

- SUBJECT:** Service of process on financial institutions
- COMMITTEE:** Financial Institutions — favorable, without amendment
- VOTE:** 6 ayes — Solomons, Flynn, Chavez, Anderson, McCall, Orr
0 nays
1 absent — Anchia
- WITNESSES:** For — Karen Neeley, Independent Bankers Association of Texas;
(*Registered, but did not testify:* John Heasley, Texas Bankers Association;
Melodie Stegall, Credit Union Legislative Coalition)
Against — None
On — (*Registered, but did not testify:* Randall S. James, Texas
Department of Banking; Everette Jobe, Texas Department of Banking)
- BACKGROUND:** Unlike corporations, banks and other financial institutions are not required to file a registered agent with the secretary of state. A financial institution may voluntarily register an agent with the secretary of state as an alternate means of receiving the service of process. Process may be served on a variety of institutional officials depending on the type of financial institution.
- DIGEST:** HB 2219 would allow, in an action against a financial institution or credit union, a citation to be served by serving the registered agent. If a financial institution did not have a registered agent, the president or branch manager at any Texas branch location could be served. If the credit union did not have a registered agent, the president or vice president could be served.
Under HB 2219, service of process at the home office of a state bank or trust company would be limited to the parties described above. The bill would repeal provisions in current law that make each officer at the home office of a state bank or trust company an agent for service of process.
If a citation were not properly served on a financial institution, the institution could maintain an action to set aside a default judgment or any sanction entered against the financial institution.

HB 2219 would take effect September 1, 2007, and apply to all process served on a financial institution on or after this date.

**SUPPORTERS
SAY:**

HB 2219 would clarify the service of process in the modern banking environment and protect financial institutions against default judgments. Prior to the 1980s, banks generally were independent units. Today, banks exist in a branching environment in which the officers that can address a citation likely are not located at the branch where process is served.

HB 2219 would make it very clear who should be served in a legal action and specifies officers that would have the knowledge and authority to properly address the situation. In the past, bank tellers have been served citations and, not knowing what they were, filed them away without alerting their managers. After the answer period had elapsed, these banks were faced with default judgments.

The bill would not inconvenience plaintiffs because it is common practice to arrange for a process server to serve process in another city. It simply would require contacting a process server in that city. In addition, it is sometimes acceptable to serve an individual by certified mail.

People routinely must serve a registered agent of a corporation that resides or works in a different city, and this requirement would be no more stringent for serving financial institutions. If the institution did not have a registered agent, then one of the designated officials at any branch could be served.

**OPPONENTS
SAY:**

HB 2219 would inconvenience plaintiffs who already have been burdened by the actions of the party against whom they are taking action. Some people prefer to confirm that their transactions will be properly handled by arranging service in person. This is not possible when a plaintiff must locate a process server in a distant city, and the plaintiff may incur added costs in long-distance telephone calls.

The current statutes on service of process allow for more flexibility for a party to locate a process server in the area in which they are familiar and serve a representative of a local financial institution branch. It is the responsibility of a financial institution to convey to its employees what should be done with any documents served to them.