

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 498

INTRODUCER: Senator Grall

SUBJECT: Interest Rates Applicable to the Interest on Trust Accounts Program

DATE: March 11, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	<b>Pre-meeting</b>
2.			BI	
3.			RC	

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**I. Summary:**

SB 498 establishes two interest rate alternatives that financial institutions must pay on accounts used for the Interest on Trust Accounts (IOTA) Program. These accounts use the interest generated on certain funds held in trust by an attorney to provide funding for Funding Florida Legal Aid (FFLA).

The interest rates under the bill are:

- The highest interest rate or dividend available from the institution to comparable non-IOTA accounts; or
- 25 percent of the federal funds target rate or 0.25 percent, whichever is higher, net of fees.

The Florida Bar Rules, however, have set criteria to determine whether a financial institution is eligible to participate in the IOTA program. One of the eligibility criteria is the minimum interest rate that must be paid by participating financial institutions. According to the rules, when the Wall Street Journal Prime Rate is between 325 and 499 basis points, the minimum yield or interest rate paid net of all fees and service charges must be no less than 300 basis points below the prime rate. When the rate is 500 basis points or above, the yield must be no less than 40 percent of the prime rate in effect on the first business day of each month.

Accordingly, the interest rates on IOTA accounts established by the bill are inconsistent with those that are part of the eligibility criteria established by rules of The Florida Bar to participate in the IOTA Program. If the rates established by the bill are found by the courts to be a regulation of banking, not the practice of law, the bill will likely require The Florida Bar to revise its eligibility criteria for financial institutions to participate in the IOTA Program.

These provisions do not apply to interest rates that are established by written contract or obligations that are unrelated to IOTA accounts.

The bill takes effect upon becoming law.

## II. Present Situation:

The central issue in this legislation involves weighing the competing needs of The Florida Bar foundation to fund its legal aid programs against the ability of banking institutions to pay sufficient and sustainable interest rates that fund the foundation's legal aid programs. Both organizations estimate that between \$9 and \$10 billion is deposited annually into IOTA accounts at banking institutions.

### **The Jurisdiction of the Florida Supreme Court, The Florida Bar, and the IOTA Program**

The State Constitution grants exclusive jurisdiction to the Florida Supreme Court to regulate the admission of people to practice law in the state. The Court also has exclusive jurisdiction to discipline those people once they are admitted to practice law.<sup>1</sup> Florida is a mandatory bar state and all members who are admitted to practice in Florida must be members of The Florida Bar.<sup>2</sup>

The Florida Supreme Court has established the “authority and responsibilities of The Florida Bar” in the *Rules Regulating the Florida Bar*.<sup>3</sup> Chapter 5 contains the “Rules Regulating Trust Accounts” which all attorneys who maintain trust accounts must abide by. Funds that are placed in an attorney's trust account produce interest income exclusively for the IOTA program. The interest-producing program generates millions of dollars in interest each year. Once generated, the interest funds are swept by The Florida Bar directly into the Bar's foundation, Funding Florida Legal Aid.

The Florida Bar created the foundation in 1956 and changed its name to Funding Florida Legal Aid in 2023. The foundation functions to increase legal access for people with limited means by funding legal services, developing programs, and supporting legal aid providers selected by the foundation for grant awards. The foundation's primary financial support comes from the IOTA program but donations are also received from attorneys, law firms, corporations, foundations, and individuals.<sup>4</sup>

It is important to note that, while the IOTA program is *mandatory* for attorneys, it is technically *voluntary* for banks to participate in the program.

### **Interest on Trust Accounts (IOTA) Program and Funding Florida Legal Aid (FFLA)**

#### ***Background on Attorney Trust Accounts***

A trust account is a short-term account set up by an attorney in which he or she deposits funds on behalf of a client. The account generally contains funds that are combined such as a retainer

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<sup>1</sup> FLA. CONST. art. V, s. 15. The Court conducts these official functions through two separate entities: the Florida Board of Bar Examiners and The Florida Bar.

<sup>2</sup> The Florida Bar, *Frequently Asked Questions*, <https://www.floridabar.org/about/faq/> (last visited March 7, 2025).

