

40:55 D - 53.1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:55D-53.1, 40A:4-45.28

(Municipalities--deposit
moneys for certain
services--hold in separate,
interest bearing accounts.)

LAWS OF: 1985

CHAPTER: 315

Bill No: A338

Sponsor(s): Riley, Marsella and Bocchini

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage: Yes Substituted for S1834 (not attached
since identical to A338). Amendments
during passage denoted by asterisks.

Date of Passage: Assembly: November 19, 1984

Senate: June 27, 1985

Date of Approval: August 28, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

315 35
S. 2885
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ASSEMBLY, No. 338

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen RILEY, MARSELLA and BOCCHINI

AN ACT concerning the interest paid on certain deposits and supplementing P. L. 1975, c. 291 (C. 40:55D-1 et seq.) and P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Whenever ***[an amount of]*** ***an amount of*** money ***[in**
2 **excess of \$3,000.00]*** ***in excess of \$5,000.00*** shall be deposited
3 by an applicant with a municipality for professional services em-
4 ployed by the municipality to review applications for develop-
5 ment, for municipal inspection fees in accordance with subsection
6 h. of section 41 of P. L. 1975, c. 291 (C. 40:55D-53) or to satisfy
7 the guarantee requirements of subsection a. of section 41 of P. L.
8 1975, c. 291 (C. 40:55D-53), the money, until repaid or applied
9 to the purposes for which it is deposited, including the appli-
9A cant's portion of the interest earned thereon, except as other-
10 wise provided in this section, shall continue to be the prop-
11 erty of the applicant and shall be held in trust by the municipality.
12 Money deposited shall be held in escrow ***[in a separate account for**
13 **each applicant]*** ****[and shall not be mingled with other municipal**
14 **funds]****. The municipality receiving the money shall deposit it in a
15 banking institution or savings and loan association in this State
16 insured by an agency of the federal government, or in any other
17 fund or depository approved for such deposits by the State, in an
18 account bearing interest at the minimum rate currently paid by
19 the institution or depository on time or savings deposits. The

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted May 14, 1984.

**—Senate committee amendments adopted June 20, 1985.

20 municipality shall notify the applicant in writing of the name and
 21 address of the institution or depository in which the deposit is
 22 made and the amount of the deposit. The municipality shall not be
 23 required to refund an amount of interest paid on a deposit which
 24 does not exceed ***in the aggregate*** \$100.00 for the year. ***For**
 25 amounts of interest in excess of \$100.00, the municipality shall
 26 receive as administration expenses a sum equivalent to 25% of the
 27 interest actually paid by the institution or depository on the deposit,
 28 which shall be in lieu of all other administrative and custodial
 29 expenses. The balance of the interest so earned shall belong to the
 30 applicant and shall be refunded to him by the municipality annually
 31 or at the time the deposit is repaid or applied to the purposes for
 32 which it was deposited, as the case may be.* *If the amount of*
 33 *interest exceeds \$100.00, that entire amount shall belong to the*
 34 *applicant and shall be refunded to him by the municipality annually*
 35 *or at the time the deposit is repaid or applied to the purposes for*
 36 *which it was deposited, as the case may be; except that the munici-*
 37 *pality may retain for administrative expenses a sum equivalent to*
 38 *no more than **25%** of that entire amount, which*
 39 *shall be in lieu of all other administrative and custodial expenses.**
 40 The provisions of this act shall apply only to that interest earned
 41 and paid on a deposit after the effective date of this act.

1 2. In addition to the exceptions from the limitations on final
 2 appropriations in local budgets permitted under section 3 of P. L.
 3 1976, c. 68 (C. 40A:4-45.3), there shall be excepted annually from
 4 those limitations an amount equal to the amount of interest a
 5 municipality was paid on the amounts it deposited in accordance
 6 with the provisions of subsections a. and h. of section 41 of P. L.
 7 1975, c. 291 (C. 40:55D-53) in the ***fiscal*** *local budget* year
 8 prior to the year in which this act takes effect.

1 3. This act shall take effect immediately.

ASSEMBLY, No. 338

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen RILEY, MARSELLA and BOCCHINI

AN ACT concerning the interest paid on certain deposits and
supplementing P. L. 1975, c. 291 (C. 40:55D-1 et seq.) and P. L.
1976, c. 68 (C. 40A:4-45.1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Whenever an amount of money in excess of \$3,000.00 shall be
2 deposited by an applicant with a municipality for professional
3 services employed by the municipality to review applications for
4 development, for municipal inspection fees in accordance with
5 subsection h. of section 41 of P. L. 1975, c. 291 (C. 40:55D-53) or to
6 satisfy the guarantee requirements of subsection a. of section 41
7 of P. L. 1975, c. 291 (C. 40:55D-53), the money, until repaid or
8 applied to the purposes for which it is deposited, including the
9 applicant's portion of the interest earned thereon, except as
10 otherwise provided in this section, shall continue to be the prop-
11 erty of the applicant and shall be held in trust by the municipality.
12 Money deposited shall be held in escrow in a separate account for
13 each applicant and shall not be mingled with other municipal
14 funds. The municipality receiving the money shall deposit it in a
15 banking institution or savings and loan association in this State
16 insured by an agency of the federal government, or in any other
17 fund or depository approved for such deposits by the State, in an
18 account bearing interest at the minimum rate currently paid by
19 the institution or depository on time or savings deposits. The
20 municipality shall notify the applicant in writing of the name and
21 address of the institution or depository in which the deposit is
22 made and the amount of the deposit. The municipality shall not be

23 required to refund an amount of interest paid on a deposit which
24 does not exceed in the aggregate \$100.00 for the year. For amounts
25 of interest in excess of \$100.00, the municipality shall receive as
26 administration expenses a sum equivalent to 25% of the interest
27 actually paid by the institution or depository on the deposit, which
28 shall be in lieu of all other administrative and custodial expenses.
29 The balance of the interest so earned shall belong to the applicant
30 and shall be refunded to him by the municipality annually or at the
31 time the deposit is repaid or applied to the purposes for which
32 it was deposited, as the case may be.

