CALIFORNIA CODES
BUSINESS AND PROFESSIONS CODE
SECTION 6210-6228

6210. The Legislature finds that, due to insufficient funding, existing programs providing free legal services in civil matters to indigent persons, especially underserved client groups, such as the elderly, the disabled, juveniles, and non-English-speaking persons, do not adequately meet the needs of these persons. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons, and to initiate new programs that will provide services to them. The Legislature finds that the use of funds collected by the State Bar pursuant to this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government. The Legislature further finds that the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and the improvement of the administration of justice.

6211. (a) An attorney or law firm that, in the course of the practice of law, receives or disburses trust funds shall establish and maintain an IOLTA account in which the attorney or law firm shall deposit or invest all client deposits or funds that are nominal in amount or are on deposit or invested for a short period of time. All such client funds may be deposited or invested in a single unsegregated account. The interest and dividends earned on all those accounts shall be paid to the State Bar of California to be used for the purposes set forth in this article.

(b) Nothing in this article shall be construed to prohibit an attorney or law firm from establishing one or more interest bearing bank trust deposit accounts or dividend-paying trust investment accounts as may be permitted by the Supreme Court, with the interest or dividends earned on the accounts payable to clients for trust funds not deposited or invested in accordance with subdivision (a).

(c) With the approval of the Supreme Court, the State Bar may formulate and enforce rules of professional conduct pertaining to the use by attorneys or law firms of an IOLTA account for unsegregated client funds pursuant to this article.

(d) Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or of the State Bar or as modifying the statutes and rules governing the conduct of members of the State Bar.

6212. An attorney who, or a law firm that, establishes an IOLTA account pursuant to subdivision (a) of Section 6211 shall comply with all of the following provisions:

(a) The IOLTA account shall be established and maintained with an eligible institution offering or making available an IOLTA account that meets the requirements of this article. The IOLTA account shall be established and maintained consistent with the attorney or law firm's duties of professional responsibility. An eligible financial institution shall have no responsibility for selecting the deposit or investment product chosen for the IOLTA account.

(b) Except as provided in subdivision (e), the rate of interest or dividends payable on any IOLTA account shall not be less than the interest rate or dividends generally paid by the eligible institution to nonattorney customers on accounts of the same type meeting the same minimum balance and other eligibility requirements as the IOLTA account. In determining the interest rate or dividend payable on any IOLTA account, an eligible institution may consider, in addition to the balance in the IOLTA account, risk or other factors customarily considered by the eligible institution when setting the interest rate or dividends for its non-IOLTA accounts, provided that the factors do not discriminate between IOLTA customers and non-IOLTA customers and that these factors do not include the fact that the account is an IOLTA account. The eligible institution shall calculate interest and dividends in accordance with its standard practice for non-IOLTA customers. Nothing in this article shall preclude an eligible institution from paying a higher interest rate or dividend on an IOLTA account or from electing to waive any fees and service charges on an IOLTA account.

(c) Reasonable fees may be deducted from the interest or dividends remitted on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No other fees or service charges may be deducted from the interest or dividends earned on an IOLTA account. Unless and until the State Bar enacts regulations exempting from compliance with subdivision (a) of Section 6211 those accounts for which maintenance fees exceed the interest or dividends paid, an eligible institution may deduct the fees and service charges in excess of the interest or dividends paid on an IOLTA account from the aggregate interest and dividends remitted to the State Bar. Any fees and service charges other than reasonable fees shall be the sole responsibility of, and may only be charged to, the lawyer or law firm maintaining the IOLTA account. No fees or charges may be assessed against or deducted from the principal of any IOLTA account. It is the intent of the Legislature that the State Bar develop policies so that eligible institutions not incur uncompensated administrative costs in adapting their systems to comply with the provisions of Assembly Bill 1723 of the 2007-08 Regular Session or in making investment products available to IOLTA members.

(d) The eligible institution shall be directed to do all of the following:

(1) To remit interest or dividends on the IOLTA account, less reasonable fees, to the State Bar, at least quarterly.

(2) To transmit to the State Bar with each remittance a statement showing the name of the attorney or law firm for whom the remittance is sent, for each account the rate of interest applied or dividend paid, the amount and type of fees deducted, if any, and the average balance for each account for each month of the period for which the report is made.

(3) To transmit to the attorney or law firm customer at the same time a report showing the amount paid to the State Bar for that period, the rate of interest or dividend applied, the amount of fees and service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.

(e) An eligible institution has no affirmative duty to offer or make investment products available to IOLTA customers. However, if an eligible institution offers or makes investment products available to non-IOLTA customers, in order to remain an IOLTA eligible institution, it shall make those products available to IOLTA customers or pay an interest rate on the IOLTA deposit account that is comparable to the rate of return or the dividends generally paid on that investment product for similar customers meeting the same minimum balance and other requirements applicable to the investment product. If the eligible institution elects to pay that higher interest rate, the eligible institution may subject the IOLTA deposit account to equivalent fees and charges assessable against the investment product.

