

Assembly Bill No. 1167

CHAPTER 156

An act to amend Section 687.010 of the Code of Civil Procedure and to amend Section 68150 of the Government Code, relating to court records.

[Approved by Governor August 27, 2013. Filed with Secretary of State August 27, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1167, Dickinson. Court records: electronic forms.

Existing law governs the procedure for levying an execution lien upon real or personal property. Existing law requires the judgment creditor to give the levying officer written instructions containing the information needed or requested by the levying officer to serve the writ, order, notice, or other paper on a person.

This bill would require instructions given to a levying officer to include specified information if the instructions are accompanied by a specified writ of execution issued by the court as an electronic record or document printed from an electronic record issued by the court. Except as specified, the bill would authorize the levying officer to proceed in the same manner as if in possession of a paper version of the original writ.

Existing law authorizes courts to create and maintain court records in electronic forms and authorizes the signing and verification of specified trial court documents using a computer or other technology. Existing law also defines the term "court record" for purposes of the management of trial court records.

This bill would additionally include a writ, subpoena, or other legal process as a trial court document that may be signed and verified using a computer or other technology.

This bill would incorporate additional changes to Section 68150 of the Government Code proposed by AB 1352 that would become operative if this bill and AB 1352 are enacted, and this bill is chaptered last.

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

SECTION 1. Section 687.010 of the Code of Civil Procedure is amended to read:

687.010. (a) The judgment creditor shall give the levying officer instructions in writing. The instructions shall be signed by the judgment creditor's attorney of record or, if the judgment creditor does not have an attorney of record, by the judgment creditor. The instructions shall contain

the information needed or requested by the levying officer to comply with this title, including, but not limited to, all of the following:

- (1) An adequate description of any property to be levied upon.
- (2) A statement whether the property is a dwelling.
- (3) If the property is a dwelling, whether it is real or personal property.
- (4) The name of the judgment debtor. If the judgment debtor is other than a natural person, the type of legal entity shall be stated.

(b) Subject to subdivision (c), the levying officer shall act in accordance with the written instructions to the extent the actions are taken in conformance with the provisions of this title.

(c) Except to the extent the levying officer has actual knowledge that the information is incorrect, the levying officer may rely on any information contained in the written instructions.

(d) The levying officer instructions may be transmitted electronically to the levying officer pursuant to Chapter 2 (commencing with Section 263) of Title 4 of Part 1.

(e) If the instructions directing the levying officer to perform a levy are accompanied by a writ of execution for money, possession, or sale of personal or real property issued by the court as an electronic record, as defined in subdivision (b) of Section 263.1, or a document printed from an electronic record issued by the court, the instructions shall also include all of the following information, as stated in the writ:

- (1) The date of issuance of the writ.
- (2) The name of each judgment creditor and judgment debtor.
- (3) The amount of the total judgment for money, a description of the property subject to a judgment for possession or sale, or both the amount and the description.

(4) A statement indicating that the accompanying writ is either of the following:

(A) An original writ, or a copy of the original writ issued by the court as an electronic record, not already in the possession of the levying officer.

(B) A copy of the original writ already in possession of the levying officer.

(f) Except to the extent the levying officer has actual knowledge that the information in the electronic writ has been altered, the levying officer may proceed in the same manner as if in possession of a paper version of the original writ.

SEC. 2. Section 68150 of the Government Code is amended to read:

68150. (a) Trial court records may be created, maintained, and preserved in any form or forms of communication or representation, including paper, optical, electronic, magnetic, micrographic, or photographic media or other technology, if the form or forms of representation or communication satisfy the rules adopted by the Judicial Council pursuant to subdivision (c), once those rules have been adopted. Until those rules are adopted, the court may continue to create, maintain, and preserve records according to the minimum standards or guidelines for the preservation and reproduction of the medium

adopted by the American National Standards Institute or the Association for Information and Image Management.

(b) This section shall not apply to court reporters' transcripts or to specifications for electronic recordings made as the official record of oral proceedings. These records shall be governed by the California Rules of Court.

(c) The Judicial Council shall adopt rules to establish the standards or guidelines for the creation, maintenance, reproduction, or preservation of court records, including records that must be preserved permanently. The standards or guidelines shall reflect industry standards for each medium used, if those standards exist. The standards or guidelines shall ensure that court records are created and maintained in a manner that ensures accuracy and preserves the integrity of the records throughout their maintenance. They shall also ensure that the records are stored and preserved in a manner that will protect them against loss and ensure preservation for the required period of time. Standards and guidelines for the electronic creation, maintenance, and preservation of court records shall ensure that the public can access and reproduce records with at least the same amount of convenience as paper records previously provided.

(d) No additions, deletions, or changes shall be made to the content of court records, except as authorized by statute or the California Rules of Court.

(e) Court records shall be indexed for convenient access.

(f) A copy of a court record created, maintained, preserved, or reproduced according to subdivisions (a) and (c) shall be deemed an original court record and may be certified as a correct copy of the original record.

(g) Any notice, order, judgment, decree, decision, ruling, opinion, memorandum, warrant, certificate of service, writ, subpoena, or other legal process or similar document issued by a trial court or by a judicial officer of a trial court may be signed, subscribed, or verified using a computer or other technology in accordance with procedures, standards, and guidelines established by the Judicial Council pursuant to this section. Notwithstanding any other provision of law, all notices, orders, judgments, decrees, decisions, rulings, opinions, memoranda, warrants, certificates of service, writs, subpoenas, or other legal process or similar documents that are signed, subscribed, or verified by computer or other technological means pursuant to this subdivision shall have the same validity, and the same legal force and effect, as paper documents signed, subscribed, or verified by a trial court or a judicial officer of the court.

