

1 A bill to be entitled
 2 An act relating to portable benefits accounts for
 3 independent contractors and sole proprietors; creating
 4 part III of ch. 448, F.S., entitled "Voluntary
 5 Portable Benefits Act"; creating s. 448.31, F.S.;
 6 providing a short title; creating s. 448.32, F.S.;
 7 providing definitions; creating s. 448.33, F.S.;
 8 authorizing certain parties to make voluntary
 9 contributions to portable benefits accounts for
 10 independent contractors and sole proprietors;
 11 providing requirements for such contributions;
 12 providing an effective date.

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

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 16 **Section 1.** Part III of chapter 448, Florida Statutes,
 17 consisting of ss. 448.31, 448.32, and 448.33, Florida Statutes,
 18 is created and entitled the "Voluntary Portable Benefits Act."

19 **Section 2. Section 448.31, Florida Statutes, is created to**
 20 **read:**

21 448.31 Short title.—This part may be cited as the
 22 "Voluntary Portable Benefits Act."

23 **Section 3. Section 448.32, Florida Statutes, is created to**
 24 **read:**

25 448.32 Definitions.—As used in this part, the term:

26 (1) "Hiring party" means a person who hires or enters into
 27 a contract with an independent contractor or sole proprietor.

28 (2) (a) "Independent contractor" means a person who meets
 29 four of the following criteria:

30 1. Maintains a separate business with his or her own work
 31 facility, truck, equipment, materials, or similar
 32 accommodations.

33 2. Holds or has applied for a federal employer
 34 identification number, unless the person is a sole proprietor
 35 who is not required to obtain a federal employer identification
 36 number under state or federal regulations.

37 3. Receives compensation for services rendered or work
 38 performed and such compensation is paid to a business rather
 39 than to an individual.

40 4. Holds one or more bank accounts in the name of the
 41 business entity for purposes of paying business expenses or
 42 other expenses related to services rendered or work performed
 43 for compensation.

44 5. Performs work or is able to perform work for any entity
 45 in addition to or besides the hiring party at his or her own
 46 election without the necessity of completing an employment
 47 application or process.

48 6. Receives compensation for work or services rendered on
 49 a competitive-bid basis or completion of a task or a set of
 50 tasks as defined by a contractual agreement, unless such

51 contractual agreement expressly states that an employment
52 relationship exists.

53 (b) If a person does not meet four of the criteria
54 pursuant to paragraph (a), a person may still be presumed to be
55 an independent contractor and not an employee based on full
56 consideration of the nature of the person's situation with
57 regard to whether the person meets any of the following
58 conditions:

59 1. Performs or agrees to perform specific services or work
60 for a specific amount of money and controls the means of
61 performing the services or work.

62 2. Incurs the principal expenses related to the service or
63 work that he or she performs or agrees to perform.

64 3. Is responsible for the satisfactory completion of the
65 work or services that he or she performs or agrees to perform.

66 4. Receives compensation for work or services performed
67 for a commission or on a per-job basis and not on any other
68 basis.

69 5. May realize a profit or suffer a loss in connection
70 with performing work or services.

71 6. Has continuing or recurring business liabilities or
72 obligations.

73 7. Has success or failure in the person's business which
74 depends on the relationship of business receipts to
75 expenditures.

76 (3) (a) "Portable benefits account" means an account that
 77 is:

78 1. Opened by an independent contractor or a sole
 79 proprietor to fund the purchase of one or more benefit plans and
 80 is administered by a third-party portable benefits account
 81 provider chosen by the independent contractor or the sole
 82 proprietor; and

83 2. Assigned to a beneficiary of one or more benefit plans
 84 rather than to a hiring party.

85 (b) As used in paragraph (a), the term "benefit plan"
 86 includes, but is not limited to, the following products:

- 87 1. Health insurance.
- 88 2. Income replacement insurance.
- 89 3. Life insurance.
- 90 4. Retirement benefits.

91 (4) "Portable benefits account provider" means the
 92 administrator of a portable benefits account and includes:

- 93 (a) A bank, as defined in s. 220.62(1).
- 94 (b) An investment management firm.
- 95 (c) A technology provider or program manager that offers
 96 services through a bank or investment management firm.

97 (d) Any other person that demonstrates to the satisfaction
 98 of the Financial Services Commission that the manner in which
 99 the person will administer the portable benefits account will be

100 consistent with the portable benefits account requirements under
 101 s. 448.33.

102 (5) "Sole proprietor" has the same meaning as in s.
 103 440.02.

104 **Section 4. Section 448.33, Florida Statutes, is created to**
 105 **read:**

106 448.33 Voluntary contributions to portable benefits
 107 accounts for independent contractors and sole proprietors.-

108 (1) Any person or entity, including an independent
 109 contractor; a sole proprietor; a hiring party, whether a public
 110 or private entity; or an Internet-based or application-based
 111 company, may voluntarily contribute funds to a portable benefits
 112 account for an independent contractor or sole proprietor.

113 (2) (a) Contributions to a portable benefits account may
 114 not be used as a criterion for determining a worker's employment
 115 classification.

116 (b) Contributions to a portable benefits account may be
 117 made using:

118 1. The funds of the hiring party; or

119 2. A percentage of funds withheld from compensation owed
 120 to the independent contractor or sole proprietor if all the
 121 following conditions are met:

122 a. The withholdings are voluntary and expressly agreed to
 123 in writing, and the agreement is written in clear and
 124 unambiguous language and prominently displayed in the work

125 | contract or a separate notice.

126 | b. The withholdings require the independent contractor or
127 | sole proprietor to opt in, and the independent contractor or
128 | sole proprietor may choose to opt out of the withholdings at any
129 | time.

130 | **Section 5.** This act shall take effect July 1, 2025.