



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 tobacco
4 product manufacturer has transferred such manufacturer's interests in
5 such funds, may make an assignment to the state of all or part of its
6 interest in any funds in the qualified escrow fund. Such assignment shall
7 (1) be permanent and irrevocable, (2) apply to all assigned funds in the
8 qualified escrow fund, including all assigned funds deposited in such
9 fund prior to and on or after the assignment is executed and all interest
10 or other appreciation on the assigned funds, (3) be in writing and signed
11 by a duly authorized representative of the assignor, and (4) become
12 effective upon delivery of the assignment to the Attorney General and
13 the financial institution where the qualified escrow fund is maintained.
14 The tobacco product manufacturer, its transferee, the Attorney General

15 or the financial institution where the qualified escrow fund is
16 maintained may make such amendments to the qualified escrow fund
17 agreement as may be necessary to effectuate an assignment of funds
18 executed pursuant to this subdivision or a withdrawal of funds from
19 such qualified escrow fund pursuant to subsection (b) of section 4-28i of
20 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 created
23 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 bases 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 of
33 the state to bring a claim against a tobacco product manufacturer under
34 section 4-28j of the general statutes, or (2) relieve a tobacco product
35 manufacturer from any past, current or future obligations such
36 manufacturer may have pursuant to chapter 47 of the general statutes.
37 Any funds assigned to the state pursuant to subsection (a) of this section
38 shall be credited on a dollar-for-dollar basis against any judgment or
39 settlement applicable to the escrow obligation the assigned funds were
40 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 pursuant

47 to section 4-28m, appoint and continually engage without interruption
48 the services of an agent in this state to act as agent for the service of
49 process on whom all process and any action or proceeding against it
50 concerning or arising out of the enforcement of the provisions of
51 sections 4-28h to 4-28r, inclusive, may be served in any manner
52 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 service
61 of process on the nonparticipating manufacturer. The nonparticipating
62 manufacturer shall provide the name, address, telephone number and
63 proof of the appointment and availability of such agent to, and to the
64 satisfaction of, the commissioner and the Attorney General.

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

76 (c) Any nonparticipating manufacturer whose products are or
77 previously have been sold in this state [without appointing or
78 designating] and that has not appointed or designated an agent as

79 required in this section shall be deemed to have appointed the Secretary
80 of the State as such agent and may be proceeded against in courts of this
81 state by service of process upon the Secretary of the State, except that
82 the appointment of the Secretary of the State as such agent shall not
83 satisfy the condition precedent to having the brand families of the
84 nonparticipating manufacturer listed or retained in the directory.

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

101 (e) (1) In conjunction with the certification required under section 4-
102 28l and as a condition precedent to having its brand families listed or
103 retained in the directory, each nonparticipating manufacturer shall post
104 annually with the commissioner either a good and valid bond that is
105 issued by a surety company authorized to do business in this state or
106 other security acceptable to the commissioner. Any bond or other
107 security shall be in favor of the state of Connecticut and shall be equal
108 in amount to the greater of (A) twenty-five thousand dollars, or (B) the
109 greatest amount of the total escrow owed for a calendar year in any of
110 the five calendar years preceding the posting of such bond or other
111 security. The commissioner may, in consultation with the Attorney
112 General, authorize the release of such bond or other security once it has

113 been established that the nonparticipating manufacturer has met the
114 requirements of section 4-28i.

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

Statement of Purpose:

To authorize tobacco product manufacturers and their transferees to assign funds in qualified escrow funds to the state and to require nonparticipating tobacco product manufacturers to appoint an agent in this state for service of process.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]