6213. As used in this article:

(a) "Qualified legal services project" means either of the following:

(1) A nonprofit project incorporated and operated exclusively in California which provides as its primary purpose and function legal services without charge to indigent persons and which has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California which meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars ($20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) "Qualified support center" means an incorporated nonprofit legal services center, which has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through

an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) "Recipient" means a qualified legal services project or support center receiving financial assistance under this article.

(d) "Indigent person" means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project which provides free services of attorneys in private practice without compensation, "indigent person" also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(e) "Fee generating case" means any case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a

recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (Public Law 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) "Older Americans Act" means the Older Americans Act of 1965, as amended (Public Law 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act of 1975, as amended (Public Law 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:

(1) An interest-bearing checking account.

(2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money-market fund.

(3) Any other investment product authorized by California Supreme Court rule or order.

A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money-market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money-market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at that time of the investment, shall have total assets of at least two hundred fifty million dollars ($250,000,000).

(k) "Eligible institution" means a bank or any other type of financial institution authorized by the Supreme Court.

6214. (a) Projects meeting the requirements of subdivision (a) of Section 6213 which are funded either in whole or part by the Legal Services Corporation or with Older American Act funds shall be presumed qualified legal services projects for the purpose of this article.

(b) Projects meeting the requirements of subdivision (a) of Section 6213 but not qualifying under the presumption specified in subdivision (a) shall qualify for funds under this article if they meet all of the following additional criteria:

(1) They receive cash funds from other sources in the amount of at least twenty thousand dollars ($20,000) per year to support free legal representation to indigent persons.

(2) They have demonstrated community support for the operation of a viable ongoing program.

(3) They provide one or both of the following special services:

(A) The coordination of the recruitment of substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects in California.

(B) The provision of legal representation, training, or technical assistance on matters concerning special client groups, including the elderly, the disabled, juveniles, and non-English-speaking groups, or on matters of specialized substantive law important to the special client groups.

6214.5. A law school program that meets the definition of a "qualified legal services project" as defined in paragraph (2) of subdivision (a) of Section 6213, and that applied to the State Bar for funding under this article not later than February 17, 1984, shall be deemed eligible for all distributions of funds made under Section 6216.

6215. (a) Support centers satisfying the qualifications specified in subdivision (b) of Section 6213 which were operating an office and providing services in California on December 31, 1980, shall be presumed to be qualified support centers for the purposes of this article.

(b) Support centers not qualifying under the presumption specified in subdivision (a) may qualify as a support center by meeting both of the following additional criteria:

(1) Meeting quality control standards established by the State Bar.

(2) Being deemed to be of special need by a majority of the qualified legal services projects.

6216. The State Bar shall distribute all moneys received under the program established by this article for the provision of civil legal services to indigent persons. The funds first shall be distributed 18 months from the effective date of this article, or upon such a date, as shall be determined by the State Bar, that adequate funds are available to initiate the program. Thereafter, the funds shall be distributed on an annual basis. All distributions of funds shall be made in the following order and in the following manner:

(a) To pay the actual administrative costs of the program, including any costs incurred after the adoption of this article and a reasonable reserve therefor.

(b) Eighty-five percent of the funds remaining after payment of administrative costs allocated pursuant to this article shall be distributed to qualified legal services projects. Distribution shall be by a pro rata county-by-county formula based upon the number of persons whose income is 125 percent or less of the current poverty threshold per county. For the purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures from the United States Department of Commerce, Bureau of the Census. Projects from more than one county may pool their funds to operate a joint, multicounty legal services project serving each of their respective counties.

(1) (A) In any county which is served by more than one qualified legal services project, the State Bar shall distribute funds for the county to those projects which apply on a pro rata basis, based upon the amount of their total budget expended in the prior year for legal services in that county as compared to the total expended in the prior year for legal services by all qualified legal services projects applying therefor in the county. In determining the amount of funds to be allocated to a qualified legal services project specified in paragraph (2) of subdivision (a) of Section 6213, the State Bar shall recognize only expenditures attributable to the representation of indigent persons as constituting the budget of the program.

(B) The State Bar shall reserve 10 percent of the funds allocated to the county for distribution to programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 and which perform the services described in subparagraph (A) of paragraph (3) of Section 6214 as

their principal means of delivering legal services. The State Bar shall distribute the funds for that county to those programs which apply on a pro rata basis, based upon the amount of their total budget expended for free legal services in that county as compared to the total expended for free legal services by all programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 in that county. The State Bar shall distribute any funds for which no program has qualified pursuant hereto, in accordance with the provisions of subparagraph (A) of paragraph (1) of this subdivision.

(2) In any county in which there is no qualified legal services projects providing services, the State Bar shall reserve for the remainder of the fiscal year for distribution the pro rata share of funds as provided for by this article. Upon application of a qualified legal services project proposing to provide legal services to the indigent of the county, the State Bar shall distribute the funds to the project. Any funds not so distributed shall be added to the funds to be distributed the following year.

