

STATE OF NEW YORK

4323

2025-2026 Regular Sessions

IN SENATE

February 4, 2025

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law, in relation to enacting the uniform special deposits act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The banking law is amended by adding a new article 13-F to
2 read as follows:

ARTICLE XIII-F

UNIFORM SPECIAL DEPOSITS ACT

Section 680. Short title.

680-a. Definitions.

680-b. Scope; choice of law; forum.

680-c. Variation by agreement or amendment.

680-d. Requirements for special deposit.

680-e. Permissible purpose.

680-f. Payment to beneficiary by bank.

680-g. Property interest of depositor or beneficiary.

680-h. When creditor process enforceable against bank.

680-i. Injunction or similar relief.

680-j. Recoupment or set off.

680-k. Duties and liability of bank.

680-l. Term and termination.

680-m. Principles of law and equity.

680-n. Uniformity of application and construction.

680-o. Transitional provision.

680-p. Severability.

§ 680. Short title. This article shall be known and may be cited as the "uniform special deposits act".

§ 680-a. Definitions. As used in this article, the following terms shall have the following meanings:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD06883-01-5

1 1. "Account agreement" means an agreement that:
2 (a) is in a record between a bank and one or more depositors;
3 (b) may have one or more beneficiaries as additional parties; and
4 (c) states the intention of the parties to establish a special deposit
5 governed by this article.

6 2. "Bank" means a person engaged in the business of banking and
7 includes a savings bank, savings and loan association, credit union,
8 trust company, and a bank as defined in section two of this chapter.
9 Each branch or separate office of a bank is a separate bank for the
10 purpose of this article.

11 3. "Beneficiary" means a person that:
12 (a) is identified as a beneficiary in an account agreement; or
13 (b) if not identified as a beneficiary in an account agreement, may be
14 entitled to payment from a special deposit:

15 (i) under the account agreement; or
16 (ii) on termination of the special deposit.

17 4. "Contingency" means an event or circumstance stated in an account
18 agreement that is not certain to occur but must occur before the bank is
19 obligated to pay a beneficiary.

20 5. "Creditor process" means attachment, garnishment, levy, notice of
21 lien, sequestration, or similar process issued by or on behalf of a
22 creditor or other claimant.

23 6. "Depositor" means a person that establishes or funds a special
24 deposit.

25 7. "Good faith" means honesty in fact and observance of reasonable
26 commercial standards of fair dealing.

27 8. "Knowledge" means:

28 (a) with respect to a beneficiary, actual knowledge of the fact; or

29 (b) with respect to a bank holding a special deposit:

30 (i) if the bank:

31 (1) has established a reasonable routine for communicating material
32 information to an individual to whom the bank has assigned responsibil-
33 ity for the special deposit; and

34 (2) maintains reasonable compliance with the routine, actual knowledge
35 of the fact by that individual; or

36 (ii) if the bank has not established and maintained reasonable compli-
37 ance with a routine described in subparagraph (i) of this paragraph or
38 otherwise exercised due diligence, implied knowledge of the fact that
39 would have come to the attention of an individual to whom the bank has
40 assigned responsibility for the special deposit.

41 9. "Obligated to pay a beneficiary" or "obligation to pay a benefici-
42 ary" means a beneficiary is entitled under the account agreement to
43 receive from the bank a payment when:

44 (a) a contingency has occurred; and

45 (b) the bank has knowledge the contingency has occurred.

46 10. "Permissible purpose" means a governmental, regulatory, commer-
47 cial, charitable, or testamentary objective of the parties stated in an
48 account agreement. The term includes an objective to:

49 (a) hold funds:

50 (i) in escrow, including for a purchase and sale, lease, buyback, or
51 other transaction;

52 (ii) as a security deposit of a tenant;

53 (iii) that may be distributed to a person as remuneration, retirement
54 or other benefit, or compensation under a judgment, consent decree,
55 court order, or other decision of a tribunal; or

1 (iv) for distribution to a defined class of persons after identifica-
2 tion of the class members and their interest in the funds;

3 (b) provide assurance with respect to an obligation created by
4 contract, such as earnest money to ensure a transaction closes;

5 (c) settle an obligation that arises in the operation of a payment
6 system, securities settlement system, or other financial market infras-
7 tructure;

8 (d) provide assurance with respect to an obligation that arises in the
9 operation of a payment system, securities settlement system, or other
10 financial market infrastructure; or

11 (e) hold margin, other cash collateral, or funds that support the
12 orderly functioning of financial market infrastructure or the perform-
13 ance of an obligation with respect to the infrastructure.

