

State Finance Law

§ 97-v. The New York Interest on Lawyer Account (IOLA) Fund.

1. There is hereby established in the custody of the state comptroller a fiduciary fund to be known as the New York Interest on Lawyer Account (IOLA) Fund. A board of trustees shall be appointed to administer the New York IOLA fund.
2. The board shall consist of fifteen members appointed by the governor. All members shall be residents of the state of New York and shall be knowledgeable and supportive of the delivery of civil legal services to the poor and the improvement of the administration of justice. At least eight of the members shall be attorneys licensed to practice law in the state of New York. Two members shall be appointed upon the recommendation of the temporary president of the senate, at least one of whom shall be an attorney; two members shall be appointed upon the recommendation of the speaker of the assembly, at least one of whom shall be an attorney; one member shall be appointed upon the recommendation of the minority leader of the senate; and one member shall be appointed upon the recommendation of the minority leader of the assembly. Two members shall be appointed upon the recommendation of the court of appeals, each of whom shall be an attorney. The governor shall designate one of the members of the board as chairman.
 - (a) The term of office shall be three years, provided, however, that of the members first appointed, five shall be appointed for terms expiring on December thirty-first, nineteen hundred eighty-four, five shall be appointed for terms expiring on December thirty-first, nineteen hundred eighty-five and five shall be appointed for terms expiring on December thirty-first, nineteen hundred eighty-six. Vacancies shall be filled in the manner of original appointments for the remainder of the term.
 - (b) The members shall receive no compensation for their services as members, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.
 - (c) The members shall be considered employees of the state for the purposes of section seventeen of the public officers law.
 - (d) No member of the senate or assembly shall be eligible to serve as a member of the board.
3.
 - (a) The board shall have the power to receive, hold and manage any moneys and property received from any source. It shall distribute funds as grants and contracts to not-for-profit tax-exempt entities for the purpose of delivering civil legal services to the poor and for purposes related to the improvement of the administration of justice, including, but not limited to, the provision of civil legal services to groups currently underserved by legal services, such as the elderly and the disabled, and the enhancement of civil legal services to the poor through innovative and cost-effective means, such as volunteer lawyer programs and support and training services.
 - (b) No less than seventy-five percent of the total funds distributed in any fiscal year shall be allocated to not-for-profit tax-exempt providers for the purpose of delivering civil legal services to the poor. The funds distributed annually to legal services providers shall be allocated according to the geographical distribution of poor persons throughout the state based on the latest available figures from the United States department of commerce, bureau of census, as prescribed by rules and regulations of the board of trustees.
 - (c) The remaining funds shall be allocated for purposes related to the improvement of the administration of justice, including, but not limited to, the provision of civil legal services to groups currently underserved by legal services, such as the elderly and the disabled, and the enhancement of civil legal services to the poor through innovative and cost-effective means, such as volunteer lawyer programs and support and training services.

- (d)** The board shall adopt rules and regulations for the administration of the IOLA fund to carry out the purposes and provisions of this section and of section four hundred ninety-seven of the judiciary law. Such regulations shall be adopted in accordance with article two of the state administrative procedure act.
- (e)** The board may employ and remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor and may allocate funds for the actual and necessary nonpersonnel administrative costs of the program. No more than ten percent of the funds available in any fiscal year shall be spent on personnel and related services, and on necessary nonpersonnel administrative costs of the program provided, however, that such limitations may be waived by the board by the adoption of a resolution and such waiver shall remain in effect until the board determines by a subsequent resolution that the program is fully operational.
- (f)** The board shall insure that grants and contracts are made with not-for-profit providers of civil legal services for the poor to provide stable, economical and high quality delivery of civil legal services to the poor throughout the state.
- (g)** Notwithstanding any statute or rule to the contrary, the board shall maintain all papers, records, documents or other information identifying an attorney, client or beneficial owner of an IOLA account on a private and confidential basis and shall not disclose such information unless such disclosure is necessary to accomplish the purposes of this section and section four hundred ninety-seven of the judiciary law, or unless disclosure is pursuant to compulsory legal process.
- (h)** All payments from the IOLA fund shall be made by the state comptroller upon certification and authorization of the board of trustees of the fund.

4.

- (a)** The board of trustees shall establish by regulation a specific dollar amount equivalent to the cost of administering a segregated interest bearing account for a client or beneficial owner. This dollar amount may be used by participating attorneys as a guide when determining whether the moneys are qualified funds.
- (b)** The board of trustees shall also establish by regulation the qualifications of a recipient of funds and the nature and scope of civil legal services to be provided to poor persons by the funds disbursed under this section.

- 5.** If it shall appear to the satisfaction of the board of trustees that, because of a mistake of fact, error in calculation or erroneous interpretation of the provisions of this chapter or of section four hundred ninety-seven of the judiciary law, or of any regulation adopted by the board, a banking institution has remitted to the IOLA fund any moneys not required by such provisions to be remitted, the board shall refund such moneys upon application of any aggrieved party. Any such refund shall be paid from the IOLA fund without interest and without the deduction of any service charge, and shall be and constitute a full satisfaction and discharge of any claim for such refund.