

**SUBSTITUTE FOR
HOUSE BILL NO. 5764**

A bill to permit the establishment and maintenance of worker financial security accounts; to provide for certain tax credits and deductions; to prescribe the requirements of and restrictions on worker financial security accounts; and to provide penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "worker financial security account act".

3 Sec. 2. As used in this act:

4 (a) "Account administrator" means any of the following:

5 (i) A state or nationally chartered bank, savings and loan
6 association, credit union, or trust company authorized to act as
7 fiduciary and under the supervision of the office of financial
8 and insurance services; or a national banking association or

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1 federal savings and loan association or credit union authorized
2 to act as fiduciary in this state.

3 (ii) A broker-dealer, commodity issuer, or investment advi-
4 sor registered pursuant to the uniform securities act, 1964
5 PA 265, MCL 451.501 to 451.818, or a federal investment company
6 registered under the investment company act of 1940, title I of
7 chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to
8 80a-64.

9 (iii) A certified public accountant licensed to practice in
10 this state pursuant to article 7 of the occupational code, 1980
11 PA 299, MCL 339.720 to 339.736.

12 (iv) Life insurers.

13 (b) "Account holder" means the resident individual who is a
14 taxpayer and establishes a worker financial security account or
15 for whose benefit a worker financial security account is
16 established.

17 (c) "Domicile" means a place where an individual has his or
18 her true, fixed, and permanent home and principal establishment,
19 to which, whenever absent, he or she intends to return. Domicile
20 continues until another permanent home or principal establishment
21 is established.

22 (d) "Eligible expense" means 1 or both of the following:

23 (i) An expense paid by the taxpayer for reasonable living
24 expenses as determined by the department of treasury of a quali-
25 fied taxpayer for whose benefit an account under this act has
26 been established.

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1 (ii) If the taxpayer is unemployed, an amount equal to the
2 difference between the taxpayer's average monthly gross income
3 for the 12-month period immediately preceding the first month in
4 which the employee received unemployment benefits and the average
5 monthly amount of unemployment benefits received by the taxpayer
6 during the tax year. Amounts under this subparagraph shall not
7 be withdrawn from an account more than once each month.

8 (iii) If the taxpayer is retired, an amount equal to the
9 difference between the taxpayer's average monthly gross income
10 for the 12-month period immediately preceding the date that the
11 taxpayer retired and the taxpayer's average monthly amount of
12 social security benefits received by the taxpayer during the tax
13 year. Amounts under this subparagraph shall not be withdrawn
14 from an account more than once each month.

15 (e) "Qualified taxpayer" means an individual with gross sal-
16 aries and wages as reported pursuant to section 61 of the inter-
17 nal revenue code equal to or less than \$75,000.00 who meets 1 of
18 the following criteria:

19 (i) Received unemployment benefits during the tax year.

20 (ii) Received unemployment benefits during the tax year for
21 a period of time prior to the tax year in which withdrawals that
22 are deductible from the taxpayer's tax base under section 30 of
23 the income tax act of 1967, 1967 PA 281, MCL 206.30 are made, and
24 who has been continuously unemployed after receiving the maximum
25 amount of benefits available under the Michigan employment secur-
26 ity act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

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1 (iii) Is 65 years of age or older and is retired. As used
2 in this subparagraph, "retired" means that the individual is not
3 employed, or is employed or works for 10 hours or less each week
4 and receives salary, wages, or other compensation for that work
5 or employment that is subject to taxation under the income tax
6 act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

7 (f) "Resident" means an individual domiciled in this state.

8 (g) "Unemployment benefits" means benefits allowed under the
9 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1
10 to 421.75.

11 (h) "Worker financial security account" or "account" means
12 an account established in this state pursuant to this act to be
13 used to pay the eligible expenses of a qualified taxpayer.

14 Sec. 3. (1) For tax years that begin after December 31,
15 2001, a resident individual may establish a worker financial
16 security account with an account administrator for 1 or more of
17 the following:

18 (a) Himself or herself.

19 (b) His or her spouse.

20 (2) To establish an account, the qualified taxpayer shall
21 enter into an agreement with an account administrator.

22 (3) An account holder shall designate a beneficiary for the
23 account at the time he or she enters into an agreement under sub-
24 section (2).

25 (4) Contributions to an account shall only be made in cash
26 or cash equivalent such as check, money order, or credit or debit
27 card, electronic fund transfer, or payroll deduction.

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1 (5) Except as otherwise provided in this subsection, the
2 total amount in an account at any time shall not exceed
3 \$75,000.00. Any contribution that would raise the amount in an
4 account to more than \$75,000.00 shall be refused by the account
5 administrator or promptly withdrawn from the account and returned
6 to the account holder. An amount refused or withdrawn under this
7 subsection is not considered a withdrawal for purposes of section
8 5(1). Accrued interest shall be considered when determining if
9 the account holds more than \$75,000.00 but that interest does not
10 need to be withdrawn to meet the maximum allowed in the account
11 under this section. Money may be contributed and withdrawn at
12 any time consistent with the provisions of this act as long as
13 the maximum amount allowed in the account, exclusive of interest
14 as provided in this subsection, is not exceeded at any point in
15 time.

16 Sec. 4. (1) An account administrator shall administer the
17 worker financial security account from which the payments are
18 made and has a fiduciary duty to the person for whose benefit the
19 account administrator administers an account.

20 (2) The account administrator shall utilize the funds held
21 in an account solely for the purpose of paying the eligible
22 expenses of the account holder or his or her spouse who is a
23 qualified taxpayer.

24 (3) The account administrator shall pay the eligible
25 expenses of the qualified taxpayer on whose behalf the account
26 has been established directly based on bills or other evidence of
27 a debt or account due or shall pay or reimburse the account

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1 holder from the account holder's account for eligible expenses
2 paid by the account holder based on documentation submitted to
3 the account administrator.

4 Sec. 5. (1) Subject to subsection (2), if an account holder
5 withdraws money for any purpose other than a purpose described in
6 section 4(2), the administrator shall withhold from the amount of
7 the withdrawal and on behalf of the account holder shall pay a
8 penalty to the department of treasury equal to 10% of the amount
9 of the withdrawal.

10 (2) The amount of a disbursement of any assets of an account
11 pursuant to a filing for protection under title 11 of the United
12 States Code, 11 U.S.C. 101 to 1330, by an account holder or an
13 account holder's spouse is not considered a withdrawal for pur-
14 poses of this section.

15 (3) Upon the death of the account holder, the account admin-
16 istrator shall distribute the principal and accumulated interest
17 of the account to the beneficiary of the account holder as desig-
18 nated under section 4(3).

19 Sec. 6. This act shall not take effect unless House Bill
20 No. 5765 of the 91st Legislature is enacted into law.