

By Senator Dawson

30-1339-00

See CS/HB 207

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           Children and Family Services to amend the

6           Temporary Assistance for Needy Families State

7           Plan to provide for use of funds for individual

8           development accounts; specifying criteria and

9           requirements for contributions to such

10          accounts; specifying purposes for use of such

11          accounts; providing for procedures for

12          withdrawals from such accounts; specifying

13          certain organizations to act as fiduciary

14          organizations for certain purposes; providing

15          for penalties for withdrawal of moneys for

16          certain purposes; providing for resolution of

17          certain disputes; providing for transfer of

18          ownership of such accounts under certain

19          circumstances; providing for establishment of

20          such accounts by certain financial institutions

21          under certain circumstances; providing

22          requirements; providing that account funds and

23          matching funds do not affect certain program

24          eligibility; providing an effective date.

25

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 Children and Family Services  
20 shall amend the Temporary Assistance for Needy Families State  
21 Plan which was submitted in accordance with s. 402 of the  
22 Social Security Act, as amended, 42 U.S.C. s. 602, to provide  
23 for the use of funds for individual development accounts in  
24 accordance with 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 as described in subsection (7).

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 community-based organizations designated by  
10 the local WAGES coalition to serve as an intermediary between  
11 individual account holders and financial institutions holding  
12 accounts. Responsibilities of such fiduciary organizations may  
13 include marketing participation, soliciting matching  
14 contributions, counseling program participants, and conducting  
15 verification 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, 2000.

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16 LEGISLATIVE SUMMARY

17 Provides for the establishment of individual development  
18 accounts for families of limited means. Provides purposes  
19 of such accounts. Provides definitions. Requires the  
20 Department of Children and Family Services to amend the  
21 Temporary Assistance for Needy Families State Plan to  
22 provide for using funds for individual development  
23 accounts. Specifies the criteria and requirements for  
24 contributions to such accounts. Specifies the permissible  
25 uses of such accounts. Provides for procedures for  
26 withdrawals from the accounts. Specifies certain  
27 organizations to act as fiduciary organizations for  
28 certain purposes. Provides penalties for withdrawal of  
29 moneys for certain purposes. Provides for the resolution  
30 of disputes. Provides for transfer of the ownership of  
31 such accounts in certain circumstances. Provides for the  
establishment of such accounts by certain financial  
institutions in certain circumstances. Provides  
requirements. Provides that account funds and matching  
funds do not affect eligibility for certain programs.