



House of Representatives

General Assembly

File No. 152

February Session, 2000

House Bill No. 5716

House of Representatives, March 21, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

An Act Concerning Escrow Arrangements.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) For the purposes of this act:

2 (1) "Escrow arrangement" means a written or oral agreement under
3 which money, documents, instruments or other property is delivered
4 to a person to be held by that person for disbursement or delivery in
5 accordance with the agreement of the parties upon (A) the happening
6 of a certain specified event or events, or (B) the delivery to the escrow
7 holder of money, documents, instruments or other specified property
8 with a subsequent disbursement or delivery of such money,
9 documents, instruments or other specified property received by the
10 escrow holder in accordance with the agreement of the parties.

11 (2) "Escrow holder" means the person to whom, pursuant to an
12 escrow arrangement, money, documents, instruments or other
13 property is delivered and by whom money, documents, instruments or

14 other property is subsequently disbursed or delivered pursuant to the
15 terms of the escrow arrangement.

16 (b) No escrow arrangement shall be ineffective, invalid or
17 unenforceable because the escrow holder is the attorney-at-law, law
18 firm or agent for one or more parties to the escrow arrangement,
19 whether in connection with the matter to which the escrow
20 arrangement is related or otherwise, provided the escrow holder is,
21 pursuant to the agreement of the parties, to receive and hold the
22 money, documents, instruments or other property in an independent
23 capacity and not in the capacity as the attorney-at-law, law firm or
24 agent of one or more of the parties to the escrow arrangement.

25 Sec. 2. This act shall take effect from its passage and shall be
26 applicable to any escrow arrangement in existence on or after said
27 date.

JUD Committee Vote: Yea 39 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

- State Impact:** Uncertain
- Affected Agencies:** Various agencies
- Municipal Impact:** Uncertain

Explanation

State and Municipal Impact:

In response to a recent Appellate Court ruling that provides that money is not in escrow if it is given to an attorney or agent of one of the parties to the transaction, the bill specifies that escrow arrangements cannot be invalidated solely because the escrow holder is one party's attorney. To the extent that various state agencies and municipalities currently take on additional expenses related to establishing independent escrow accounts in order to avoid questions of validity, passage of the bill would result in potential savings. It is uncertain as to what degree, if any, these additional expenses have actually been incurred.

OLR Bill Analysis

HB 5716

AN ACT CONCERNING ESCROW ARRANGEMENTS.**SUMMARY:**

This bill specifies that escrow arrangements are not unenforceable solely because a party's attorney, law firm, or agent is the escrow holder if, under the escrow agreement, the escrow holder is to act in an independent capacity.

The bill defines an escrow arrangement as a written or oral agreement under which a person receives money, documents, instruments, or property to hold until (1) the occurrence of a specified event or events or (2) he receives money, documents, or property and delivers them under the arrangement.

The bill defines an escrow holder as the person under the escrow agreement that receives and later disburses or delivers money, documents, instruments, or property.

The bill applies to escrow arrangements existing on or after its effective date.

EFFECTIVE DATE: Upon passage

BACKGROUND***Appellate Court Decision***

The Appellate Court recently ruled that money is not in escrow if it is given to an attorney or agent of one of the parties under an agreement. In that case, the court ruled that the attorney's duty at all times was to the plaintiff and he was obligated to deliver the funds to the plaintiff on demand (*Galvanek v. Skibitcky*, 55 Conn. App. 254 (1999)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 39 Nay 0