33 The provisions of this act shall apply only to that interest earned
34 and paid on a deposit after the effective date of this act.

1 2. In addition to the exceptions from the limitations on final
2 appropriations in local budgets permitted under section 3 of P. L.
3 1976, c. 68 (C. 40A:4-45.3), there shall be excepted annually from
4 those limitations an amount equal to the amount of interest a
5 municipality was paid on the amounts it deposited in accordance
6 with the provisions of subsections a. and h. of section 41 of P. L.
7 1975, c. 291 (C. 40:55D-53) in the fiscal year prior to the year in
8 which this act takes effect.

1 3. This act shall take effect immediately.

STATEMENT

This bill requires a municipality to segregate and hold in escrow money, when in excess of \$3,000.00, deposited with it by an applicant for professional services employed by the municipality to review applications for development, engineer inspection fees, performance or maintenance guarantees. The municipality shall deposit the money in a financial institution where the funds shall earn at least the minimum interest paid on time or savings deposits. The municipality shall retain 25% of the interest for administrative costs with the remainder of the interest, if in excess of \$100.00, being paid to the applicant at least quarterly.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 338

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1984

Assembly Bill No. 338 supplements the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1 et seq.) to require that a municipality keep separate from all other municipal funds, hold in escrow, and deposit in an insured interest bearing account in a banking institution or savings and loan association located within the State any moneys it requires as a deposit from a developer for application review or pursuant to the provisions of subsection a. and subsection h. of section 41 of the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-53a. and 53h.).

The deposits authorized under the two enumerated subsections include: (1) a performance guarantee equal to an amount not exceeding 120% of the costs of installing improvements such as streets, grading, pavement, gutters, curbs, sidewalks, street lights, shade trees, surveyors' monuments, water mains, culverts, storm sewers, sanitary sewers, drainage structures, erosion control and sedimentation control devices which the municipality may deem necessary; (2) a maintenance guarantee equal to an amount that does not exceed 15% of the costs of the improvements and which must be posted with the municipality for a period not exceeding two years after the transfer of the improvement to the municipality; and (3) a deposit covering all or a portion of the fees the developer may reasonably be expected to pay the municipal engineer for inspecting such improvements. The escrow requirement set forth in the bill applies to deposits required by the municipality which exceed \$3,000.00.

The bill further provides that the municipality must notify the depositor in writing of the name and address of the institution or association where the moneys are deposited. All interest, earned on the escrow deposit, when in excess of \$100.00, is to be refunded to the depositor, provided that the municipality may retain a maximum of 25% of that interest for administrative costs. The refund provisions apply only to interest earned after the effective date of the bill.

In addition, the bill provides that an amount equal to the interest earned on deposits required under subsections a. and h. of section 41

of P. L. 1975, c. 291 (C. 40:55D-53) in the local budget year preceding the effective date of the bill shall annually be excepted from the limitations on final municipal appropriations pursuant to section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3).

The Assembly committee amendments clarify that a separate account need not be maintained for each depositor, provided that all moneys deposited are kept separate from other municipal funds. The amendments also clarify that the entire amount of interest, when in excess of \$100.00, shall be refunded to a depositor, less a maximum of 25% thereof for administrative expenses.

In addition, the amendments delete the \$3,000.00 threshold below which a deposit would not be held in escrow.

The remaining amendment is technical in nature.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 338

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with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 20, 1985

Assembly Bill No. 338 OCR Sea supplements the "Municipal Land Use Law," P. L. 1976, c. 291 (C. 40:55D-1 et seq.) to require that a municipality hold in escrow and deposit in an insured interest bearing account in a banking institution or savings and loan association located within the State certain of the moneys it requires from a developer as a deposit pursuant to the provisions of subsections a. and h. of section 41 of the "Municipal Land Use Law" (P. L. 1976, c. 291; C. 40:55D-53a. and 53h.). The deposits authorized under those two subsections include: (1) a performance guarantee equal to an amount not exceeding 120% of the costs of installing improvements such as streets, grading, pavement, gutters, curbs, sidewalks, street lights, shade trees, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers, drainage structures, erosion control and sedimentation control devices which the municipality may deem necessary; (2) a maintenance guarantee equal to an amount that is not more than 15% of the costs of the improvement and which must be posted with the municipality for a period not exceeding two years after the transfer of the improvement to the municipality; and (3) a deposit covering all or a portion of the fees the developer may reasonably be expected to pay the municipal engineer for inspecting those improvements.

The provisions of the bill, as amended by the committee, would apply only to deposits involving amounts in excess of \$5,000.00.

The bill also requires that the municipality must notify the developer in writing of the name and address of the institution or association where the moneys are deposited. The interest earned and paid on the deposit, when in excess of \$100.00 for the year, is to be refunded to the depositor. The municipality may, however, retain no more than 33 $\frac{1}{3}$ % of that interest to cover its administrative expenses. The municipality is not obligated to refund amounts of interest which do not

exceed \$100.00 for the year. These refund provisions apply only to interest earned after the effective date of the bill.

Finally, the bill provides a “cap” exception for the amount of interest a municipality was paid in the year immediately preceding the year in which this act takes effect on the moneys it deposited in accordance with subsections a. and h. of section 41 of the “Municipal Land Use Law” (P. L. 1976, c. 291; C. 40:55D-53a. and 53 h.).

The Senate County and Municipal Government Committee amendments make the provisions of the bill identical to those of Senate Bill No. 1834 Sca.
