

TO: MEMBERS OF THE BANKING COMMITTEE

**FROM: THE CONNECTICUT BANKERS ASSOCIATION
(Contact Tom Mongellow or Fritz Conway)**

RE: PROPOSED SENATE BILL 317

POSITION: OPPOSE

This bill is evidently being spearheaded by a plaintiff's class action law firm that has developed a cottage business suing banks in Connecticut and elsewhere. Similar to proposed SB 320, the proposal contained in SB 317 comes in the midst of pending litigation involving this firm and a Connecticut bank and is an apparent attempt to convince the legislature to combat a perceived problem that did not occur.

The *purported* purpose of this legislation is to prevent banks from collecting attorneys' fees from a consumer when the bank prevails in a lawsuit brought by a consumer in connection with a deposit account relationship. In reality, in typical class action litigation, the consumer is not responsible for paying any legal fees (the law firm is responsible). Importantly, in the pending litigation, although the bank has asked for a declaratory ruling concerning its rights under the contract, *the bank has not asked the consumer to pay its legal fees*. This legislative proposal is a smokescreen attempt to suggest that the bank is making the consumer pay the legal fees (when it is not).

Many banks in Connecticut have contract provisions which allow them to charge a customer's deposit account in a variety of legitimate situations. Although the provisions are typically drafted in a broad manner (i.e., to cover a wide range of potential circumstances), we are not aware of any situations where banks are alleged to have used those provisions irresponsibly. If this bill is enacted, banks across Connecticut will be forced to amend their deposit contracts. This will create tremendous burden and expense for the industry (e.g., legal costs to redraft the contracts, costs to reprint the contracts, postage expense to mail out change-in-terms provisions to all existing customers, etc.). These costs are not absorbed in a vacuum. The true economic impact is that the added expense would ultimately result in higher fees being paid by Connecticut residents on bank products. Why would the legislature want to prompt that very real result when an *actual problem* has not presented itself?

In short, this is ill-advised legislation, in the midst of a pending lawsuit, asking the legislature to address a perceived concern that did not actually happen, with a legislative outcome that would actually harm Connecticut residents. We strongly encourage you to vote against proposed SB No. 317.