14 11. "Person" means an individual, estate, business or nonprofit enti-
15 ty, government or governmental subdivision, agency, or instrumentality,
16 or other legal entity. The term includes a protected series, however
17 denominated, of an entity if the protected series is established under
18 law that limits, or limits if conditions specified under law are satis-
19 fied, the ability of a creditor of the entity or of any other protected
20 series of the entity to satisfy a claim from assets of the protected
21 series.

22 12. "Record" means information:

23 (a) inscribed on a tangible medium; or

24 (b) stored in an electronic or other medium and retrievable in
25 perceivable form.

26 13. "Special deposit" means a deposit that satisfies section six
27 hundred eighty-d of this article.

28 14. "State" means a state of the United States, the District of Colum-
29 bia, Puerto Rico, the United States Virgin Islands, or any other terri-
30 tory or possession subject to the jurisdiction of the United States. The
31 term includes an agency or instrumentality of the state.

32 § 680-b. Scope; choice of law; forum. 1. This article applies to a
33 special deposit under an account agreement that states the intention of
34 the parties to establish a special deposit governed by this article,
35 regardless of whether a party to the account agreement or a transaction
36 related to the special deposit, or the special deposit itself, has a
37 reasonable relation to this state.

38 2. The parties to an account agreement may choose a forum in this
39 state for settling a dispute arising out of the special deposit, regard-
40 less of whether a party to the account agreement or a transaction
41 related to the special deposit, or the special deposit itself, has a
42 reasonable relation to this state.

43 3. This article does not affect:

44 (a) a right or obligation relating to a deposit other than a special
45 deposit under this article; or

46 (b) the voidability of a deposit or transfer that is fraudulent or
47 voidable under other law.

48 § 680-c. Variation by agreement or amendment. 1. The effect of this
49 section and sections six hundred eighty-a, six hundred eighty-b, six
50 hundred eighty-d, six hundred eighty-e, six hundred eighty-g, six
51 hundred eighty-h, six hundred eighty-i, six hundred eighty-j and six
52 hundred eighty-m of this article shall not be varied by agreement,
53 except as provided in such sections. Subject to subdivision two of this
54 section, the effect of sections six hundred eighty-f, six hundred eight-
55 y-k and six hundred eighty-l of this article may be varied by agreement.

1 2. A provision in an account agreement or other record that substan-
2 tially excuses liability or substantially limits remedies for failure to
3 perform an obligation under this article is not sufficient to vary the
4 effect of a provision of this article.

5 3. If a beneficiary is a party to an account agreement, the bank and
6 the depositor may amend the agreement without the consent of the benefi-
7 ciary only if the agreement expressly permits the amendment.

8 4. If a beneficiary is not a party to an account agreement and the
9 bank and the depositor know the beneficiary has knowledge of the agree-
10 ment's terms, the bank and the depositor may amend the agreement without
11 the consent of the beneficiary only if the amendment does not adversely
12 and materially affect a payment right of the beneficiary.

13 5. If a beneficiary is not a party to an account agreement and the
14 bank and the depositor do not know whether the beneficiary has knowledge
15 of the agreement's terms, the bank and the depositor may amend the
16 agreement without the consent of the beneficiary only if the amendment
17 is made in good faith.

18 § 680-d. Requirements for special deposit. A deposit is a special
19 deposit if it is:

20 1. a deposit of funds in a bank under an account agreement;

21 2. for the benefit of at least two beneficiaries, one or more of which
22 may be a depositor;

23 3. denominated in a medium of exchange that is currently authorized or
24 adopted by a domestic or foreign government;

25 4. for a permissible purpose stated in the account agreement; and

26 5. subject to a contingency.

27 § 680-e. Permissible purpose. 1. A special deposit must serve at least
28 one permissible purpose stated in the account agreement from the time
29 the special deposit is created in the account agreement until termi-
30 nation of the special deposit.