<sup>3</sup> The Florida Bar, *Rules Regulating the Florida Bar*, [https://www-media.floridabar.org/uploads/2025/02/2025\\_06-DEC-RRTFB-12-30-2024.pdf](https://www-media.floridabar.org/uploads/2025/02/2025_06-DEC-RRTFB-12-30-2024.pdf). The Rules are divided into 21 chapters consisting of 807 pages.

<sup>4</sup> FFLA, Funding Florida Legal Aid, *Leadership and Funding for Justice in Florida*, <https://fundingfla.org/about-ffla/ffla-overview/> (last visited March 7, 2025).

payment, discovery or litigation costs paid in advance, filing fees, or a settlement award. The amount of money in the account changes often because deposits and withdrawals are made frequently. These fees may not be commingled with an attorney's operating account but must be kept separately.

A trust account has been described as an "unusual" creation that is significantly different from other accounts. Although an attorney opens the account and is responsible for managing the funds in the account, he or she is not technically the owner of the funds.<sup>5</sup> While an attorney is not the owner of the account, and therefore not entitled to interest generated by the account, neither is the client entitled to interest generated by the funds. The U.S. Court of Appeals for the Eleventh Circuit issued a decision in 1987 determining that a client was not entitled to the interest generated in a trust account.<sup>6</sup>

How the accounts may be regulated or restricted has presented a quandary for almost 200 years. The earliest attempt to regulate trust accounts can be traced to the Legislative Council of the Territory of Florida in 1828. In 1936, the Florida Supreme Court incorporated the regulation of trust accounts into the Court's rules. Additional measures were adopted over the years to ensure that attorneys, acting as "trustees" would not misuse their clients' funds or neglect to return them when requested to do so by the client.<sup>7</sup>

### ***The Evolution of Interest Earned on Trust Accounts***

Trust accounts have evolved from simple accounts that earned no interest and benefitted no one in particular to today's accounts in which The Florida Bar, with Florida Supreme Court approval, mandates participation by attorneys, establishes the interest rates, and requires that the interest be remitted to The Florida Bar's foundation, Funding Florida Legal Aid.

For many years, attorneys deposited their clients' funds in non-interest-bearing checking accounts because trying to apportion multiple clients' interest earnings on short-term deposits was too complex. However, in 1978 and in response to a petition by The Florida Bar,<sup>8</sup> the Florida Supreme Court amended the Bar rules and authorized attorneys to invest trust funds held for their clients to generate investment income that would, among other things, provide legal aid to the poor and help provide student loans.<sup>9</sup> Participation in the program would be voluntary. The interest payments would be transmitted directly from the financial institutions to The Florida Bar Foundation. In implementing these changes, Florida became the first state in the nation to adopt an Interest on Trust Accounts Program, commonly called IOTA.<sup>10</sup> After several adjustments

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<sup>5</sup> *In re* Amendments to the Rules Regulating the Florida Bar-Miscellaneous: The Florida Bar's Response to the Florida Bankers Association's Motion for Rehearing, Case No. SC22-1292 (April 14, 2023), <https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/baa8ed04-2926-4922-b099-9d51fd7ab2ae/docketentrydocuments/a8e413ea-a6d4-417f-a1b0-2536bb7c9292>.

<sup>6</sup> *Cone v. State Bar of Florida*, 819 F.2d 1002 (11th Cir. 1987).

<sup>7</sup> *A Petition of Florida Bar*, 356 So. 2d 799 (Mem), 800-801 (Fla. 1978). (The lengthier case style is *In re Interest on Trust Accounts, A Petition of The Florida Bar to Amend the Code of Professional Responsibility and the Rules Governing the Practice of Law.*)

<sup>8</sup> More specifically, the petition to amend the rules was brought by the Board of Governors of The Florida Bar with the concurrence of the Board of Directors of The Florida Bar Foundation.

<sup>9</sup> *In re Interest on Trust Accounts, A Petition of The Florida Bar*, 356 So. 2d 799 (Mem) (Fla. 1978).

