

**Sec. 51-81c. Program for use of interest on lawyers' clients' funds accounts. Applicability to entities that establish certain accounts to receive loan proceeds from a mortgage lender.** (a) A program for the use of interest earned on lawyers' clients' funds accounts is hereby established. The organization administering the program shall use such interest to provide funding for (1) the delivery of legal services to the poor by nonprofit corporations whose principal purpose is providing legal services to the poor, and (2) law school scholarships based on financial need. Each lawyer and law firm having a clients' funds account shall participate in the program. On and after July 1, 2005, each entity, other than a borrower, having an account established to receive loan proceeds from a mortgage lender, as defined in this subsection, shall participate in the program. Under the program, funds in accounts established to receive such loan proceeds, regardless of the amount or period held, and a client's funds that the client's lawyers and law firms determine, in good faith, cannot earn income for the client in excess of the costs incurred to secure such income, shall be deposited by participating lawyers, law firms and entities in interest-bearing accounts specifically established pursuant to the program. Funds deposited in such accounts shall be subject to withdrawal upon request by the depositor and without delay. The interest earned on such accounts shall be paid to an organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, which shall be designated to administer the program by the judges of the Superior Court pursuant to subsection (d) of this section. Nothing in this section shall prevent (A) a lawyer or law firm from depositing a client's funds, regardless of the amount of such funds or the period for which such funds are expected to be held, in a separate interest-bearing account established on behalf of and for the benefit of the client, or (B) an entity from depositing a person's loan proceeds, regardless of the amount of such proceeds or the period for which such proceeds are expected to be held, in a separate interest-bearing account established on behalf of and for the benefit of the person. The organization administering the program shall mail to each lawyer, law firm and entity participating in the program a detailed annual report of all funds disbursed under the program including the amount disbursed to each recipient of funds. Any recipient of funds under the program which, using program funds, represents a party in an action filed after July 1, 1992, against the state or any officer or agency thereof and is awarded attorney's fees in such action by the court, shall reimburse the program for the amount of attorney's fees received in proportion to the percentage of program funds used for the litigation. No recipient of funds under the program may use such funds to pay the occupational tax imposed pursuant to section 51-81b on behalf of any attorney. As used in this section, "mortgage lender" means any person engaged in the business of making mortgage loans, including, but not limited to, a bank, out-of-state bank, Connecticut credit union, federal credit union, out-of-state credit union, mortgage lender or mortgage correspondent lender required to be licensed under sections 36a-485 to 36a-498a, inclusive.

(b) For the purpose of determining under subsection (a) of this section whether a client's funds cannot earn income for the client in excess of the costs incurred to secure such income, the lawyer or law firm shall consider the following factors: (1) The amount of the funds to be deposited; (2) the expected duration of the deposit, including the likelihood of delay in resolving the relevant transaction, proceeding or matter for which the funds are held; (3) the rates of interest, dividends or yield at eligible institutions where the funds are to be deposited; (4) the costs associated with establishing and administering interest-bearing accounts or other appropriate investments for the benefit of the client, including service charges, minimum balance

requirements or fees imposed by the eligible institutions; (5) the costs of the services of the lawyer or law firm in connection with establishing and maintaining the account or other appropriate investments; (6) the costs of preparing any tax reports required for income earned on the funds in the account or other appropriate investments; and (7) any other circumstances that affect the capability of the funds to earn income for the client in excess of the costs incurred to secure such income.

(c) No lawyer shall be subject to a complaint that the lawyer is guilty of misconduct for determining in good faith to deposit funds in the interest earned on lawyers' clients' funds account in accordance with this section.

(d) The judges of the Superior Court shall adopt rules to implement the program for the use of interest earned on lawyers' clients' funds accounts, provided nothing in this section shall grant to the judges of the Superior Court or any other judicial authority any legislative, regulatory or rule-making authority over banks, insurance companies or other financial institutions.

(e) The program shall not require the banking corporations or financial institutions receiving such funds, holding such accounts and paying interest on such accounts to the depositors of the account to perform any additional administrative functions or assume any additional responsibilities or obligations in connection with the program or the accounts so maintained.

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

(g) The advisory panel shall: (1) Consult with and make recommendations to the tax-exempt organization administering the program regarding the implementation and administration of the program, including the methods of allocation and the allocation of funds to be disbursed under the program; (2) review and evaluate, and monitor the impact of the program; and (3) report on the program to the joint standing committees of the General Assembly having cognizance of matters relating to the judiciary and to banks and to the Chief Court Administrator, as may from time to time be requested by such committees or administrator.

(P.A. 84-537, S. 1, 2; P.A. 89-196; 89-211, S. 49; May Sp. Sess. P.A. 92-6, S. 72, 117; P.A. 05-261, S. 1; P.A. 07-91, S. 27; P.A. 08-176, S. 71; P.A. 09-152, S. 6.)

History: P.A. 89-196 amended Subsec. (a) to specify that recipients of funds for the delivery of legal services to the poor are to be nonprofit corporations whose principal purpose is providing legal services to the poor, to authorize the use of such interest to provide funding for law school scholarships based on financial need, to make participation in the program mandatory rather than voluntary, and to add provisions allowing a lawyer or law firm to deposit a client's

funds in a separate interest-bearing account established on behalf of and for the benefit of the client and requiring the organization administering the program to mail to each participating lawyer or law firm a detailed annual report re the disbursement of funds, and deleted Subsec. (d) requiring lawyers and law firms to notify their clients in order to participate in the program and the judges of the superior court to adopt rules to assure adequate notice to clients, and relettered former Subsecs. (e) and (f) accordingly; P.A. 89-211 clarified reference to the Internal Revenue Code of 1986; May Sp. Sess. P.A. 92-6 amended Subsec. (a) to specify that any recipient of funds under the program who is awarded attorney's fees in actions against the state shall reimburse the program for the amount of the attorney's fees and shall not use program funds to pay the occupational tax; P.A. 05-261 amended Subsec. (a) to provide that each entity, other than a borrower, having an account established to receive loan proceeds from a mortgage lender shall participate in the program regardless of amount or period funds are held, make conforming changes, insert Subpara. designators (A) and (B), and define "mortgage lender", amended Subsec. (b) to reference insurance companies, and made technical changes throughout, effective July 1, 2005; P.A. 07-91 amended Subsec. (e)(3) to require advisory panel to report on program to banks committee and to make technical changes, effective July 1, 2007; P.A. 08-176 redefined "mortgage lender" to include "mortgage correspondent lender" and made conforming and technical changes in Subsec. (a), effective July 1, 2008; P.A. 09-152 amended Subsec. (a) to replace criteria that client's funds are less than \$10,000 or expected to be held not more than 60 business days with criteria that client's lawyers and law firms determine, in good faith, that funds cannot earn income for the client in excess of costs incurred to secure such income, inserted Subsec. (b) re determining whether client's funds cannot earn income and new Subsec. (c) re lawyer not being subject to complaint for misconduct, redesignated existing Subsecs. (b) to (e) as Subsecs. (d) to (g), and made conforming changes.

<http://cga.ct.gov/2011/pub/chap876.htm#Sec51-81c.htm>