

Committee Substitute for Senate Bill No. 350

An act relating to individual development accounts; providing purposes; providing definitions; requiring the Department of Children and Family Services to amend the Temporary Assistance for Needy Families State Plan to provide for use of funds for individual development accounts; specifying criteria and requirements for contributions to such accounts; specifying purposes for use of such accounts; providing for procedures for withdrawals from such accounts; specifying certain organizations to act as fiduciary organizations for certain purposes; providing for controlling the withdrawal of funds for uses other than qualified purposes; providing for resolution of certain disputes; providing for transfer of ownership of such accounts under certain circumstances; providing for establishment of such accounts by certain financial institutions under certain circumstances; providing requirements; providing that account funds and matching funds do not affect certain program eligibility; providing for rules; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The purpose of this act is to provide for the establishment of individual development accounts that can provide families having limited means an opportunity to accumulate assets and to facilitate and mobilize savings; to promote education, homeownership, and microenterprise development; and help to stabilize families and build communities. This section implements the provisions of s. 404(h) of the Social Security Act, as amended, 42 U.S.C. s. 604(h), related to individual development accounts. Nothing in this section is intended to conflict with the provisions of federal law.

(2) As used in this section, the term:

(a) "Individual development account" means an account established exclusively to pay the qualified expenses of an eligible individual or family. The account is funded through periodic contributions by the establishing individual which are matched by or through a qualified entity for a qualified purpose.

(b) "Qualified entity" means:

1. A not-for-profit organization described in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and exempt from taxation under s. 501(a) of such code; or

2. A state or local government agency acting in cooperation with an organization described in subparagraph 1. For purposes of this section, a regional workforce board is a government agency.

(c) "Financial institution" means a financial institution as defined in section 655.005(1)(h), Florida Statutes.

(d) “Eligible educational institution” means:

1. An institution described in s. 481(a)(1) or s. 1201(a) of the Higher Education Act of 1965, 20 U.S.C. s. 1088(a)(1) or s. 1141(a), as such sections are in effect on the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

2. An area vocational education school, as defined in s. 521(4)(C) or (D) of the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. s. 2471(4), in this state, as such sections are in effect on the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

(e) “Postsecondary educational expenses” means:

1. Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

2. Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

(f) “Qualified acquisition costs” means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

(g) “Qualified business” means any business that does not contravene any law or public policy.

(h) “Qualified business capitalization expenses” means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

(i) “Qualified expenditures” means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

(j)1. “Qualified first-time homebuyer” means a taxpayer and, if married, the taxpayer’s spouse, who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence.

2. “Date of acquisition” means the date on which a binding contract to acquire, construct, or reconstruct the principal residence is entered into.

(k) “Qualified plan” means a business plan or a plan to use a business asset purchased, which:

1. Is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity.

2. Includes a description of services or goods to be sold, a marketing plan, and projected financial statements.

3. May require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

(l) "Qualified principal residence" means a principal residence, within the meaning of s. 1034 of the Internal Revenue Code of 1986, as amended, the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence, determined in accordance with s. 143(e)(2) and (3) of that code.

(3) The Department of Children and Family Services shall amend the Temporary Assistance for Needy Families State Plan which was submitted in accordance with s. 402 of the Social Security Act, as amended, 42 U.S.C. s. 602, to provide for the use of funds for individual development accounts in accordance with this section.

(4)(a) Any family subject to time limits and fully complying with work requirements of the temporary cash assistance program, pursuant to sections 414.045, 414.065, 414.095, 414.105, and 445.024, Florida Statutes, which enters into an agreement with an approved fiduciary organization is eligible to participate in an individual development account.

(b) Contributions to the individual development account by an individual may be derived only from earned income, as defined in s. 911(d)(2) of the Internal Revenue Code of 1986, as amended.

(c) The individual or family must enter into an individual development account agreement with a certified fiduciary organization as described in subsection (7). This account agreement shall include, but need not be limited to, the matching funds to be contributed to the account, limits on the deposits for which the match will be provided, required documentation necessary for payment of moneys in the account to be made for a qualified purpose, and penalties for withdrawal of funds not used for one or more of the qualified purposes.

(d) Eligible participants may receive matching funds for contributions to the individual development account, pursuant to the strategic plan for workforce development. When not restricted to the contrary, matching funds may be paid from state and federal funds under the control of the regional workforce board, from local agencies, or from private donations.

(e) Eligible participants may receive bonus payments for program compliance, to the extent provided in the strategic plan for workforce development. Such bonus payments may provide for a matching proportion higher than that of matching funds described in paragraph (d).

(5) Individual development accounts may be available for any of the following qualified purposes once the family no longer receives cash assistance:

(a) Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution;

(b) Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due; or

(c) Amounts paid from an individual development account directly to a business capitalization account that is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization.

(6) The Workforce Florida, Inc., shall establish procedures for regional workforce boards to include in their annual program and financial plan an application to offer an individual development account program as part of their TANF allocation. These procedures shall include, but need not be limited to, administrative costs permitted for the fiduciary organization and policies relative to identifying the match ratio and limits on the deposits for which the match will be provided in the application process. Workforce Florida, Inc., shall establish policies and procedures that are necessary to ensure that funds held in an individual development account are not withdrawn except for one or more of the qualified purposes described in this section.

(7) Fiduciary organizations shall be the regional workforce board or other community-based organizations designated by the regional workforce board to serve as intermediaries between individual account holders and financial institutions holding accounts. Responsibilities of such fiduciary organizations may include marketing participation, soliciting matching contributions, counseling program participants, and conducting verification and compliance activities.

(8) Workforce Florida, Inc., shall establish procedures for controlling the withdrawal of funds for uses other than qualified purposes, including specifying conditions under which an account must be closed.

(9) A fiduciary organization shall establish a grievance committee and a procedure for hearing, reviewing, and responding in writing to any grievance filed by a holder of an individual development account who disputes a decision of the operating organization that funds were withdrawn for uses other than qualified purposes.

(10) Upon an account holder's death, his or her account may be transferred to the ownership of a contingent beneficiary. An account holder shall name contingent beneficiaries at the time the account is established and may change such beneficiaries at any time.

(11) Financial institutions approved by Workforce Florida, Inc., may establish individual development accounts pursuant to this section. A financial institution shall certify the establishment of the individual development accounts in accordance with the forms, documentation, and requirements prescribed by Workforce Florida, Inc.

(12) In accordance with s. 404(h)(4) of the Social Security Act, as amended, 42 U.S.C. s. 604(h)(4), and notwithstanding any other provision of law, other than the Internal Revenue Code of 1986, as amended, funds in an individual development account, including interest accruing in such account, shall be disregarded in determining eligibility for any federal or state program.

(13) Pursuant to policy direction by Workforce Florida, Inc., the Agency for Workforce Innovation shall adopt such rules as are necessary to implement this act.

Section 2. This act shall take effect October 1, 2001.

Approved by the Governor May 31, 2001.

Filed in Office Secretary of State May 31, 2001.