

sSB 300 (File 125, as amended by Senate "A")*

AN ACT ESTABLISHING A DEBT COLLECTION EXEMPTION RELATING TO JOINT ACCOUNTS.

SUMMARY

By law, certain types and amounts of property, income, and assets are exempt from debt collection (such as attachment and post-judgment collections).

This bill expands the list of exempt property to include funds in a joint account held by a bank or credit union that a court determines is exempt from execution because the judgment debtor has no equitable ownership interest in funds deposited in or acquired by a joint account coholder (but not the debtor) for the coholder's sole benefit. Under the bill, the "joint account coholder" is a person who (1) is not a judgment debtor and (2) shares ownership of a joint account with a judgment debtor.

The bill correspondingly establishes the process by which funds in a joint account may be claimed as exempt from execution because the judgment debtor has no equitable ownership interest in them. This process is substantially similar to the law's existing process for judgment debtors to make an exemption claim, but the bill sets the considerations and presumptions for the court to follow when determining the equitable ownership interest of the funds.

*Senate Amendment "A" principally adds the judicial procedure for claiming and determining that the funds in a joint account are not subject to execution.

EFFECTIVE DATE: January 1, 2027, and applicable to (1) debts incurred before, on, or after that date and (2) civil actions pending on or filed after that date.

JOINT ACCOUNT COHOLDER FUNDS

Existing law sets out a process by which judgment creditors can seek executions against financial institution accounts to satisfy their judgments. The bill incorporates a procedure for a joint account coholder to protect from execution account funds for which the judgment debtor has no equitable interest.

Claim Form

Like existing law's exemption claim form that enables a judgment debtor to claim that funds in his or her account are exempt by law from execution, the bill creates a joint account coholder claim form for the coholder to assert that the judgment debtor lacks an equitable ownership interest in funds in the joint account.

Under the bill, the chief court administrator, or her designee, must prescribe the manner of this claim form, which must include instructions for the (1) joint account coholder on how to make the claim and (2) financial institution for processing these claims.

But the bill prohibits implementing or enforcing the bill's procedures for these claims until the forms, and any related notices, are developed and made available.

Delivery of Claim Form

Under the bill, this claim form must be included with the execution served on the financial institution. By law, the financial institution has seven days to respond to the serving officer, either that it removed funds from the judgment debtor's account or that the judgment debtor has no account at the institution or it did not remove funds from the account. In the latter case, the financial institution must return all documents that were served upon it, including the joint account coholder claim form.

Removal and Holding of Funds

After removing funds from a judgment debtor's account pursuant to an execution, the bill requires the financial institution to mail copies of the execution documents, which include the claim form, to any joint account coholder (as it already does for the judgment debtor and any

secured party) at their last-known address. The bill allows the financial institution to note the removal of funds on account records that are available to the coholder, but it cannot give out the serving officer's name or contact information.

Under the bill, the financial institution holds the amount removed from the account for 15 days after the date that the documents are mailed to the coholder. The bill allows the institution to direct any questions it receives from the coholder about the execution to the judgment creditor (or its attorney) or the court listed on the execution form.

If the financial institution fails to receive a joint account coholder claim notice within that 15-day period, it must pay the serving officer the amount removed from the account, who then remits the required funds to the judgment creditor. But if the institution receives a coholder claim, it must hold the removed funds for 45 days or until it receives a court order about disposing of the funds, whichever is earlier. The bill allows for either the judgment debtor or the joint account coholder to submit the coholder claim form to the financial institution, which can be done by mail or other method. If the court fails to issue an order within this 45-day period, the funds must be returned to the account.

Court Hearing on Claim

Under the bill, the financial institution has two business days after it receives a joint account coholder claim to send a copy of it to the court that issued the execution and another copy or a separate notice to the serving officer.

Once the court receives the claim form, it must enter an appearance for the joint account coholder, send information to the coholder about the funds' 45-day hold at the financial institution, and promptly schedule a hearing on the claim.

The bill allows for a judgment creditor to show the judge, on an ex parte basis, certain evidence that funds in the account are not exempt and if the judge finds that the creditor has shown reasonable belief that

this is true, the judge may allow the creditor to have a hearing on the matter. The creditor must send a copy of its hearing application and evidence to the joint account coholder. The court schedules the hearing and notifies the parties.

Under the bill, at a hearing on either an exemption claim form claiming that funds in a joint account are exempt as required under the bill or a joint account coholder claim, the judge must issue an order determining if any part of the joint account's balance in which the debtor has no equitable ownership interest and not subject to execution. The bill sets the burden of proof on the judgment debtor to show by a preponderance of the evidence that he or she has no equitable ownership interest in these funds.

The bill allows the court to consider the following in making the determination:

1. source of deposits;
2. pattern of withdrawals;
3. purpose of establishing the account and use of the account;
4. any joint account agreement or other writing, sworn statement, or testimony of the account holders; and
5. any other evidence bearing on the account's equitable ownership interest.

The bill specifies that there is a rebuttable presumption that the judgment debtor has no equitable ownership interest in account funds that are directly traceable to (1) wages, salaries, public benefits, pension or retirement payments, or tax refunds of the joint account coholder or (2) other deposits made for the joint account coholder's sole benefit. There is also a presumption, unless there is sufficient evidence showing a different equitable ownership interest, that the judgment debtor has a fractional equitable ownership interest in the account's funds, determined by dividing up the funds by the number of joint account holders.

Decision on Claim

After the hearing, the bill requires the court to issue an order determining the issues raised by the joint account coholder claim. As with exemption claim determinations, the clerk must send a copy of the order to the financial institution involved. The order is a final judgment for appeal purposes, and it is appealable for seven days after its issuance. But, unless stayed, the order may be implemented during this seven-day period.

Other Related Provisions

Like for other exemption claims, the bill also specifies the following regarding joint account coholder claims:

1. the joint account coholder has full access to the funds left in an account after the financial institution removes funds from the account, and the financial institution may inform the coholder that there are remaining funds available;
2. a financial institution's reasonable costs and expenses for records or testimony to comply with a subpoena related to the hearing are recoverable from the requesting party;
3. a financial institution's records on the dates and amount of deposits in an account, if certified as true and accurate by an officer, are admissible as evidence without the officer's presence to determine the legitimacy of claim; and
4. the bank execution provisions do not limit other rights or remedies available to them by law or in equity.

BANK OR CREDIT UNION JOINT ACCOUNTS

Under current law, a "joint account" is a bank deposit account or a credit union share account in the names of at least two individuals where the account balance can be paid to any of the individuals named on the account or any of their survivors. The bill correspondingly allows funds in the account to be paid to a judgment creditor under the bill's bank execution process.

The bill specifies that a court's determination about the equitable ownership interest of funds in a joint account do not affect the validity or enforceability of a payment, transfer, withdrawal, or other transaction that a financial institution makes concerning the account. This includes actions the institution takes to respond to a legal execution.

And after a served execution is satisfied, released, or expired, the bill allows a financial institution to continue to treat the account as a joint account and according to the account's terms. It gives the institution no duty to determine or monitor an account holder's equitable ownership interest unless there is additional legal process.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 10 Nay 3 (03/10/2026)

Judiciary Committee

Joint Favorable

Yea 33 Nay 7 (04/10/2026)