(h) A court record created, maintained, preserved, or reproduced in accordance with subdivisions (a) and (c) shall be stored in a manner and in a place that reasonably ensures its preservation against loss, theft, defacement, or destruction for the prescribed retention period under Section 68152.

(i) A court record that was created, maintained, preserved, or reproduced in accordance with subdivisions (a) and (c) may be disposed of in accordance with the procedure under Section 68153, unless it is either of the following:

(1) A comprehensive historical and sample superior court record preserved for research under the California Rules of Court.

(2) A court record that is required to be preserved permanently.

(j) Instructions for access to data stored on a medium other than paper shall be documented.

(k) Each court shall conduct a periodic review of the media in which the court records are stored to ensure that the storage medium is not obsolete and that current technology is capable of accessing and reproducing the records. The court shall reproduce records before the expiration of their estimated lifespan for the medium in which they are stored according to the standards or guidelines established by the Judicial Council.

(l) Unless access is otherwise restricted by law, court records created, maintained, preserved, or reproduced under subdivisions (a) and (c) shall be made reasonably accessible to all members of the public for viewing and duplication as the paper records would have been accessible. Unless access is otherwise restricted by law, court records maintained in electronic form shall be viewable at the court, regardless of whether they are also accessible remotely. Reasonable provision shall be made for duplicating the records at cost. Cost shall consist of all costs associated with duplicating the records as determined by the court.

SEC. 3. Section 68150 of the Government Code is amended to read:

68150. (a) Trial court records may be created, maintained, and preserved in any form or forms of communication or representation, including paper, optical, electronic, magnetic, micrographic, or photographic media or other technology, if the form or forms of representation or communication satisfy the rules adopted by the Judicial Council pursuant to subdivision (c), once those rules have been adopted. Until those rules are adopted, the court may continue to create, maintain, and preserve records according to the minimum standards or guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management.

(b) (1) This section shall not apply to court reporters' transcripts or to specifications for electronic recordings made as the official record of oral proceedings. These records shall be governed by the California Rules of Court.

(2) This section shall not apply to original wills and codicils delivered to the clerk of the court under Section 8200 of the Probate Code. Original wills and codicils shall be retained as provided in Section 26810.

(c) The Judicial Council shall adopt rules to establish the standards or guidelines for the creation, maintenance, reproduction, or preservation of court records, including records that must be preserved permanently. The standards or guidelines shall reflect industry standards for each medium used, if those standards exist. The standards or guidelines shall ensure that court records are created and maintained in a manner that ensures accuracy and preserves the integrity of the records throughout their maintenance. They shall also ensure that the records are stored and preserved in a manner that will protect them against loss and ensure preservation for the required

period of time. Standards and guidelines for the electronic creation, maintenance, and preservation of court records shall ensure that the public can access and reproduce records with at least the same amount of convenience as paper records previously provided.

(d) No additions, deletions, or changes shall be made to the content of court records, except as authorized by statute or the California Rules of Court.

(e) Court records shall be indexed for convenient access.

(f) A copy of a court record created, maintained, preserved, or reproduced according to subdivisions (a) and (c) shall be deemed an original court record and may be certified as a true and correct copy of the original record. The clerk of the court may certify a copy of the record by electronic or other technological means, if the means adopted by the court reasonably ensures that the certified copy is a true and correct copy of the original record, or of a specified part of the original record.

(g) Any notice, order, judgment, decree, decision, ruling, opinion, memorandum, warrant, certificate of service, writ, subpoena, or other legal process or similar document issued by a trial court or by a judicial officer of a trial court may be signed, subscribed, or verified using a computer or other technology in accordance with procedures, standards, and guidelines established by the Judicial Council pursuant to this section. Notwithstanding any other provision of law, all notices, orders, judgments, decrees, decisions, rulings, opinions, memoranda, warrants, certificates of service, writs, subpoenas, or other legal process or similar documents that are signed, subscribed, or verified by computer or other technological means pursuant to this subdivision shall have the same validity, and the same legal force and effect, as paper documents signed, subscribed, or verified by a trial court or a judicial officer of the court.

(h) A court record created, maintained, preserved, or reproduced in accordance with subdivisions (a) and (c) shall be stored in a manner and in a place that reasonably ensures its preservation against loss, theft, defacement, or destruction for the prescribed retention period under Section 68152.

(i) A court record that was created, maintained, preserved, or reproduced in accordance with subdivisions (a) and (c) may be disposed of in accordance with the procedure under Section 68153, unless it is either of the following:

(1) A comprehensive historical and sample superior court record preserved for research under the California Rules of Court.

(2) A court record that is required to be preserved permanently.

(j) Instructions for access to data stored on a medium other than paper shall be documented.

(k) Each court shall conduct a periodic review of the media in which the court records are stored to ensure that the storage medium is not obsolete and that current technology is capable of accessing and reproducing the records. The court shall reproduce records before the expiration of their estimated lifespan for the medium in which they are stored according to the standards or guidelines established by the Judicial Council.

(l) Unless access is otherwise restricted by law, court records created, maintained, preserved, or reproduced under subdivisions (a) and (c) shall be made reasonably accessible to all members of the public for viewing and duplication as the paper records would have been accessible. Unless access is otherwise restricted by law, court records maintained in electronic form shall be viewable at the court, regardless of whether they are also accessible remotely. Reasonable provision shall be made for duplicating the records at cost. Cost shall consist of all costs associated with duplicating the records as determined by the court.

SEC. 4. Section 3 of this bill incorporates amendments to Section 68150 of the Government Code proposed by both this bill and Assembly Bill 1352. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 68150 of the Government Code, and (3) this bill is enacted after Assembly Bill 1352, in which case Section 2 of this bill shall not become operative.