<sup>10</sup> *Id.* at 800-801.

were made, the program became operational in 1981 and permitted *voluntary* participation by attorneys and their firms.<sup>11</sup> In 1989, the Rules were amended and participation in the program became *mandatory* for all attorneys.<sup>12</sup>

The next significant development occurred in 2001 when the trust account rules were amended to define institutions that are eligible to hold IOTA accounts. These eligible institutions were limited to the institutions that pay IOTA account depositors “the highest interest rate or dividend generally available from the institution to its non-IOTA account customers when IOTA accounts meet or exceed the same minimum balance” or other eligibility requirements. In essence, The Florida Bar Foundation was asking that IOTA accounts be placed on an equal par with non-IOTA accounts in an institution.<sup>13</sup>

For purposes of clarity, it is worth noting that these rules are not found in the Florida Statutes, but are rules adopted by The Florida Bar Association and approved by the Florida Supreme Court.

## **2023 Amendments to Interest on Trust Accounts**

### ***The Florida Bar’s Position***

The Florida Bar petitioned the Court on October 3, 2022, to once again amend the IOTA rules. The stated goal of the proposed amendments was to “include all possible accounts that can be used as trust accounts” and “ensure the highest possible interest is available for IOTA accounts.”<sup>14</sup> The net effect of these amendments would be to increase funding to the Bar’s legal aid funding organization, Funding Florida Legal Aid.

On March 16, 2023, the Florida Supreme Court adopted amendments to *Rules Regulating The Florida Bar*, including provisions regulating trust fund accounts. The amendments:

- Expand the definition of an interest or dividend-bearing account to include a business or consumer deposit account so that the definition is expanded to include all possible accounts that can be used as trust accounts.<sup>15</sup>
- Revise eligibility criteria for financial institutions to hold trust accounts and participate in the IOTA program. The revised criteria require eligible institutions to tie minimum interest rates for IOTA accounts to the Wall Street Journal Prime Rate.<sup>16</sup>

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<sup>11</sup> It should be noted that the establishment of IOTA or IOLTA (Interest on Lawyers’ Trust Accounts as they are called in other states) was possible only after Congress made changes to federal banking laws in 1980 that allowed certain checking accounts to pay interest. American Bar Association, *Interest on Lawyers’ Trust Accounts*, [https://www.americanbar.org/groups/interest\\_lawyers\\_trust\\_accounts/overview/](https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/). See also *Matter of Interest on Trust Accounts*, 402 So. 2d 389 (Mem) (Fla. 1981).

<sup>12</sup> *Matter of Interest on Trust Accounts: Petition to Amend the Rules Regulating the Florida Bar*, 538 So. 2d 448, 449-450, (Fla. 1989).

<sup>13</sup> *Amendment to Rules Regulating the Florida Bar—Rule 5-1.1(e)--IOTA*, 797 So. 2d 551 (Fla. 2001).

<sup>14</sup> *In re Amendments to the Rules Regulating the Florida Bar – Miscellaneous: Petition to Amend the Rules Regulating the Florida Bar*, Case No. SC2022-1292 (10/03/2022), <https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/baa8ed04-2926-4922-b099-9d51fd7ab2ae/docketentrydocuments/60ddf5a7-6ae4-425a-a90b-2cebcc635bd0>.

<sup>15</sup> R. Regulating Fla. Bar Rule 5-1.1(g)(1)(E).

<sup>16</sup> R. Regulating Fla. Bar Rule 5-1.1(g)(5)(B).

The formula to determine interest rates and dividends based on the Wall Street Journal Prime Rate is described by the amendments as follows:

When the Wall Street Journal Prime Rate (“indexed rate”) is between 325 and 499 basis points (3.25% and 4.99%), the minimum interest rate paid net of all fees and service charges (“yield”) must be no less than 300 basis points (3.00%) below the indexed rate in effect on the first business day of each month. When the indexed rate is 500 basis points (5.00%) or above, the yield must be no less than 40% of the indexed rate in effect on the first business day of each month.<sup>17</sup>

The Wall Street Journal Prime Rate is a lending rate. It is the “base rate posted by at least 70% of the nation’s largest banks.” To establish this rate, the Wall Street Journal regularly surveys the largest banks in the country to determine what interest rate they are charging their customers with the highest-rated credit for short-term loans.<sup>18</sup> As of March 5, 2025, the Wall Street Journal Prime Rate is 7.5 percent.<sup>19</sup>

