

**SUBSTITUTE FOR
SENATE BILL NO. 640**

A bill to permit the establishment and maintenance of individual or family development accounts; to provide for certain tax deductions and tax credits; to prescribe the requirements of and restrictions on individual or family development accounts; to provide for the promulgation of rules; 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 "individual or family development account program act".

3 Sec. 2. As used in this act:

4 (a) "Account holder" means a person who is the owner of an
5 individual or family development account or the family if the
6 account is a family account.

1 (b) "Agency" means the Michigan state housing development
2 authority of the department of labor and economic growth.

3 (c) "Contributor" means a person that makes a contribution to
4 an individual or family development account reserve fund and is not
5 an account holder.

6 (d) "Director" means the executive director of the Michigan
7 state housing development authority of the department of labor and
8 economic growth.

9 (e) "Education expenses" means tuition and fees required for
10 the enrollment or attendance of a student at an eligible
11 educational institution, and expenses for fees, books, supplies,
12 and equipment required for courses of instruction at an eligible
13 educational institution.

14 (f) "Eligible educational institution" means any of the
15 following:

16 (i) A college, university, community college, or junior college
17 described in section 4, 5, or 6 of article VIII of the state
18 constitution of 1963 or established under section 7 of article VIII
19 of the state constitution of 1963.

20 (ii) An independent nonprofit college or university located in
21 this state.

22 (iii) A state-licensed vocational or technical education
23 program.

24 (iv) A state-licensed proprietary school.

25 (g) "Federal poverty level" means the poverty guidelines
26 published annually in the federal register by the United States
27 department of health and human services under its authority to

1 revise the poverty line under section 673(2) of subtitle B of title
2 VI of the omnibus budget reconciliation act of 1981, Public Law 97-
3 35, 42 USC 9902.

4 (h) "Fiduciary organization" or "organization" means a
5 charitable organization exempt from taxation under section
6 501(c)(3) of the internal revenue code that is approved by the
7 director of the agency or his or her designee to manage a reserve
8 fund. A fiduciary organization may also be a program site.

9 (i) "Financial institution" means a state chartered bank,
10 state chartered savings bank, savings and loan association, credit
11 union, or trust company; or a national banking association or
12 federal savings and loan association or credit union.

13 (j) "Financial literacy" means personal financial planning and
14 education.

15 (k) "Individual or family development account" or "account"
16 means an account established pursuant to section 4.

17 (l) "Individual or family development account reserve fund" or
18 "reserve fund" means an account established and managed by a
19 fiduciary organization housed at a financial institution. The
20 reserve fund holds money that will be used to match participant
21 savings based on a participant savings plan agreement.

22 (m) "Program" means the individual or family development
23 account program established in section 3.

24 (n) "Program site" means a charitable organization exempt from
25 taxation under section 501(c)(3) or 501(c)(14) of the internal
26 revenue code that is approved by the director or his or her
27 designee to implement the individual or family development account

1 program.

2 Sec. 3. (1) The individual or family development account
3 program is established within the agency. The program shall provide
4 eligible individuals and families with an opportunity to establish
5 accounts to be used for education, first-time purchase of a primary
6 residence, or business capitalization as provided in section 4.

7 (2) The agency shall establish policies and procedures for the
8 program based on the policies and procedures adopted by the
9 department of human services to implement the individual
10 development account program under section 57k of the social welfare
11 act, 1939 PA 280, MCL 400.57k.

12 (3) In reviewing the qualifications of fiduciary organizations
13 and program sites, the agency shall consider all of the following
14 factors:

15 (a) The not-for-profit status of the organization.

16 (b) The fiscal accountability of the organization.

17 (c) The ability of the organization to provide or raise money
18 for matching contributions.

19 (d) The significance and quality of proposed auxiliary
20 services to support the goals of the program.

21 (e) The availability of a financial literacy program for
22 account holders.

23 (f) The ability to maintain and manage necessary program data
24 for tracking account holders and participants in the program and
25 for development of reports as required under section 9.

26 (4) The agency shall select fiduciary organizations to provide
27 technical assistance and support to program sites and establish and

1 manage reserve accounts on a not-for-profit basis. In reviewing the
2 qualifications of fiduciary organizations, the agency shall
3 consider the ability of the fiduciary organizations to do all of
4 the following:

5 (a) Administer 1 or more reserve funds to provide matching
6 funds for account holders pursuant to participant savings plan
7 agreements.

8 (b) Administer any money appropriated by this state for the
9 purposes of this act.

10 (c) Collaborate with program sites on a regional basis.

11 (d) Provide technical assistance and support to program sites
12 to assist them to effectively administer programs.

