

Pennsylvania Association of Elder Law Attorneys

A State Chapter of the National Academy of Elder Law Attorneys

P.O. Box 61051
Harrisburg, PA 17106
www.paela.info

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July 2, 2009

The Honorable Stewart J. Greenleaf
Harrisburg, PA

Re: Concerns and Opposition to Section 2 of House Bill 68, P.N. 2039

Dear Senator Greenleaf:

As a member of the Senate Judiciary Committee, I am writing to you to express great concern with the detrimental effects of HB68, legislation that amends Section 3101(b) of Title 20 to direct the disposition of small bank accounts upon the death of the depositor. While this Bill passed the House with no negative votes, we have taken time to review the Bill and have found that Section 2 of the Bill will create significant problems for many of your constituents. Members of the Pennsylvania Association of Elder Law Attorneys (PAELA) are lawyers who deal with estate administration issues every day, and as such we know first-hand the harmful effects of this proposal.

HB 68 has three sections. PAELA has no opposition to Section 1 of the Bill which amends 3101(b)(1). Section 1 would increase to \$15,000 (from the current \$3,500) the payment made by a financial institution from a deposit account to a family member or funeral director if the decedent was under age 55. Nor do we object to Section 3 which amends 3101(b)(3) to provide for disposition of funds held for a Medical Assistance recipient by a nursing facility.

Section 2 of HB 68 [3101(b)(2)] is problematic. It is not a minor revision of prior law but rather is a totally new and drastic change that will require financial institutions to turn small accounts of under \$15,000 over to the Department of Public Welfare (DPW) on the death of a depositor who was age 55 or older.

If the decedent was age 55 or older, a Pennsylvania bank is **required** to turn the funds in any account valued at \$15,000 or less over to DPW unless the financial institution has received a letter from DPW stating there is no Medical Assistance estate recovery claim.

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Remittance to DPW is subject only to a possible payment of up to \$3,500 to a funeral director. Transfer of the funds in the account to DPW is required for any depositor who was age 55 or older at the time of death, even if that person never applied for any benefits through DPW.

Under Section 2, executors and family members will be denied access to funds needed to pay expenses after the death of a depositor. They will have to seek eventual reimbursement from DPW. It is hard to imagine the cost and added hardships that will result. At the very least, Section 2 will result in significant delays and costs for banks, personal representatives, family members, funeral directors, creditors and DPW.

The hidden effects of Section 2 may be even worse. Seniors may become afraid to deposit their small savings in the Commonwealth's financial institutions for fear of state confiscation upon death. This puts these funds and the financial security of Pennsylvania seniors at risk.

We recognize that DPW has a legitimate interest in securing its estate recovery claim against the estates of individuals age 55 or older who were the recipients of Medical Assistance benefits for long term care services, but this is not an acceptable means of meeting that objective. That the legislature is considering granting this level of control and authority to DPW, especially over the deposit accounts of individuals who have never received any Medical Assistance benefits, is, quite frankly, shocking.

Given all these problems, we urge you to oppose Section 2 of HB 68 and take it out of the Bill. Thank you for taking the time to read this letter. I would welcome an opportunity to answer your questions and talk with you further about the problems with this Bill.

Sincerely,

Marielle F. Hazen, President
(717) 540-4332
mhazen@hazenelderlaw.com