

**Substitute Senate Bill No. 1157**

**Public Act No. 09-152**

**AN ACT CONCERNING THE INTEREST EARNED ON LAWYERS' CLIENTS' FUNDS ACCOUNT PROGRAM AND THE TRANSFER OF CERTAIN COURT FEES TO FUND SUCH PROGRAM.**

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

Section 1. Section 52-258 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

The jury fee in civil actions shall be [three hundred fifty] four hundred twenty-five dollars to be paid at the time the case is claimed for the jury by the party at whose request the case is placed upon the jury docket. The jury fee shall be taxed in favor of the party paying the jury fee in the bill of costs in the action, if final judgment thereon is rendered in [his] such party's favor.

Sec. 2. Section 52-259 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) There shall be paid to the clerks for entering each appeal or writ of error to the Supreme Court, or entering each appeal to the Appellate Court, as the case may be, two hundred fifty dollars, and for each civil cause in the Superior Court, [two] three hundred [twenty-five] dollars, except (1) one hundred twenty dollars for entering each case in the Superior Court in which the sole claim for relief is damages and the amount, legal interest or property in demand is less than two thousand five hundred dollars and for summary process, landlord and tenant and paternity actions, and (2) there shall be no entry fee for making an application to the Superior Court for relief under section 46b-15 or for making an application to modify or extend an order issued pursuant to section 46b-15. If the amount, legal interest or property in demand by the plaintiff is alleged to be less than two thousand five hundred dollars, a new entry fee of seventy-five dollars shall be charged if the plaintiff amends his or her complaint to state that such demand is not less than two thousand five hundred dollars.

(b) The fee for the entry of a small claims case shall be thirty-five dollars. If a motion is filed to transfer a small claims case to the regular docket, the moving party shall pay a fee of seventy-five dollars.

(c) There shall be paid to the clerk of the Superior Court by any party who requests that a matter be designated as a complex litigation case the sum of [two hundred fifty] three hundred twenty-five dollars, to be paid at the time the request is filed.

(d) There shall be paid to the clerk of the Superior Court by any party who requests a finding of fact by a judge of such court to be used on appeal the sum of twenty-five dollars, to be paid at the time the request is filed.

(e) There shall be paid to the clerk of the Superior Court a fee of seventy-five dollars for a petition for certification to the Supreme Court and Appellate Court.

(f) [Such clerks shall also receive] There shall be paid to the clerk of the Superior Court for receiving and filing an assessment of damages by appraisers of land taken for public use or the appointment of a commissioner of the Superior Court, two dollars; for recording the commission and oath of a notary public or certifying under seal to the official character of any magistrate, ten dollars; for certifying under seal, two dollars; for exemplifying, twenty dollars; for making all necessary records and certificates of naturalization, the fees allowed under the provisions of the United States statutes for such services; and for making copies, one dollar a page.

(g) There shall be paid to the clerk of the Superior Court for a copy of a judgment file a fee of twenty-five dollars, inclusive of the fees for certification and copying, for a certified copy and a fee of fifteen dollars, inclusive of the fee for copying, for a copy which is not certified; and for a copy of a certificate of judgment in a foreclosure action, as provided by the rules of practice and procedure, twenty-five dollars, inclusive of the fees for certification and copying.

(h) There shall be paid to the clerk of the [court] Superior Court a fee of one hundred seventy-five dollars at the time any application for a prejudgment remedy is filed.

(i) A fee of twenty dollars for any check issued to the court in payment of any fee which is returned as uncollectible by the bank on which it is drawn may be imposed.

(j) The tax imposed under chapter 219 shall not be imposed upon any fee charged under the provisions of this section.

Sec. 3. Section 52-259c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) There shall be paid to the clerk of the Superior Court upon the filing of any motion to open, set aside, modify or extend any civil judgment rendered in Superior Court a fee of thirty-five dollars for any housing matter, a fee of twenty-five dollars for any small claims matter and a fee of [seventy] one hundred twenty-five dollars for any other matter, except no fee shall be paid upon the filing of any motion to open, set aside, modify or extend judgments in juvenile matters or orders issued pursuant to section 46b-15 or upon the filing of any motion pursuant to subsection (b) of section 46b-63. Such fee may be waived by the court.

(b) Upon the filing of a motion to open or reargue a judgment in any civil appeal rendered by the Supreme Court or Appellate Court or to reconsider any other civil matter decided in either court, the party filing the motion shall pay a fee of [seventy] one hundred twenty-five dollars.

Sec. 4. Subsection (a) of section 52-361a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) If a judgment debtor fails to comply with an installment payment order, the judgment creditor may apply to the court for a wage execution. The application shall contain the judgment creditor's or [his] the judgment creditor's attorney's statement setting forth the particulars of the installment payment order and of the judgment debtor's failure to comply. The application shall be accompanied by a fee of [thirty-five] seventy-five dollars payable to the clerk of the court for the administrative costs of complying with the provisions of this section which fee may be recoverable by the judgment creditor as a taxable cost of the action.

Sec. 5. (NEW) (*Effective July 1, 2009*) The Chief Court Administrator, or a designee, on or before the last day of January, April, July and October in each year, shall certify the amount of revenue received as a result of any fee increase that takes effect July 1, 2009, set forth in sections 52-258, 52-259, 52-259c and 52-361a of the general statutes, each as amended by this act, and transfer such amount to the organization administering the program for the use of interest earned on lawyers' clients' funds account pursuant to section 51-81c of the general statutes, as amended by this act, for the purpose of funding the delivery of legal services to the poor.

Sec. 6. Section 51-81c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(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 [clients'] a client's funds that [are less than ten thousand dollars in amount or expected to be held for a period of not more than sixty business days] 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 [(b)] (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.

[(b)] (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.

[(c)] (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.

[(d)] (f) An advisory panel shall be established to perform the functions described in subsection [(e)] (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.

[(e)] (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.