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SB-134 State Bar of California: Interest on Lawyers' Trust Accounts: escheated funds: Public Interest Attorney Loan Repayment Program. (2015-2016)

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Senate Bill No. 134

CHAPTER 488

An act to add Section 6032.5 to the Business and Professions Code, and to add Section 1564.5 to the Code of Civil Procedure, relating to attorneys.

[Approved by Governor October 04, 2015. Filed with Secretary of State October 04, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 134, Hertzberg. State Bar of California: Interest on Lawyers' Trust Accounts: escheated funds: Public Interest Attorney Loan Repayment Program.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation. Existing law requires an attorney or law firm that receives or disburses trust funds to establish an interest-bearing demand trust account and to deposit in the account all client deposits that are nominal in amount or are on deposit for a short period of time. Existing law creates the Public Interest Attorney Loan Repayment Program, which is administered by the Student Aid Commission, to provide loan repayment assistance for licensed attorneys who practice or agree to practice in public interest areas of the law in California.

Existing law provides for the escheat of property to the state. Existing law requires all property that escheats to the state to be deposited into the Abandoned Property Account in the Unclaimed Property Fund, which is continuously appropriated for specified purposes. Existing law establishes procedures for submitting a claim for property that has escheated.

This bill would require funds in Interest on Lawyers' Trust Accounts (IOLTA) that escheat to the state to be deposited into the Abandoned IOLTA Property Account, which would be established within the Unclaimed Property Fund. The bill would establish the IOLTA Claims Reserve Subaccount within the account and would require that 25% of IOLTA escheated funds be deposited into the subaccount to be used by the Controller, upon appropriation by the Legislature, for the purposes of paying refunds, claims, and costs associated with escheated IOLTA funds. The bill would require the balance of the escheated IOLTA funds to be transferred annually into the Public Interest Attorney Loan Repayment Account to be established by this bill within the State Treasury for the purposes of providing, upon appropriation by the Legislature, additional funding to the Student Aid Commission for the administration of, and provision of loan assistance pursuant to, the Public Interest Attorney Loan Repayment Program.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6032.5 is added to the Business and Professions Code, to read:

6032.5. (a) The Public Interest Attorney Loan Repayment Account is hereby established within the State Treasury.

(b) Funds from an IOLTA account that escheat to the state and are deposited into the Public Interest Attorney Loan Repayment Account pursuant to subdivision (c) of Section 1564.5 of the Code of Civil Procedure shall be used, upon appropriation by the Legislature, by the Student Aid Commission for the purpose of providing increased funding for, both the administration of and the provision of loan assistance pursuant to, the Public Interest Attorney Loan Repayment Program pursuant to Article 12 (commencing with Section 69740) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code.

SEC. 2. Section 1564.5 is added to the Code of Civil Procedure, to read:

1564.5. (a) Notwithstanding any law, including, but not limited to, Section 1564, all money received under this chapter from funds held in an Interest on Lawyers' Trust Account (IOLTA) that escheat to the state shall be administered as set forth in this section. The money shall be deposited into the Abandoned IOLTA Property Account, which is hereby established within the Unclaimed Property Fund.

(b) Twenty-five percent of the money in the Abandoned IOLTA Property Account shall be deposited into the IOLTA Claims Reserve Subaccount, which is hereby established within the Abandoned IOLTA Property Account. Funds in the subaccount shall, upon appropriation by the Legislature, be available to the Controller for the payment of all refunds, claims, and costs pursuant to this chapter related to escheated IOLTA funds.

(c) The balance of the funds in the Abandoned IOLTA Property Account, excluding funds in the subaccount, shall be transferred on an annual basis to the Public Interest Attorney Loan Repayment Account established pursuant to Section 6032.5 of the Business and Professions Code. Before making this transfer, the Controller shall record the name and last known address of each person appearing from the holders' report to be entitled to the escheated property. The record shall be available for public inspection at all reasonable business hours.