



# Senate

General Assembly

**File No. 569**

January Session, 2005

Substitute Senate Bill No. 1350

*Senate, April 28, 2005*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE INTEREST EARNED ON LAWYERS' CLIENTS' FUNDS ACCOUNTS PROGRAM.***

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

1 Section 1. Section 51-81c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2005*):

3 (a) A program for the use of interest earned on lawyers' clients'  
4 funds accounts is hereby established. The organization administering  
5 the program shall use such interest to provide funding for (1) the  
6 delivery of legal services to the poor by nonprofit corporations whose  
7 principal purpose is providing legal services to the poor and (2) law  
8 school scholarships based on financial need. Each lawyer and law firm  
9 having a clients' funds account shall participate in [such] the program.  
10 On and after July 1, 2005, each person or entity having an account  
11 established to receive loan proceeds from a mortgage lender, as  
12 defined in this subsection, shall participate in the program. Under the  
13 program, funds in accounts established to receive such loan proceeds,

14 regardless of the amount, and clients' funds [, which] that are less than  
15 ten thousand dollars in amount or [are] expected to be held for a  
16 period of not more than sixty business days [,] shall be deposited by  
17 participating lawyers, [and] law firms, persons or entities in interest-  
18 bearing accounts specifically established pursuant to [this] the  
19 program. Funds deposited in such accounts shall be subject to  
20 withdrawal upon request by the depositor and without delay. The  
21 interest earned [thereon] on such accounts shall be paid to an  
22 organization qualified under Section 501(c)(3) of the Internal Revenue  
23 Code of 1986, or any subsequent corresponding internal revenue code  
24 of the United States, as from time to time amended, which shall be  
25 designated to administer [such] the program by the judges of the  
26 Superior Court pursuant to subsection (b) of this section. Nothing in  
27 this section shall prevent a lawyer or law firm from depositing a  
28 client's funds, regardless of the amount of such funds or the period for  
29 which such funds are expected to be held, in a separate interest-  
30 bearing account established on behalf of and for the benefit of the  
31 client. The organization administering the program shall mail to each  
32 lawyer, [or] law firm, person or entity participating in the program a  
33 detailed annual report of all funds disbursed under the program  
34 including the amount disbursed to each recipient of funds. Any  
35 recipient of funds under the program which, using program funds,  
36 represents a party in an action filed after July 1, 1992, against the state  
37 or any officer or agency thereof and is awarded attorney's fees in such  
38 action by the court, shall reimburse the program for the amount of  
39 attorney's fees received in proportion to the percentage of program  
40 funds used for the litigation. No recipient of funds under the program  
41 may use such funds to pay the occupational tax imposed pursuant to  
42 section 51-81b on behalf of any attorney. As used in this section,  
43 "mortgage lender" means any person engaged in the business of  
44 making first mortgage loans or second mortgage loans, including, but  
45 not limited to, a bank, out-of-state bank, Connecticut credit union,  
46 federal credit union, out-of-state credit union, first mortgage lender  
47 required to be licensed under sections 36a-485 to 36a-498a, inclusive, or  
48 second mortgage lender required to be licensed under sections 36a-510

49 to 36a-524, inclusive.

50 (b) The judges of the Superior Court shall adopt rules to implement  
51 [this] the program for the use of interest earned on lawyers' clients'  
52 funds accounts. [, provided nothing in this section shall grant to the  
53 judges of the Superior Court or any other judicial authority any  
54 legislative, regulatory or rule-making authority over banks or other  
55 financial institutions.]

56 (c) [This] The program shall not require the banking corporations or  
57 financial institutions receiving such funds, holding such accounts and  
58 paying interest [thereon] on such accounts to the depositors of the  
59 account to perform any additional administrative functions or assume  
60 any additional responsibilities or obligations in connection with [such]  
61 the program or the accounts so maintained.