In a January 16, 2024, article published in the *Florida Bar News*, the amended rule was explained this way:

For instance, under the amended rule, when prime rate is between 3.25% and 5%, then the trust account rate banks pay out is between .25% and 2%, a 3% gain. After that the gains get even better for banks. At a 7% interest rate, for example, banks will pay out 2.8%, a 4.2% gain.<sup>20</sup>

Another article explained the rule change in these terms:

As a result of this change, for a financial institution to be eligible to participate in the program, it must pay a minimum interest rate of 3.00% when the Wall Street Journal Prime Rate (index rate) is between 3.25% and 4.99%. When the index rate is above 5.00%, to stay eligible, financial institutions are required to pay a minimum interest rate equal to 40% of the index rate.<sup>21</sup>

### ***Opposition to the 2023 Rule Amendments***

One criticism of the amended rule is that the Wall Street Journal Prime Rate is a benchmark for *lending purposes* and is not used to set *deposit* account interest rates. As a result, the interest rate is significantly higher than interest rates paid for other deposits.

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<sup>17</sup> *Id.*

<sup>18</sup> Fulton Bank, *What Is Wall Street Journal Prime Rate and Why It Matters* <https://www.fultonbank.com/Education-Center/Managing-Credit-and-Debt/Prime-rate-and-why-it-matters> (last visited March 7, 2025).

<sup>19</sup> The Wall Street Journal, *WSJ-Markets*, <https://www.wsj.com/market-data/bonds> (last visited March 5, 2025).

<sup>20</sup> Florida Bar News, *Measure Would Have Florida’s CFO Set the Rate Paid on Iota Accounts* (Jan. 16, 2024) <https://www.floridabar.org/the-florida-bar-news/measure-would-have-floridas-cfo-set-the-rate-paid-on-iota-accounts/>.

<sup>21</sup> The Bank of Tampa, *Invested in You*, <https://www.bankoftampa.com/iota/> (last visited March 7, 2025).

The Florida Bankers Association (FBA) filed a motion for rehearing on March 31, 2023, stating that it did not receive adequate or meaningful notice of the proposed IOTA amendments.<sup>22</sup> The FBA contended that the amended rules, while admirable, would “have a significant and negative impact on participating banks” and go far beyond its intended purpose. The FBA argued that basing the interest rate for IOTA accounts on the Wall Street Journal’s Prime Rate would mean that the minimum interest paid on IOTA accounts would be significantly higher than any other interest rate offered by a bank on consumer or business accounts. The FBA also argued that the judicial branch had violated the separation of powers doctrine and encroached impermissibly on the executive branch’s power to regulate banks through the Office of Financial Regulation, The Department of Financial Services, and the Financial Services Commission.

The new rule became effective on May 15, 2023, and remains in effect. The Court allowed comments from interested parties until November 1, 2023, and directed The Florida Bar to file a report on the status of the implementation of the rules.

### ***Mediation Attempts***

According to documents filed in the Florida Supreme Court, the Florida Bankers Association and The Florida Bar have attempted for longer than a year to reach a compromise rate that is agreeable to both parties. This has resulted in an impasse and no compromise has been reached.<sup>23</sup> On August 7, 2024, the Court denied the Florida Bankers’ Association for rehearing.

## **IOTA Data for Funding Florida Legal Aid**

### ***Amounts Received by FFLA From the IOTA Program***

Funding Florida Legal Aid supplied the information below on remittances from the IOTA accounts. The fiscal year begins July 1 and ends June 30 of the following year.

FY 2018-19	\$12,711,423
FY 2019-20	\$16,233,686
FY 2020-21	\$7,749,737
FY 2021-22	\$9,498,692
FY 2022-23	\$45,547,390
FY 2023-24	\$279,656,155

Information for FY 2024-25 is only partially complete. However, for remittances received from July 2024 through January 2025, FFLA reports receiving \$155,378,419.<sup>24</sup>

<sup>22</sup> *In re: Amendments to Rules Regulating the Florida Bar 5-1.1; Florida Bankers Association’s Motion*, Case No. SC22- 1292 (Mar. 31, 2023), [70f6bc15-9b6e-41b5-8c56-65db9b750a31 \(flcourts.gov\)](https://www.flcourts.gov/cases/70f6bc15-9b6e-41b5-8c56-65db9b750a31).