(c) Fifteen percent of the funds remaining after payment of administrative costs allocated for the purposes of this article shall be distributed equally by the State Bar to qualified support centers which apply for the funds. The funds provided to support centers shall be used only for the provision of legal services within California. Qualified support centers that receive funds to provide services to qualified legal services projects from sources other than this article, shall submit and shall have approved by the State Bar a plan assuring that the services funded under this article are in addition to those already funded for qualified legal services projects by other sources.

6217. With respect to the provision of legal assistance under this article, each recipient shall ensure all of the following:

(a) The maintenance of quality service and professional standards.

(b) The expenditure of funds received in accordance with the provisions of this article.

(c) The preservation of the attorney-client privilege in any case, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to indigent persons.

(d) That no one shall interfere with any attorney funded in whole or in part by this article in carrying out his or her professional responsibility to his or her client as established by the rules of professional responsibility and this chapter.

6218. All legal services projects and support centers receiving funds pursuant to this article shall adopt financial eligibility guidelines for indigent persons.

(a) Qualified legal services programs shall ensure that funds appropriated pursuant to this article shall be used solely to defray the costs of providing legal services to indigent persons or for such other purposes as set forth in this article.

(b) Funds received pursuant to this article by support centers shall only be used to provide services to qualified legal services projects as defined in subdivision (a) of Section 6213 which are used pursuant to a plan as required by subdivision (c) of Section 6216, or as permitted by Section 6219.

6219. Qualified legal services projects and support centers may use funds provided under this article to provide work opportunities with pay, and where feasible, scholarships for disadvantaged law students to help defray their law school expenses.

6220. Attorneys in private practice who are providing legal services without charge to indigent persons shall not be disqualified from receiving the services of the qualified support centers.

6221. Qualified legal services projects shall make significant efforts to utilize 20 percent of the funds allocated under this article for increasing the availability of services to the elderly, the disabled, juveniles, or other indigent persons who are members of disadvantaged and underserved groups within their service area.

6222. A recipient of funds allocated pursuant to this article annually shall submit a financial statement to the State Bar, including an audit of the funds by a certified public accountant or a fiscal review approved by the State Bar, a report demonstrating the programs on which they were expended, a report on the recipient's compliance with the requirements of Section 6217, and progress in

meeting the service expansion requirements of Section 6221.

The Board of Governors of the State Bar shall include a report of receipts of funds under this article, expenditures for administrative costs, and disbursements of the funds, on a county-by-county basis, in the annual report of State Bar receipts and expenditures required pursuant to Section 6145.

6223. No funds allocated by the State Bar pursuant to this article shall be used for any of the following purposes:

(a) The provision of legal assistance with respect to any fee generating case, except in accordance with guidelines which shall be promulgated by the State Bar.

(b) The provision of legal assistance with respect to any criminal proceeding.

(c) The provision of legal assistance, except to indigent persons or except to provide support services to qualified legal services projects as defined by this article.

6224. The State Bar shall have the power to determine that an applicant for funding is not qualified to receive funding, to deny future funding, or to terminate existing funding because the recipient is not operating in compliance with the requirements or restrictions of this article.

A denial of an application for funding or for future funding or an action by the State Bar to terminate an existing grant of funds under this article shall not become final until the applicant or recipient has been afforded reasonable notice and an opportunity for a timely and fair hearing. Pending final determination of any hearing held with reference to termination of funding, financial assistance shall be continued at its existing level on a month-to-month basis. Hearings for denial shall be conducted by an impartial hearing officer whose decision shall be final. The hearing officer shall render a decision no later than 30 days after the conclusion of the hearing. Specific procedures governing the conduct of the hearings of this section shall be determined by the State Bar pursuant to Section 6225.

6225. The Board of Governors of the State Bar shall adopt the regulations and procedures necessary to implement this article and to ensure that the funds allocated herein are utilized to provide civil

legal services to indigent persons, especially underserved client groups such as but not limited to the elderly, the disabled, juveniles, and non-English-speaking persons.

In adopting the regulations the Board of Governors shall comply with the following procedures:

(a) The board shall publish a preliminary draft of the regulations and procedures, which shall be distributed, together with notice of the hearings required by subdivision (b), to commercial banking institutions, to members of the State Bar, and to potential recipients of funds.

(b) The board shall hold at least two public hearings, one in southern California and one in northern California where affected and interested parties shall be afforded an opportunity to present oral and written testimony regarding the proposed regulations and procedures.

6226. The program authorized by this article shall become operative only upon the adoption of a resolution by the Board of Governors of the State Bar stating that regulations have been adopted pursuant to Section 6225 which conform the program to all applicable tax and banking statutes, regulations, and rulings.

6227. Nothing in this article shall create an obligation or pledge of the credit of the State of California or of the State Bar of California. Claims arising by reason of acts done pursuant to this article shall be limited to the moneys generated hereunder.

6228. If any provision of this article or the application thereof to any group or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.