62 (d) An advisory panel shall be established to perform the functions  
63 described in subsection (e) of this section consisting of five members to  
64 be selected as follows: Three members shall be appointed by the  
65 Governor, one of whom shall be an executive director of a nonprofit  
66 corporation which provides legal services to the poor in this state; and  
67 two members shall be appointed by the cochairpersons of the  
68 [judiciary committee] joint standing committee of the General  
69 Assembly having cognizance of matters relating to the judiciary. Each  
70 member of the panel shall serve for a term which is coterminous with  
71 the term of [his] the member's appointing authority. A vacancy shall  
72 be filled by the original appointing authority for the balance of the  
73 unexpired term.

74 (e) The advisory panel shall: (1) Consult with and make  
75 recommendations to the tax-exempt organization administering the  
76 program regarding the implementation and administration of the  
77 program, including the methods of allocation and the allocation of  
78 funds to be disbursed under [such] the program; (2) review and  
79 evaluate, and monitor the impact of the program; and (3) report on the  
80 program to the [judiciary committee] joint standing committee of the

81 General Assembly having cognizance of matters relating to the  
82 judiciary and to the Chief Court Administrator, as may from time to  
83 time be requested.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2005</i>	51-81c

**JUD**      *Joint Favorable Subst.*

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:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill extends the reach of the Interest on Lawyers' Trust Accounts (IOLTA) program to include loan proceeds from mortgage lenders placed in escrow by title insurance companies.<sup>1</sup> The annual interest income to IOLTA resulting from this change is expected to be less than \$100,000 annually.

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<sup>1</sup> Under the IOLTA program, interest income generated from client funds that must be placed in escrow with banking institutions is made available to the Connecticut Bar Foundation in order to provide civil legal assistance to the poor: \$7.87 million was awarded for services in 2003. In addition, the program awarded \$180,000 in need-based scholarships to Connecticut residents to attend law schools. Revenues from IOLTA have been approximately \$9.25 million in each of the last three calendar years for which financial information is available: 2001 through 2003.

**OLR Bill Analysis**

sSB 1350

***AN ACT CONCERNING THE INTEREST EARNED ON LAWYERS' CLIENTS' FUNDS ACCOUNTS PROGRAM*****SUMMARY:**

This bill requires that beginning July 1, 2005, each person or entity having an account established to receive loan proceeds from a mortgage lender participate in the Interest on Lawyers' Trust Accounts (IOLTA) program. It requires participating parties to deposit funds, regardless of the amount, in special interest-bearing IOLTA accounts. The interest earned on such accounts is paid to a federally tax-exempt organization, which the Superior Court judges designate to administer the program.

The bill defines a "mortgage lender" as any person engaged in the business of making first or second mortgage loans, including a bank or out-of-state bank; Connecticut, federal, or out-of-state credit union; and a first or second mortgage lender required to be licensed under state law.

The bill eliminates a provision that specifies that nothing in the IOLTA law grants to the judges of the Superior Court or any other judicial authority any legislative, regulatory, or rule-making authority over banks or other financial institutions.

EFFECTIVE DATE: July 1, 2005

**BACKGROUND*****IOLTA Program***

State law established IOLTA in 1984 as a program for lawyers to pool their clients' fund accounts and use the interest generated to assist in providing legal services to the poor and scholarships for poor law students. The law authorizes the Superior Court judges to choose an administrator for the program. They have selected the Connecticut Bar Foundation.

The law requires the Superior Court judges to adopt rules to implement the law. It also creates a five-member advisory panel: three appointed by the governor (one of whom must be executive director of a Connecticut nonprofit legal services organization) and two appointed by the Judiciary Committee co-chairmen. The advisory panel must consult with, and make recommendations to, the program administrator about the program's implementation and administration, including how the program funds are disbursed. The panel must review, evaluate, and monitor the program's impact and report on the program to the Judiciary Committee and the chief court administrator at their request.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40    Nay 0