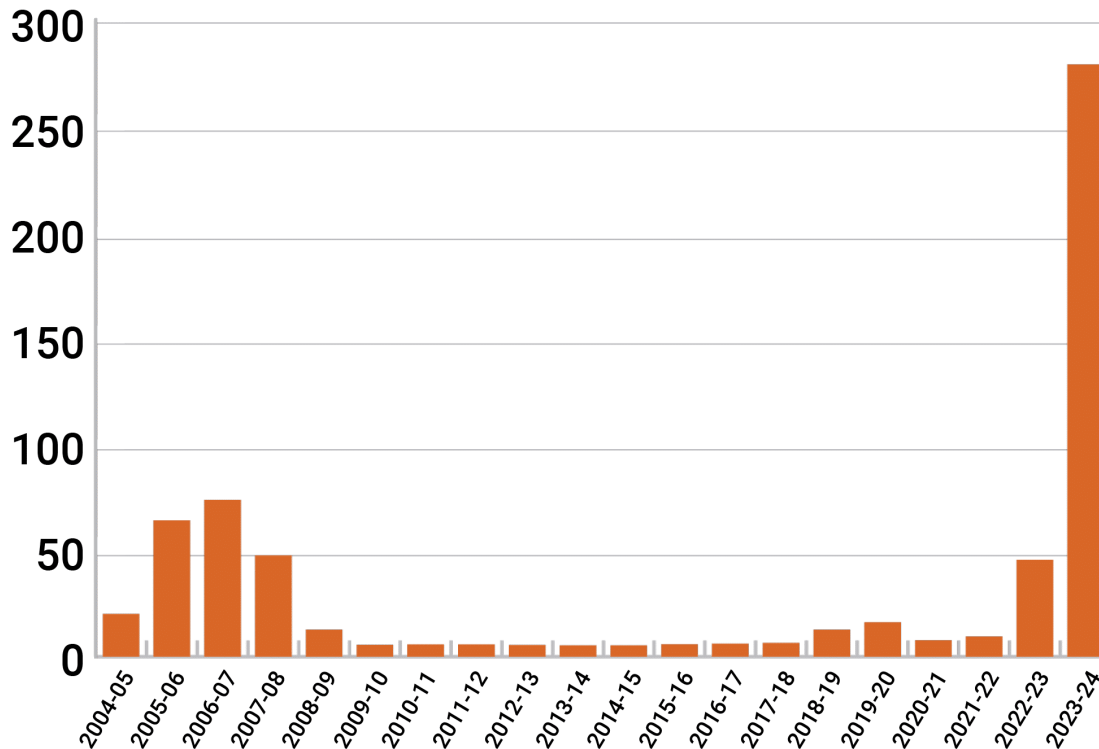
<sup>23</sup> *In re Amendments to the Rules Regulating the Florida Bar, The Florida Bankers Association’s Comment to the Florida Bar’s Report on Implementation Status*, Case No: SC2022-1292, <https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/baa8ed04-2926-4922-b099-9d51fd7ab2ae/docketentrydocuments/f5381851-24da-4ff6-932d-487a9ca0b99c>.

<sup>24</sup> Email from Amanda Fraser, Governmental Consultant on behalf of Funding Florida Legal Aid (March 5, 2025) (on file with the Senate Committee on Judiciary).

It is significant to note that the IOTA collections increased by \$234,108,765 between fiscal year 2022-23 and fiscal year 2023-24. This is attributable to the newly implemented funding formula authorized by the Supreme Court in May 2023 for the benefit of the Bar foundation.<sup>25</sup>

The FFLA shows with the chart below how the annual revenue collections through the IOTA program have changed over the years.<sup>26</sup> The effect of the 2023 amendments is clear:

### IOTA Collections in Millions



### *Participating Banking Institutions and IOTA Program Accounts*

The number of state banking institutions that participate in the IOTA program has not changed significantly since the interest formula was amended in May 2023.<sup>27</sup>

March 2023	154
December 2023	162
December 2024	170

<sup>25</sup> *In re* Amendments to the Rules Regulating the Florida Bar – Miscellaneous: The Florida Bar’s Report on Implementation Status (April 2, 2024) Case No: SC2022-1292, <https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/baa8ed04-2926-4922-b099-9d51fd7ab2ae/docketentrydocuments/e5b1ae2c-d317-4a98-8c2e-79231698b18d>.