13 (e) Work in conjunction with approved program sites to hold,
14 manage, and disburse match funds for accounts as provided in
15 section 5.

16 (f) Maintain and manage necessary program data for tracking
17 account holders and participants in the program and for development
18 reports as required under section 9.

19 (5) The agency shall select program sites to administer the
20 accounts on a not-for-profit basis. In reviewing the qualifications
21 of program sites, the agency shall consider the ability of the
22 program site to do all of the following:

23 (a) Develop and implement participant savings plan agreements
24 to be used with account holders that include at least all of the
25 following:

26 (i) The purpose for which the account holder's account is
27 established.

1 (ii) The schedule of deposits that the account holder will make
2 to the account.

3 (iii) The agreed-upon amount of matching funds and the projected
4 date when those matching funds will be provided.

5 (iv) A plan to provide financial literacy; homeownership
6 training; education, career, or business planning assistance, if
7 appropriate; and any other services designed to increase the
8 independence of the account holder or the account holder's family
9 through the achievement of the designated purpose of the account.

10 (b) Develop a partnership with all account holders with whom
11 the program site has a participant savings plan agreement to assist
12 the account holder to effectively make financial decisions relating
13 to the use of the funds available through the account and to offer
14 support services to maximize the opportunities provided by the
15 individual or family development account program.

16 Sec. 4. (1) An individual or family whose household income is
17 less than or equal to 200% of the federal poverty level for an
18 individual or for that family's family size may apply to a program
19 site to establish an individual or family development account.

20 (2) A program site may approve applications to the extent that
21 the program site has match funds available to meet match
22 commitments in participant savings plan agreements.

23 (3) A program site may reject an application made under
24 subsection (1) if approving the application would result in the
25 establishment of an individual or family development account by 1
26 or more of the members of a family that has established an
27 individual or family development account for the same person for

1 the same purpose.

2 (4) A household shall not have more than 1 account for the
3 same purpose if that purpose is a first-time purchase of a primary
4 residence or start-up capitalization of a business.

5 (5) If the program site approves the individual's or the
6 family's application to establish an individual or family
7 development account, the individual shall do all of the following:

8 (a) Establish the individual or family development account
9 with a financial institution.

10 (b) Enter into a participant savings plan agreement with a
11 program site.

12 (c) Declare, with the approval of the program site, the
13 purpose for which the account is established.

14 (d) Any other criteria required by the program site.

15 (6) An account may be established only to pay qualified
16 expenses as provided in subsection (7).

17 (7) An account shall be established for 1 or more of the
18 following purposes:

19 (a) To pay educational expenses for the individual account
20 holder who will be 17 years of age or older when the funds in the
21 account will be used if the account is an account for educational
22 purposes.

23 (b) For the first-time purchase of a primary residence by the
24 individual account holder if the account is an account for the
25 purchase of a primary residence.

26 (c) For start-up capitalization of a business for the
27 individual account holder who is 18 years of age or older if the

1 account is an account for capitalization of a business based on a
2 business plan approved by the program site.

3 (8) An account established under this section shall be an
4 account that requires 2 signatures for withdrawals. The 2 required
5 signatures shall be those of the account holder and an
6 administrator of the program site with which the account holder has
7 a participant savings plan agreement.

8 Sec. 5. (1) A program site shall enter into a participant
9 savings plan agreement with each account holder who is approved to
10 establish an individual or family development account.

11 (2) The program site shall provide matching funds for
12 contributions to an account by an account holder pursuant to a
13 participant savings plan agreement.

14 (3) Matching fund distributions shall be made on behalf of an
15 account holder pursuant to participant savings plan agreements at
16 the same time that an account holder withdraws money to pay
17 qualified expenses. Matching distributions shall be at least a
18 match of \$1.00 for every \$1.00 withdrawn from an account by an
19 account holder to pay expenses for a purpose described in section
20 4(7) or for a purpose approved by the agency.

21 (4) Matching distributions under this section shall be made by
22 check to the order of the account holder and the entity the account
23 holder is paying.

24 Sec. 6. (1) Money withdrawn during a calendar year from an
25 individual or family development account by an account holder for a
26 purpose under section 4 shall be matched by the program site as
27 provided in the participant savings plan agreement between the

1 account holder and the program site.

2 (2) An account holder shall name at least 1 contingent
3 beneficiary at the time the account is established and may change
4 beneficiaries at any time. If an account holder dies, the account
5 shall be transferred to a contingent beneficiary. If the named
6 beneficiary is deceased or otherwise cannot accept the transfer,
7 the money shall be transferred to the estate of the beneficiary.