31 2. If, before termination of the special deposit, the bank or a court
32 determines the special deposit no longer satisfies subdivision one of
33 this section, sections six hundred eighty-g, six hundred eighty-h, six
34 hundred eighty-i and six hundred eighty-j of this article cease to apply
35 to any funds deposited in the special deposit after the special deposit
36 ceases to satisfy subdivision one of this section.

37 3. If, before termination of a special deposit, the bank determines
38 the special deposit no longer satisfies subdivision one of this section,
39 the bank may take action it believes is necessary under the circum-
40 stances, including terminating the special deposit.

41 § 680-f. Payment to beneficiary by bank. 1. Unless the account agree-
42 ment provides otherwise, the bank is obligated to pay a beneficiary if
43 there are sufficient actually and finally collected funds in the balance
44 of the special deposit.

45 2. Except as provided in subdivision three of this section, the obli-
46 gation to pay the beneficiary is excused if the funds available in the
47 special deposit are insufficient to cover such payment.

48 3. Unless the account agreement provides otherwise, if the funds
49 available in the special deposit are insufficient to cover an obligation
50 to pay a beneficiary, a beneficiary may elect to be paid the funds that
51 are available or, if there is more than one beneficiary, a pro rata
52 share of the funds available. Payment to the beneficiary making the
53 election under this subsection discharges the bank's obligation to pay a
54 beneficiary and does not constitute an accord and satisfaction with
55 respect to another person obligated to the beneficiary.

1 4. Unless the account agreement provides otherwise, the obligation of
2 the bank obligated to pay a beneficiary is immediately due and payable.

3 5. The bank may discharge its obligation under this section by:

4 (a) crediting another transaction account of the beneficiary; or

5 (b) taking other action that:

6 (i) is permitted under the account agreement for the bank to obtain a
7 discharge; or

8 (ii) otherwise would constitute a discharge under law.

9 6. If the bank obligated to pay a beneficiary has incurred an obli-
10 gation to discharge the obligation of another person, the obligation of
11 the other person is discharged if action by the bank under subdivision
12 five of this section would constitute a discharge of the obligation of
13 the other person under law that determines whether an obligation is
14 satisfied.

15 § 680-g. Property interest of depositor or beneficiary. 1. Neither a
16 depositor nor a beneficiary has a property interest in a special depos-
17 it.

18 2. Any property interest with respect to a special deposit is only in
19 the right to receive payment if the bank is obligated to pay a benefi-
20 ciary and not in the special deposit itself. Any property interest under
21 this subdivision shall be subject to the provisions of this chapter and
22 to rules and regulations made in accordance therewith.

23 § 680-h. When creditor process enforceable against bank. 1. Subject to
24 subdivision two of this section, creditor process with respect to a
25 special deposit is not enforceable against the bank holding the special
26 deposit.

27 2. Creditor process is enforceable against the bank holding a special
28 deposit with respect to an amount the bank is obligated to pay a benefi-
29 ciary or a depositor if the process:

30 (a) is served on the bank;

31 (b) provides sufficient information to permit the bank to identify the
32 depositor or the beneficiary from the bank's books and records; and

33 (c) gives the bank a reasonable opportunity to act on the process.

34 3. Creditor process served on a bank before it is enforceable against
35 the bank under subdivision two of this section does not create a right
36 of the creditor against the bank or a duty of the bank to the creditor.
37 The lien law and any other applicable law shall determine whether credi-
38 tor process creates a lien enforceable against the beneficiary on a
39 contingent interest of a beneficiary, including a depositor as a benefi-
40 ciary, even if not enforceable against the bank.

41 § 680-i. Injunction or similar relief. A court may enjoin, or grant
42 similar relief that would have the effect of enjoining, a bank from
43 paying a depositor or beneficiary only if payment would constitute a
44 material fraud or facilitate a material fraud with respect to a special
45 deposit.

46 § 680-j. Recoupment or set off. 1. Except as provided in subdivision
47 two or three of this section, a bank shall not exercise a right of
48 recoupment or set off against a special deposit.