<sup>26</sup> Florida Funding Legal Aid, Financial Stewardship, <https://fundingfla.org/about-ffla/ffla-finances/> (last visited March 10, 2025).

<sup>27</sup> Email from Amanda Fraser, Governmental Consultant on behalf of Funding Florida Legal Aid, *SB 498 Fiscal Analysis from FFLA* (March 5, 2025) (on file with the Senate Committee on Judiciary).



The number of trust accounts in the FFLA system as of January 2025 is 33,823.<sup>28</sup>

### **Receipts and Disbursements by Funding Florida Legal Aid**

Funding Florida Legal Aid received \$279,656,155 in IOTA collections for the fiscal year that ended June 30, 2024. The Court granted FFLA's request to distribute \$94,832,278 to qualified organizations and place the remaining \$142,875,455 in reserve for the benefit of present and future organizations. According to the Court's administrative order, this represents a 145 percent increase over the previous year's distribution.<sup>29</sup>

### **Trust Account Programs in Other States**

According to the American Bar Association (ABA), interest paid on trust account programs, sometimes called IOLTA, or Interest on Lawyers' Trust Accounts, are found in all 50 states, Washington, D.C., Puerto Rico, and the U.S. Virgin Islands. The ABA estimates that, since 1981, these programs have generated over \$4 billion to fund legal services for people living in poverty, often through legal aid and pro bono programs.<sup>30</sup>

### **Chief Financial Officer**

The State Constitution provides that the Chief Financial Officer (CFO) serves as the chief fiscal officer of the state. He or she is a member of the cabinet and is responsible for settling and approving accounts against the state and keeping all state funds and securities.<sup>31</sup>

Additionally, the CFO is required by statute to set the rate of interest that will be payable on judgments or decrees for the calendar quarter beginning January 1 each year. He or she must adjust the rate quarterly on April 1, July 1, and October 1, by averaging the discount rate of the Federal Reserve Bank of New York for the preceding 12 months, then adding 400 basis points to the averaged federal discount rate.<sup>32</sup> As of January 1, 2025, the annual interest rate is 9.38 percent.<sup>33</sup>

## **III. Effect of Proposed Changes:**

### **The Chief Financial Officer's Role**

The bill provides that on the first days of December, March, June, and September of each year, the Chief Financial Officer (CFO) will establish two interest rate alternatives for financial

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<sup>28</sup> Email from Amanda Fraser, Governmental Consultant on behalf of Funding Florida Legal Aid (March 5, 2025) (on file with the Senate Committee on Judiciary).

<sup>29</sup> *In Re: FFLA-FY 2023-24 IOTA Collections, Request for Approval of Additional Reserve Amount*, No. AOSC24-70, (Oct. 4, 2024) <https://supremecourt.flcourts.gov/content/download/2441648/file/AOSC24-70.pdf>.

<sup>30</sup> American Bar Association, *Interest on Lawyers' Trust Accounts, Overview, The Impact of IOLTA*, [https://www.americanbar.org/groups/interest\\_lawyers\\_trust\\_accounts/overview/](https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/).

<sup>31</sup> FLA. CONST. art. IV, s. 4(c).

<sup>32</sup> Section 55.03(1), F.S.

<sup>33</sup> My Florida CFO, *Current Judgment Interest Rates*, <https://myfloridacfo.com/division/aa/audits-reports/judgment-interest-rates> (last visited March 4, 2025).



institutions that participate in the IOTA program. Those rate alternatives will take effect on the following first days of January, April, July, and October, respectively. Each financial institution that participates in the IOTA program must annually choose which of the two rate alternatives it will use. Within 3 days after the CFO establishes the interest rates, he or she must inform Funding Florida's Legal Aid of the rate alternatives for the upcoming quarter.

