

# AN ACT

To amend section 4705.10 of the Revised Code to require a depository institution maintaining an interest-bearing trust account (IOLTA) for a lawyer, law firm, or legal professional association to notify the Ohio Supreme Court when a properly payable item is presented for payment from an IOLTA having insufficient funds.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 4705.10 of the Revised Code be amended to read as follows:

Sec. 4705.10. (A) ~~All~~ All of the following apply to an interest-bearing trust account established under authority of section 4705.09 of the Revised Code ~~shall comply with all of the following:~~

(1) All funds in the account shall be subject to withdrawal upon request and without delay, or as soon as is permitted by federal law;

(2) The rate of interest payable on the account shall not be less than the rate paid by the depository institution to regular, nonattorney depositors. Higher rates offered by the institution to customers whose deposits exceed certain time or quantity qualifications, such as those offered in the form of certificates of deposit, may be obtained by a person or law firm establishing the account if there is no impairment of the right to withdraw or transfer principal immediately.

(3) The depository institution shall be directed, by the person or law firm establishing the account, to do all of the following:

(a) Remit interest or dividends, whichever is applicable, on the average monthly balance in the account or as otherwise computed in accordance with the institution's standard accounting practice, less reasonable service charges, to the treasurer of state at least quarterly for deposit in the legal aid fund established under section 120.52 of the Revised Code;

(b) Transmit to the treasurer of state, upon its request, to the Ohio Legal Assistance Foundation, and the depositing attorney, law firm, or legal professional association upon the attorney's, firm's, or association's request, at the time of each remittance required by division (A)(3)(a) of this section,

a statement showing the name of the attorney for whom or the law firm or legal professional association for which the remittance is sent, the rate of interest applied, the accounting period, the net amount remitted to the treasurer of state for each account, the total remitted, the average account balance for each month of the period for which the report is made, and the amount deducted for service charges;

(4) The depository institution shall notify the office of disciplinary counsel or other entity designated by the supreme court on each occasion when a properly payable instrument is presented for payment from the account, and the account contains insufficient funds. The depository institution shall provide this notice without regard to whether the instrument is honored by the depository institution. The depository institution shall provide the notice described in division (A)(4) of this section by electronic or other means within five banking days of the date that the instrument was honored or returned as dishonored. The notice shall contain all of the following:

(a) The name and address of the depository institution;

(b) The name and address of the lawyer, law firm, or legal professional association that maintains the account;

(c) The account number and either the amount of the overdraft and the date issued or the amount of the dishonored instrument and the date returned.

(B)(1) The statements and reports of individual depositor information made under ~~division~~ divisions (A)(3) and (4) of this section are confidential and shall be used only for purposes of administering the legal aid fund and for enforcement of the rules of professional conduct adopted by the supreme court.

(2) A depository institution may charge the lawyer, law firm, or legal professional association that maintains the account with fees associated with producing and mailing a notice required by division (A)(4) of this section but shall not deduct such fees from the interest earned on the account.

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SECTION 2. That existing section 4705.10 of the Revised Code is hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_