49 2. An account agreement may authorize the bank to debit the special
50 deposit:

51 (a) when the bank becomes obligated to pay a beneficiary, in an amount
52 that does not exceed the amount necessary to discharge the obligation;

53 (b) for a fee assessed by the bank that relates to an overdraft in the
54 special deposit account;

55 (c) for costs incurred by the bank that relate directly to the special
56 deposit; or

1 (d) to reverse an earlier credit posted by the bank to the balance of
2 the special deposit account, if the reversal occurs under an event or
3 circumstance warranted under other law of this state governing mistake
4 and restitution.

5 3. The bank holding a special deposit may exercise a right of recoup-
6 ment or set off against an obligation to pay a beneficiary, even if the
7 bank funds payment from the special deposit.

8 § 680-k. Duties and liability of bank. 1. A bank does not have a fidu-
9 ciary duty to any person with respect to a special deposit.

10 2. When the bank holding a special deposit becomes obligated to pay a
11 beneficiary, a debtor-creditor relationship arises between the bank and
12 beneficiary.

13 3. The bank holding a special deposit has a duty to a beneficiary to
14 comply with the account agreement and this article.

15 4. If the bank holding a special deposit does not comply with the
16 account agreement or this article, the bank is liable to a depositor or
17 beneficiary only for damages proximately caused by the noncompliance.
18 Except as provided by other law of this state, the bank is not liable
19 for consequential, special, or punitive damages.

20 5. The bank holding a special deposit may rely on records presented in
21 compliance with the account agreement to determine whether the bank is
22 obligated to pay a beneficiary.

23 6. If the account agreement requires payment on presentation of a
24 record, the bank shall determine within a reasonable time whether the
25 record is sufficient to require payment. If the agreement requires
26 action by the bank on presentation of a record, the bank is not liable
27 for relying in good faith on the genuineness of the record if the record
28 appears on its face to be genuine.

29 7. Unless the account agreement provides otherwise, the bank is not
30 required to determine whether a permissible purpose stated in the agree-
31 ment continues to exist.

32 § 680-l. Term and termination. 1. Unless otherwise provided in the
33 account agreement, a special deposit terminates five years after the
34 date the special deposit was first funded.

35 2. Unless otherwise provided in the account agreement, if the bank
36 cannot identify or locate a beneficiary entitled to payment when the
37 special deposit is terminated, and a balance remains in the special
38 deposit, the bank shall pay the balance to the depositor or depositors
39 as a beneficiary or beneficiaries.

40 3. A bank that pays the remaining balance as provided under subdivi-
41 sion two of this section has no further obligation with respect to the
42 special deposit.

43 § 680-m. Principles of law and equity. The uniform commercial code,
44 article twenty-two-A of the general business law, the provisions of this
45 chapter governing deposits generally, the abandoned property law, and
46 the principles of law and equity, including any applicable law related
47 to capacity to contract, principal and agent, estoppel, fraud, misrepre-
48 sentation, duress, coercion, mistake, and bankruptcy, supplement this
49 article except to the extent inconsistent with this article.

50 § 680-n. Uniformity of application and construction. In applying and
51 construing the provisions of this uniform special deposits act, a court
52 shall consider the promotion of uniformity of the law among jurisdic-
53 tions that enact it.

54 § 680-o. Transitional provision. This article applies to:

55 1. a special deposit made under an account agreement executed on or
56 after the effective date of this article; and

1 2. a deposit made under an agreement executed before the effective
2 date of this article, if:

3 (a) all parties entitled to amend the agreement agree to make the
4 deposit a special deposit governed by this article; and

5 (b) the special deposit referenced in the amended agreement satisfies
6 the provisions of section six hundred eighty-d of this article.

7 § 680-p. Severability. If any word, phrase, clause, sentence, para-
8 graph, section or part of this article shall be adjudged by any court of
9 competent jurisdiction to be invalid, such judgment shall not affect,
10 impair or invalidate the remainder thereof, but shall be confined in its
11 operation to the word, phrase, clause, sentence, paragraph, section or
12 part thereof directly involved in the controversy in which judgment
13 shall have been rendered.

14 § 2. This act shall take effect on the first of January next succeed-
15 ing the date on which it shall have become a law.