
OLR Bill Analysis

HB 6924

AN ACT CONCERNING THE ASSIGNMENT OF FUNDS IN QUALIFIED ESCROW FUNDS AND THE APPOINTMENT OF AN AGENT BY CERTAIN TOBACCO PRODUCT MANUFACTURERS.

SUMMARY

This bill makes several changes in the state's tobacco settlement law. Under this law, tobacco product manufacturers selling cigarettes in Connecticut must either (1) enter into the master settlement agreement between Connecticut and four leading tobacco companies and comply with its terms and conditions or (2) pay into a qualified escrow fund a specified amount for each cigarette they sell in the state. Manufacturers that choose the latter option are considered "nonparticipating manufacturers."

Specifically, the bill:

1. allows nonparticipating manufacturers or their transferees to irrevocably assign their interest in qualified escrow funds to the state,
2. requires these assigned funds to be deposited in the Tobacco Health and Trust Fund, and
3. requires nonparticipating manufacturers that maintain a qualified escrow fund to designate an agent for service of process.

EFFECTIVE DATE: October 1, 2023

ASSIGNMENT OF ESCROWED FUNDS

Conditions

The bill authorizes any tobacco product manufacturer that places funds into a qualified escrow fund under Connecticut's tobacco

settlement law, or any third party to which the manufacturer has transferred its interest in the funds, to assign to the state all or part of its interest in the funds. Under the bill, the assignment:

1. is permanent and irrevocable;
2. applies to all of the qualified escrow fund's assigned funds, including (a) those deposited before, on, or after the assignment and (b) any interest or other appreciation on the funds;
3. must be in writing and signed by the assignor's duly authorized representative; and
4. is effective when delivered to the attorney general and financial institution that maintains the fund.

The tobacco product manufacturer, transferee, attorney general, or financial institution may amend the qualified escrow fund agreement as needed for this assignment or any withdrawal authorized under the tobacco settlement law (e.g., to pay a judgment or settlement on a claim brought against the manufacturer by the state).

Tobacco and Health Trust Fund Deposit

The bill requires any funds assigned to the state under this provision to be deposited in the state's Tobacco and Health Trust Fund. Any financial institution maintaining an assigned escrow fund may petition the Superior Court for an order authorizing a transfer of funds from the escrow fund to the Tobacco and Health Trust Fund. The financial institution must (1) state the factual and legal basis for the relief sought in its petition and (2) serve the petition on the attorney general when filing it in the court.

Compliance With Escrow Requirements

Under the bill, these provisions must not be construed to (1) waive the state's right to bring a claim against a tobacco product manufacturer for failing to place required funds into escrow or (2) relieve a tobacco product manufacturer from any past, current, or future obligations it may have under the tobacco settlement law. Any assigned funds must

be credited dollar-for-dollar against any judgment or settlement that applies to the escrow obligation the assigned funds were initially deposited to satisfy.

AGENT FOR SERVICE OF PROCESS REQUIREMENT

The bill requires any nonparticipating manufacturer that maintains a qualified escrow fund to appoint and continually engage the services of an agent for service of process in Connecticut for all legal proceedings arising out of the tobacco settlement law’s enforcement. The law already requires nonparticipating manufacturers to do so as a condition of selling their products in the state. As under current law, service on these agents is legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer must provide the agent’s name, address, telephone number, and proof of appointment and availability to the revenue services commissioner and attorney general.

As under current law for nonparticipating manufacturers whose products are currently sold in the state, if a nonparticipating manufacturer whose products were previously sold in Connecticut does not comply with this requirement, the bill makes the secretary of the state its agent.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 51 Nay 0 (04/18/2023)