8 (3) A financial institution is not responsible for verifying
9 whether or not withdrawals from accounts held at that financial
10 institution are made in accordance with and for a purpose allowed
11 under section 4.

12 Sec. 7. (1) An entity may claim a credit as provided under
13 section 36e of the single business tax act, 1975 PA 228, MCL
14 208.36e, equal to 75% of the contributions made to the reserve fund
15 of a fiduciary organization against the tax imposed by the single
16 business tax act, 1975 PA 228, MCL 208.1 to 208.145.

17 (2) An individual who is not an account holder and who is
18 subject to the tax imposed by the income tax act of 1967, 1967 PA
19 281, MCL 206.1 to 206.532, may claim a credit under section 272 of
20 the income tax act of 1967, 1967 PA 281, MCL 206.272, equal to 75%
21 of the contributions made to the reserve fund of a fiduciary
22 organization against the tax imposed by the income tax act of 1967,
23 1967 PA 281, MCL 206.1 to 206.532.

24 (3) The administrator of a fiduciary organization that
25 administers 1 or more reserve funds, with the cooperation of the
26 participating financial institutions, shall submit the names of
27 contributors and the total amount that each contributor contributes

1 to an individual or family development account reserve fund for
2 each calendar year to the agency. The director shall determine the
3 date by which the information shall be submitted to the agency.

4 Sec. 8. (1) The total of all credits under section 36e of the
5 single business tax act, 1975 PA 228, MCL 208.36e, and section 272
6 of the income tax act of 1967, 1967 PA 281, MCL 206.272, shall not
7 exceed \$1,000,000.00 per calendar year.

8 (2) A taxpayer that makes a contribution to a reserve fund as
9 provided under section 7 shall apply to the agency for
10 certification that the contribution qualifies for a credit under
11 section 36e of the single business tax act, 1975 PA 228, MCL
12 208.36e, or section 272 of the income tax act of 1967, 1967 PA 281,
13 MCL 206.272. An application shall be approved or denied not more
14 than 45 days after receipt of the application. If the application
15 is not approved or denied 45 days after the application is received
16 by the agency, the application is considered approved and the
17 agency shall issue a certificate under this subsection. If the
18 agency approves an application under this section, the director or
19 his or her designee shall issue a certificate that states that the
20 taxpayer is eligible to claim a credit based on the contribution
21 and the amount of the credit. If an application is denied under
22 this section, a taxpayer is not prohibited from subsequently
23 applying under this section for another contribution.

24 (3) In reviewing applications for credits, the agency shall
25 consider all of the following criteria:

26 (a) The funds available to match contributions are deposited
27 into a reserve fund in the same year that the credit will be

1 claimed.

2 (b) The approval of the credit will not exceed the annual
3 maximum amount under subsection (1).

4 (c) The overall benefit to the program of the contribution for
5 which a credit is requested.

6 (4) A taxpayer shall not claim a credit in excess of the
7 amount approved under subsection (2).

8 (5) A taxpayer shall not claim a credit under both section 36e
9 of the single business tax act, 1975 PA 228, MCL 208.36e, and
10 section 272 of the income tax act of 1967, 1967 PA 281, MCL
11 206.272, for the same contributions.

12 (6) A taxpayer shall attach the certificate received pursuant
13 to subsection (2) to the return filed under the single business tax
14 act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of
15 1967, 1967 PA 281, MCL 206.1 to 206.532, on which a credit allowed
16 under section 36e of the single business tax act, 1975 PA 228, MCL
17 208.36e, or section 272 of the income tax act of 1967, 1967 PA 281,
18 MCL 206.272, is claimed.

19 Sec. 9. (1) A fiduciary organization selected to administer an
20 individual or family development account program under this act
21 shall file an annual report with the agency of the fiduciary
22 organization's individual development account program activity. The
23 report shall be filed no later than September 30 each year. The
24 report shall include, but is not limited to, all of the following:

25 (a) The number of individual development accounts administered
26 by the fiduciary organization.

27 (b) The amount of deposits and matching deposits for each

1 account.

2 (c) The purpose of each account.

3 (d) The number of withdrawals made.

4 (e) The number of terminated accounts and the reasons for
5 termination.

6 (f) Any other information the agency may require for the
7 purpose of making a return on investment analysis.

8 (2) The agency shall file a report not later than December 31
9 each year with the clerk of the house of representatives and the
10 secretary of the senate that includes all of the information under
11 subsection (1) and copies of any changes in policies or procedures
12 used to administer this act that occurred during the year.

13 Sec. 10. The Michigan state housing development authority may
14 promulgate rules as needed to implement this act under the
15 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
16 24.328.

17 Sec. 11. This act takes effect January 1, 2007.