

As Reported by the Senate Judiciary--Criminal Justice Committee

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**Representatives Latta, McGregor, C. Evans, Perry, Carano, T. Patton,
Daniels, J. Stewart, Coley, Gibbs, Allen, Buehrer, DeBose, Dolan, Domenick,
D. Evans, Flowers, Gilb, Hughes, Oelslager, Reidelbach, Seaver, G. Smith,
Wagoner, Yuko
Senators Clancy, Dann, Zurz**

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A B I L L

To amend section 4705.10 of the Revised Code to 1
require a depository institution maintaining an 2
interest-bearing trust account (IOLTA) for a 3
lawyer, law firm, or legal professional 4
association to notify the Ohio Supreme Court when 5
a properly payable item is presented for payment 6
from an IOLTA having insufficient funds. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4705.10 of the Revised Code be 8
amended to read as follows: 9

Sec. 4705.10. (A) ~~All of the following apply to an~~ 10
interest-bearing trust account established under authority of 11
section 4705.09 of the Revised Code ~~shall comply with all of the~~ 12
~~following:~~ 13

(1) All funds in the account shall be subject to withdrawal 14
upon request and without delay, or as soon as is permitted by 15
federal law; 16

(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 48
presented for payment from the account, and the account contains 49
insufficient funds. The depository institution shall provide this 50
notice without regard to whether the instrument is honored by the 51
depository institution. The depository institution shall provide 52
the notice described in division (A)(4) of this section by 53
electronic or other means within five banking days of the date 54
that the instrument was honored or returned as dishonored. The 55
notice shall contain all of the following: 56

(a) The name and address of the depository institution; 57

(b) The name and address of the lawyer, law firm, or legal 58
professional association that maintains the account; 59

(c) The account number and either the amount of the overdraft 60
and the date issued or the amount of the dishonored instrument and 61
the date returned. 62

(B)(1) The statements and reports of individual depositor 63
information made under ~~division~~ divisions (A)(3) and (4) of this 64
section are confidential and shall be used only for purposes of 65
administering the legal aid fund and for enforcement of the rules 66
of professional conduct adopted by the supreme court. 67

(2) A depository institution may charge the lawyer, law firm, 68
or legal professional association that maintains the account with 69
fees associated with producing and mailing a notice required by 70
division (A)(4) of this section but shall not deduct such fees 71
from the interest earned on the account. 72

Section 2. That existing section 4705.10 of the Revised Code 73
is hereby repealed. 74