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AB-1580 Enforcement of money judgments: examination. (2021-2022)

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Assembly Bill No. 1580

CHAPTER 30

An act to amend Section 708.150 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor June 28, 2021. Filed with Secretary of State June 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1580, Committee on Judiciary. Enforcement of money judgments: examination.

Existing law authorizes a judgment creditor seeking to enforce a money judgment to apply to the court for an order requiring the judgment debtor to appear for an examination to furnish information to aid in enforcement of the money judgment. Existing law requires a corporation, partnership, association, trust, limited liability company, or other organization served with an order to appear for an examination to designate one or more persons who are familiar with its property and debts to appear, unless the order requires the appearance of a specified person, in which case that person shall appear.

If an organization served with an order to appear for an examination fails to designate a person to appear, this bill would deem the order to appear to have been made to, and require the appearance of, specified persons named in the organization's most recent filing with the Secretary of State or, if the organization is not registered with the Secretary of State or its filings do not identify a natural person, a natural person identified by the judgment creditor as being familiar with the property and debts of the organization.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 708.150 of the Code of Civil Procedure is amended to read:

708.150. (a) (1) If a corporation, partnership, association, trust, limited liability company, or other organization is served with an order to appear for an examination, it shall designate to appear and be examined one or more officers, directors, managing agents, or other persons who are familiar with its property and debts.

(2) If a corporation, partnership, association, trust, limited liability company, or other organization served with an order to appear for an examination fails to designate a person to appear pursuant to paragraph (1), the order to appear for an examination shall be deemed to have been made to and served upon the individuals designated in the manner described in paragraph (2) of subdivision (c).

(b) If the order to appear for an examination requires the appearance of a specified individual, the specified individual shall appear for the examination and may be accompanied by one or more officers, directors, managing agents, or other persons

familiar with the property and debts of the corporation, partnership, association, trust, limited liability company, or other organization.

(c) If the order to appear for the examination does not require the appearance of a specified individual, the order shall advise the corporation, partnership, association, trust, limited liability company, or other organization of all of the following:

(1) The organization's duty to make a designation under paragraph (1) of subdivision (a).

(2) That the organization's failure to make a designation under paragraph (1) of subdivision (a) shall result in the order to appear for the examination to be deemed to have been made to, and require the appearance of, the following:

(A) If the organization is a corporation registered with the Secretary of State, a natural person named as the chief financial officer in the corporation's most recent filing with the Secretary of State. If no one is so named, a natural person named as the chief executive officer in the corporation's most recent filing with the Secretary of State. If no one is so named, a natural person named as the secretary in the corporation's most recent filing with the Secretary of State.

(B) If the organization is a limited liability company registered with the Secretary of State, the first natural person named as a manager or member in the limited liability company's most recent filing with the Secretary of State.

(C) If the organization is a limited partnership registered with the Secretary of State, the first natural person named as a general partner in the limited partnership's most recent filing with the Secretary of State.

(D) If the organization is not registered with the Secretary of State or the organization's filings with the Secretary of State do not identify a natural person as described in subparagraph (A), (B), or (C), a natural person identified by the judgment creditor as being familiar with the property and debts of the organization, together with an affidavit or declaration signed by the judgment creditor that sets forth the factual basis for the identification of the individual. The affidavit or declaration shall be served on the organization together with the order.

(3) That service of an order to appear for an examination upon an organization by any method permitted under this code or the Corporations Code, including service on the agent of the organization for service of process, shall be deemed effective service of the order to appear upon the individuals identified under subparagraphs (A), (B), (C), and (D) of paragraph (2).

(d) A corporation, partnership, association, trust, limited liability company, or other organization, whether or not a party, may appear at an examination through any authorized officer, director, or employee, whether or not the person is an attorney.

(e) The powers of the court under Section 708.170 extend to natural persons ordered to appear and served pursuant to this section.

(f) This section shall be strictly construed and its requirements may not be varied by local rule or otherwise.