

By Senator Forman

32-1065-99

See HB

1 A bill to be entitled
2 An act relating to individual development
3 accounts; providing purposes; providing
4 definitions; requiring the Department of
5 Revenue to amend the Temporary Assistance for
6 Needy Families State Plan to provide for use of
7 funds for individual development accounts;
8 specifying criteria and requirements for
9 contributions to such accounts; specifying
10 purposes for use of such accounts; providing
11 for procedures for withdrawals from such
12 accounts; specifying certain organizations to
13 act as fiduciary organizations for certain
14 purposes; providing for penalties for
15 withdrawal of moneys for certain purposes;
16 providing for resolution of certain disputes;
17 providing for transfer of ownership of such
18 accounts under certain circumstances; providing
19 for establishment of such accounts by certain
20 financial institutions under certain
21 circumstances; providing requirements;
22 providing that account funds and matching funds
23 do not affect certain program eligibility;
24 providing an effective date.

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

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28 Section 1. (1) The purpose of this act is to provide
29 for the establishment of individual development accounts
30 designed to provide families with limited means an opportunity
31 to accumulate assets, to facilitate and mobilize savings, to

1 promote education, homeownership, and microenterprise
2 development, and to stabilize families and build communities.
3 This section implements the provisions of s. 404(h) of the
4 Social Security Act, as amended, 42 U.S.C. s. 604(h), related
5 to individual development accounts. Nothing in this section
6 is intended to conflict with the provisions of federal law.

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

8 (a) "Individual development account" means an account
9 exclusively for the purpose of paying the qualified expenses
10 of an eligible individual or family. The account is a trust
11 created or organized in this state and funded through periodic
12 contributions by the establishing individual and matched by or
13 through a qualified entity for a qualified purpose.

14 (b) "Qualified entity" means:

15 1. A not-for-profit organization described in s.
16 501(c)(3) of the Internal Revenue Code of 1986, as amended,
17 and exempt from taxation under s. 501(a) of such code; or

18 2. A state or local government agency acting in
19 cooperation with an organization described in subparagraph 1.
20 For purposes of this section, a local WAGES coalition shall be
21 considered a government agency.

22 (c) "Financial institution" means an organization
23 authorized to do business under state or federal laws relating
24 to financial institutions, and includes a bank, trust company,
25 savings bank, building and loan association, savings and loan
26 company or association, and credit union.

27 (d) "Eligible educational institution" means:

28 1. An institution described in s. 481(a)(1) or s.
29 1201(a) of the Higher Education Act of 1965, 20 U.S.C. s.
30 1088(a)(1) or s. 1141(a), as such sections are in effect on
31 the date of the enactment of the Personal Responsibility and

1 Work Opportunity Reconciliation Act of 1996, Pub. L. No.
2 104-193.

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

9 (e) "Postsecondary educational expenses" means:

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

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

15 (f) "Qualified acquisition costs" means the costs of
16 acquiring, constructing, or reconstructing a residence. The
17 term includes any usual or reasonable settlement, financing,
18 or other closing costs.

19 (g) "Qualified business" means any business that does
20 not contravene any law or public policy.

21 (h) "Qualified business capitalization expenses" means
22 qualified expenditures for the capitalization of a qualified
23 business pursuant to a qualified plan.

24 (i) "Qualified expenditures" means expenditures
25 included in a qualified plan, including capital, plant,
26 equipment, working capital, and inventory expenses.

27 (j)1. "Qualified first-time homebuyer" means a
28 taxpayer and, if married, the taxpayer's spouse, who has no
29 present ownership interest in a principal residence during the
30 3-year period ending on the date of acquisition of the
31 principal residence.

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

4 (k) "Qualified plan" means a business plan or a plan
5 to use a business asset purchased, which:

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

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

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

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

19 (3) The Department of Revenue shall amend the
20 Temporary Assistance for Needy Families State Plan which was
21 submitted in accordance with s. 402 of the Social Security
22 Act, as amended, 42 U.S.C. s. 602, to provide for the use of
23 funds for individual development accounts in accordance with
24 the provisions of this section.

25 (4)(a) Any family subject to time limits and fully
26 complying with work requirements of the WAGES Program that
27 enters into an agreement with an approved fiduciary
28 organization is eligible for participation in an individual
29 development account.

30 (b) Contributions to the individual development
31 account by an individual may be derived only from earned

1 income, as defined in s. 911(d)(2) of the Internal Revenue
2 Code of 1986, as amended.

