

By Senator Dawson

30-1-01

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.

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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 that  
30 can provide families having limited means an opportunity to  
31 accumulate assets and to facilitate and mobilize savings; to

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

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

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

15 (b) "Qualified entity" means:

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

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

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

28 (d) "Eligible educational institution" means:

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

1 the date of the enactment of the Personal Responsibility and  
2 Work Opportunity Reconciliation Act of 1996, Pub. L. No.  
3 104-193.

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

10 (e) "Postsecondary educational expenses" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           (c) The individual or family must enter into an  
6 individual development account agreement with a certified  
7 fiduciary organization as described in subsection (7).

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

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

21           (5) Individual development accounts may be available  
22 once the family no longer receives cash assistance for any of  
23 the following uses:

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

27           (b) Qualified acquisition costs with respect to a  
28 qualified principal residence for a qualified first-time  
29 homebuyer, if paid from an individual development account  
30 directly to the persons to whom the amounts are due; or  
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1           (c) Amounts paid from an individual development  
2 account directly to a business capitalization account that is  
3 established in a federally insured financial institution and  
4 is restricted to use solely for qualified business  
5 capitalization.

6           (6) Workforce Florida, Inc., shall establish policies  
7 and procedures that are necessary to ensure that funds held in  
8 an individual development account are not withdrawn except for  
9 one or more of the qualified purposes described in this  
10 section.

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

20           (8) Workforce Florida, Inc., shall establish penalties  
21 and procedures to enforce compliance, with penalties for the  
22 withdrawal of moneys from individual development accounts  
23 under false pretenses or for the use of such moneys for other  
24 than approved purposes. The fiduciary organization shall make  
25 arrangements with the financial institution to impose any  
26 penalties or loss of matching funds as specified by Workforce  
27 Florida, Inc., on moneys withdrawn. Workforce Florida, Inc.,  
28 may specify conditions under which an account must be closed.

29           (9) A fiduciary organization shall establish a  
30 grievance committee and a procedure for hearing, reviewing,  
31 and responding in writing to any grievance filed by a holder

1 of an individual development account who disputes a decision  
2 of the operating organization that a withdrawal is subject to  
3 penalty.

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

9 (11) Financial institutions approved by Workforce  
10 Florida, Inc., may establish individual development accounts  
11 pursuant to this section. A financial institution shall  
12 certify to the local WAGES coalition, on forms prescribed by  
13 Workforce Florida, Inc., and accompanied by any documentation  
14 required by Workforce Florida, Inc., that such accounts have  
15 been established and that deposits have been made on behalf of  
16 the account holder. A financial institution establishing an  
17 individual development account shall:

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

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

22 1. By the account holder; or

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

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

28 (d) Permit the account holder to withdraw moneys from  
29 the account for any permissible use, pursuant to procedures  
30 adopted by Workforce Florida, Inc.

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