



The Commonwealth of Massachusetts
MASSACHUSETTS SENATE

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TO: Committee on Financial Services

FROM: Senator William N. Brownsberger *W.N.B.*

RE: S417, An Act to ensure full compliance with good funds statute.

DATE: February 26, 2014

I am writing in support of S417, An Act to ensure full compliance with good funds statute.

With close to one million people in Massachusetts under 125% of the federal poverty line, the eligibility level for free legal services, there is a large unmet need for the services that IOLTA-funded programs provide.

The present good funds statute requires that before a mortgage lender can record its mortgage and encumber the borrower's real property it must transfer the full amount of the mortgage loan to the closing attorney. The mortgage loan proceeds are deposited into the attorney's IOLTA account until they are disbursed to the borrower. The interest generated by these accounts is the source of approximately one-half of all IOLTA funds in Massachusetts.

Over the last decade, a number of title insurance companies and out-of-state settlement service companies have sought to appropriate this interest for themselves (estimate of diverted interest is more than one and a half million dollars).

S417 would amend the Good Funds Statute to provide an enforcement mechanism to ensure that mortgage proceeds flow through an IOLTA account as the Legislature intended.

One technical change that I am requesting is that the Committee strike Section 1, Subsection A from the text and renumber the remaining Subsections.

