



General Assembly

January Session, 2023

Raised Bill No. 6924

LCO No. 5695



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

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

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

1 Section 1. (NEW) (*Effective October 1, 2023*) (a) Any tobacco product
2 manufacturer that places funds into escrow pursuant to subsection (a)
3 of section 4-28i of the general statutes, or a third party to which a
4 tobacco product manufacturer has transferred such manufacturer's
5 interests in such funds, may make an assignment to the state of all or
6 part of its interest in any funds in the qualified escrow fund. Such
7 assignment shall (1) be permanent and irrevocable, (2) apply to all
8 assigned funds in the qualified escrow fund, including all assigned
9 funds deposited in such fund prior to and on or after the assignment is
10 executed and all interest or other appreciation on the assigned funds,
11 (3) be in writing and signed by a duly authorized representative of the
12 assignor, and (4) become effective upon delivery of the assignment to
13 the Attorney General and the financial institution where the qualified
14 escrow fund is maintained. The tobacco product manufacturer, its
15 transferee, the Attorney General or the financial institution where the

16 qualified escrow fund is maintained may make such amendments to
17 the qualified escrow fund agreement as may be necessary to effectuate
18 an assignment of funds executed pursuant to this subdivision or a
19 withdrawal of funds from such qualified escrow fund pursuant to
20 subsection (b) of section 4-28i of the general statutes.

21 (b) Any funds assigned to the state pursuant to subsection (a) of this
22 section shall be deposited in the Tobacco and Health Trust Fund
23 created in section 4-28f of the general statutes.

24 (c) Any financial institution in which a qualified escrow fund is
25 maintained for which an assignment of funds has been executed
26 pursuant to subsection (a) of this section may file a petition in the
27 Superior Court for an order authorizing a transfer of funds in such
28 qualified escrow fund to the Tobacco and Health Trust Fund. The
29 petition shall state the factual and legal basis for the relief sought. The
30 financial institution shall serve the petition on the Attorney General at
31 the time the petition is filed in the Superior Court.

32 (d) Nothing in this section shall be construed to (1) waive the right
33 of the state to bring a claim against a tobacco product manufacturer
34 under section 4-28j of the general statutes, or (2) relieve a tobacco
35 product manufacturer from any past, current or future obligations
36 such manufacturer may have pursuant to chapter 47 of the general
37 statutes. Any funds assigned to the state pursuant to subsection (a) of
38 this section shall be credited on a dollar-for-dollar basis against any
39 judgment or settlement applicable to the escrow obligation the
40 assigned funds were initially deposited to satisfy.

41 Sec. 2. Section 4-28n of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective October 1, 2023*):

43 (a) (1) Any nonparticipating manufacturer that has not registered to
44 do business in this state, pursuant to title 33 or 34, as a foreign
45 corporation or business entity shall, as a condition precedent to having
46 its brand families listed or retained in the directory maintained

47 pursuant to section 4-28m, appoint and continually engage without
48 interruption the services of an agent in this state to act as agent for the
49 service of process on whom all process and any action or proceeding
50 against it concerning or arising out of the enforcement of the
51 provisions of sections 4-28h to 4-28r, inclusive, may be served in any
52 manner authorized by law.

53 (2) Any nonparticipating manufacturer that maintains funds in
54 escrow pursuant to subsection (a) of section 4-28i shall appoint and
55 continually engage without interruption the services of an agent in this
56 state to act as agent for the service of process on whom all process and
57 any action or proceeding against it concerning or arising out of the
58 enforcement of the provisions of sections 4-28h to 4-28r, inclusive, may
59 be served in any manner authorized by law.

60 (3) Such service on such agent shall constitute legal and valid
61 service of process on the nonparticipating manufacturer. The
62 nonparticipating manufacturer shall provide the name, address,
63 telephone number and proof of the appointment and availability of
64 such agent to, and to the satisfaction of, the commissioner and the
65 Attorney General.

66 (b) A nonparticipating manufacturer shall provide notice to the
67 commissioner and the Attorney General at least thirty calendar days
68 prior to termination of the authority of an agent and shall further
69 provide proof, to the satisfaction of the commissioner and the Attorney
70 General, of the appointment of a new agent no less than five calendar
71 days prior to the termination of an existing agent appointment. In the
72 event an agent terminates an agency, the nonparticipating
73 manufacturer shall notify the commissioner and the Attorney General
74 of such termination not later than five calendar days after such
75 termination and shall include proof, to the satisfaction of the
76 commissioner and the Attorney General, of the appointment of a new
77 agent.

78 (c) Any nonparticipating manufacturer whose products are or

79 previously have been sold in this state [without appointing or
80 designating] and that has not appointed or designated an agent as
81 required in this section shall be deemed to have appointed the
82 Secretary of the State as such agent and may be proceeded against in
83 courts of this state by service of process upon the Secretary of the State,
84 except that the appointment of the Secretary of the State as such agent
85 shall not satisfy the condition precedent to having the brand families of
86 the nonparticipating manufacturer listed or retained in the directory.

87 (d) As a condition precedent to having its brand families listed or
88 retained in the directory, a nonparticipating manufacturer located
89 outside of the United States shall cause each of its importers into the
90 United States of each of its brand families to be sold in the state to
91 appoint and maintain the services of an agent in the state, and shall
92 provide notification to the commissioner and the Attorney General
93 regarding the agents of its importers in the manner prescribed in
94 subsections (a) and (b) of this section. Each importer of a
95 nonparticipating manufacturer's cigarettes that are sold in the state
96 who does not appoint or designate an agent as required in this section
97 shall be deemed to have appointed the Secretary of the State as such
98 agent and may be proceeded against in courts of this state by service of
99 process upon the Secretary of the State, except that the appointment of
100 the Secretary of the State as such agent shall not satisfy the condition
101 precedent to having the brand families of the nonparticipating
102 manufacturer listed or retained in the directory.

103 (e) (1) In conjunction with the certification required under section 4-
104 28l and as a condition precedent to having its brand families listed or
105 retained in the directory, each nonparticipating manufacturer shall
106 post annually with the commissioner either a good and valid bond that
107 is issued by a surety company authorized to do business in this state or
108 other security acceptable to the commissioner. Any bond or other
109 security shall be in favor of the state of Connecticut and shall be equal
110 in amount to the greater of (A) twenty-five thousand dollars, or (B) the
111 greatest amount of the total escrow owed for a calendar year in any of

112 the five calendar years preceding the posting of such bond or other
113 security. The commissioner may, in consultation with the Attorney
114 General, authorize the release of such bond or other security once it
115 has been established that the nonparticipating manufacturer has met
116 the requirements of section 4-28i.

117 (2) If the nonparticipating manufacturer that posted a bond has
118 failed to make, or have made on its behalf, escrow deposits equal to
119 the full amount owed for a quarter not later than fifteen days following
120 the due date for the quarter under section 4-28i, the commissioner may
121 execute on the bond, to (A) recover the delinquent escrow, which
122 amount shall be deposited into a qualified escrow account as defined
123 in section 4-28h, or a reasonable alternative account as determined by
124 the commissioner, and (B) recover civil penalties and costs authorized
125 under section 4-28j. Escrow amounts above the amount collected on
126 the bond shall remain due from the nonparticipating manufacturer
127 and, as provided in subsection (d) of section 4-28j, from the importers
128 that sold such nonparticipating manufacturer's cigarettes in this state
129 during such calendar quarter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	New section
Sec. 2	<i>October 1, 2023</i>	4-28n

FIN *Joint Favorable*