***Option 1 – Measured with Deposit Rate Interest***

The first interest rate alternative is the highest interest rate or dividend that is generally available from the financial institution for its comparable non-IOTA business or consumer accounts or nonmaturing deposit accounts, if the IOTA accounts meet or exceed the same minimum balance or other requirements. If a financial institution selects this rate alternative, it must submit a rate validation sheet to the CFO to ensure that it has paid the same interest on IOTA accounts that it has paid on other comparable accounts.

***Option 2 – Measured with Lending Rate Interest***

The second rate alternative requires a financial institution to establish an interest rate that is 25 percent of the “federal funds target rate” or 0.25 percent, whichever is higher, net of fees.

The “federal funds target rate” is the interest rate that commercial banks charge one another for short-term loans or the interest rate that banks use to borrow or lend their excess reserves to one another overnight to meet the reserve balance requirements.<sup>34</sup> As of January 29, 2025, the Federal Open Market Committee did not change the federal funds target rate and it remains at 4.25 percent to 4.50 percent.<sup>35</sup> If an institution selects this rate alternative, it is not required to submit a rate validation sheet to the CFO.

The provisions of the bill do not apply to interest rates that are established by written contract or obligations that are unrelated to IOTA accounts.

The interest rates on IOTA accounts specified by the bill are inconsistent with those set by rules of The Florida Bar. If the bill constitutes a regulation of banking, The Florida Bar will likely be required to change its eligibility criteria for financial institutions to participate in the IOTA Program. On the other hand, if the provisions of the bill are found to be a regulation of the practice of law, its provisions will likely be invalidated.

The bill takes effect upon becoming law.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

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<sup>34</sup> Investopedia, *Federal Funds Rate: What It Is, How It's Determined, and Why It's Important* (Jan. 27, 2025) <https://www.investopedia.com/terms/f/federalfundsrates.asp>.

<sup>35</sup> Board of Governors of the Federal Reserve System, *Federal Reserve Issues FOMC Statement* (Jan. 29, 2025) <https://www.federalreserve.gov/newsevents/pressreleases/monetary20250129a.htm>.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

**Separation of Powers**

The State Constitution divides the powers of state government into three branches: the legislative, executive, and judicial branches. The Constitution prohibits a person in one branch from exercising any powers that belong to the other two branches of government unless it is expressly provided.<sup>36</sup>

The Florida Supreme Court under s. 15 of Article V of the State Constitution, has the “exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.” The Supreme Court exercises this responsibility through The Florida Bar and its rules. If the bill is determined to be a regulation of attorneys or the practice of law, it may be declared unconstitutional.

The Legislature, however, has the authority to regulate financial institutions. If the bill is determined to be a regulation of financial institutions, The Florida Bar will likely be required to revise its rules governing the obligations of attorneys to establish IOTA accounts or the eligibility of financial institutions to participate in the IOTA program.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The new interest rates established in this bill will most likely be lower than the interest rates currently mandated by the Bar rules. As such, banking institutions may see greater profits under this bill, or be able to pay higher interest rates to other customers, or charge lower fees for services. Moreover, additional financial institutions may be able to afford to participate in the IOTA program giving lawyers more choices for financial institutions. In contrast, the Bar foundation will likely see a reduction in the interest revenue it receives to fund its legal aid programs.

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<sup>36</sup> FLA. CONST. art. II, s. 3.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

As currently drafted, the bill states that the Chief Financial Officer establishes two interest rates, but it appears that the CFO only establishes one rate, which is the rate based on the federal funds rate.

Additionally, the bill does not state when a financial institution must submit a rate validation sheet to the Chief Financial Officer. It may be beneficial if a time-frame is specified for submission of the rate validation sheet and if the CFO is authorized to establish rules governing the form and information that must be included on a validation sheet.

Also, line 76 states that financial institutions must submit a rate validation sheet to “ensure” that it has paid the proper interest rates on IOTA accounts. Perhaps the term “verify” would be a better description. Alternatively, the Legislature may wish to require a financial institution to submit an affidavit affirming that it has paid a qualifying interest rate.

Finally, the bill directs the CFO to inform FFLA of the rate alternatives for the upcoming quarter, but the CFO may technically only establish one of the two alternative rates for the upcoming quarter.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 655.97 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.