3 (c) The individual or family shall enter into an
4 individual development account agreement with a certified
5 fiduciary organization or community-based organization.

6 (d) Eligible participants may receive matching funds
7 for contributions to the individual development account,
8 pursuant to the WAGES State Plan and the plan of the local
9 WAGES coalition. When not restricted to the contrary, matching
10 funds may be paid from state and federal funds under the
11 control of the local WAGES coalition, from local agencies, or
12 from private donations.

13 (e) Eligible participants may receive bonus payments
14 for program compliance, to the extent provided in the WAGES
15 State Plan and the plan of the local WAGES coalition. Such
16 bonus payments may provide for a matching proportion higher
17 than matching funds described in paragraph (d).

18 (5) Individual development accounts may be available
19 once the family no longer receives cash assistance for any of
20 the following uses:

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

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

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

3 (6) The WAGES Program State Board of Directors shall
4 establish such policies and procedures as may be necessary to
5 ensure that funds held in an individual development account
6 are not withdrawn except for one or more of the qualified
7 purposes described in this section.

8 (7) Fiduciary organizations shall be the local WAGES
9 coalition or other organizations designated by the local WAGES
10 coalition to serve as an intermediary between individual
11 account holders and financial institutions holding accounts.
12 Responsibilities of such fiduciary organizations may include
13 marketing participation, soliciting matching contributions,
14 counseling program participants, and conducting verification
15 and compliance activities.

16 (8) The WAGES Program State Board of Directors shall
17 establish penalties and procedures for enforcing compliance
18 with such penalties for the withdrawal of moneys from
19 individual development accounts under false pretenses or for
20 the use of such moneys for other than approved purposes. The
21 fiduciary organization shall make arrangements with the
22 financial institution to impose any penalties or loss of
23 matching funds as specified by the WAGES Program State Board
24 of Directors on moneys withdrawn. The WAGES Program State
25 Board of Directors may, at its discretion, specify conditions
26 under which an account shall be closed.

27 (9) The fiduciary organization shall establish a
28 grievance committee and a procedure to hear, review, and
29 decide in writing any grievance made by a holder of an
30 individual development account who disputes a decision of the
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1 operating organization that a withdrawal is subject to
2 penalty.

3 (10) In the event of an account holder's death, the
4 account may be transferred to the ownership of a contingent
5 beneficiary. An account holder shall name contingent
6 beneficiaries at the time the account is established and may
7 change such beneficiaries at any time.

8 (11) Financial institutions approved by the WAGES
9 Program State Board of Directors shall be permitted to
10 establish individual development accounts pursuant to this
11 section. The financial institution shall certify to the local
12 WAGES coalition on forms prescribed by the WAGES Program State
13 Board of Directors and accompanied by any documentation
14 required by the WAGES Program State Board of Directors that
15 such accounts have been established pursuant to all provisions
16 of this act and that deposits have been made on behalf of the
17 account holder. A financial institution establishing an
18 individual development account shall:

19 (a) Keep the account in the name of the account
20 holder.

21 (b) Subject to the indicated conditions, permit
22 deposits to be made into the account:

23 1. By the account holder; or

24 2. By means of contributions made on behalf of the
25 account holder. Such deposits may include moneys to match the
26 account holder's deposits.

27 (c) Require the account to earn the market rate of
28 interest.

29 (d) Permit the account holder to withdraw moneys from
30 the account for any of the permissible uses pursuant to
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1 procedures adopted by the WAGES Program State Board of
2 Directors.
3 (12) In accordance with s. 404(h)(4) of the Social
4 Security Act, as amended, 42 U.S.C. s. 604(h)(4), and
5 notwithstanding any other provision of law, other than the
6 Internal Revenue Code of 1986, as amended, funds in an
7 individual development account, including interest accruing in
8 such account, shall be disregarded in determining eligibility
9 for any federal or state program. Matching contributions paid
10 directly into such account and contributions by an individual
11 from earnings shall similarly be disregarded in determining
12 eligibility for any state or federal program.

13 Section 2. This act shall take effect October 1, 1999.

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15 LEGISLATIVE SUMMARY

16 Provides for establishing individual development accounts
17 to provide families with limited means an opportunity to
18 accumulate assets, facilitate and mobilize savings,
19 promote education, homeownership, and microenterprise
20 development, and stabilize families and build
21 communities. (See bill for details.)
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