

**MICHIGAN EDUCATION SAVINGS PROGRAM ACT (EXCERPT)**  
**Act 161 of 2000**

**390.1477 Education savings accounts; establishment; purpose; agreement; form of contribution; withdrawal; distributions; penalty; separate accounting for each beneficiary.**

Sec. 7.

(1) Beginning October 1, 2000, education savings accounts may be established under this act.

(2) Any individual or entity described in section 2(b)(ii) may open 1 or more education savings accounts to save money to pay the qualified higher education expenses of 1 or more designated beneficiaries. An account owner shall open only 1 account for any 1 designated beneficiary. Each account opened under this act shall have only 1 designated beneficiary.

(3) To open an education savings account, the individual or entity described in section 2(b)(ii) shall enter into a Michigan education savings program agreement with the program. The Michigan education savings program agreement shall be in the form prescribed by a program manager and approved by the treasurer and contain all of the following:

(a) The name, address, and social security number or employer identification number of the account owner.

(b) A designated beneficiary. A state or local government agency or instrumentality, a person exempt from taxation as an organization described in section 501(c)(3) of the internal revenue code, or a corporation, as part of a scholarship program, may defer naming a designated beneficiary consistent with the terms of the applicable Michigan education savings program agreement.

(c) The name, address, and social security number of the designated beneficiary.

(d) Any other information that the treasurer or program manager considers necessary.

(4) Any individual or entity described in section 2(b)(ii) may make contributions to an account.

(5) Contributions to accounts shall only be made in cash, by check, by credit card, or by any similar method as approved by the state treasurer but shall not be property.

(6) An account owner may withdraw all or part of the balance from an account on 60 days' notice, or a shorter period as authorized in the Michigan education savings program agreement.

(7) Distributions from an account shall be requested on a form approved by the state treasurer. A program manager may retain from the distribution the amount necessary to comply with federal and state tax laws.

Distributions may be made in the following manner:

(a) Directly to an eligible education institution.

(b) In the form of a check payable to both the designated beneficiary and the eligible educational institution.

(c) In the form of a check payable to the designated beneficiary or account holder.

(d) In the form of an electronic funds transfer to an account specified by the designated beneficiary or account holder.

(8) Except as otherwise provided in this subsection for tax years that begin before January 1, 2002, if the distribution is not a qualified withdrawal, a program manager shall withhold an amount equal to 10% of the distribution amount as a penalty and pay that amount to the department for deposit into the general fund. For a distribution made after December 31, 2001 that is not a qualified withdrawal, if an excise tax or penalty is imposed under section 529 of the internal revenue code pursuant to section 530(d)(4) of the internal revenue code, a penalty shall not be imposed under this subsection for that distribution. If a distribution that is not a qualified withdrawal is made after December 31, 2001 and an excise tax or penalty is not imposed under section 529 of the internal revenue code pursuant to section 530(d)(4) of the internal revenue code on that distribution, a program manager shall withhold an amount equal to 10% of the accumulated earnings attributable to that distribution amount as a penalty and pay that amount to the department for deposit into the general fund. The penalty under this subsection may be increased or decreased if the treasurer and the program manager determine that it is necessary to increase or decrease the penalty to comply with section 529 of the internal revenue code.

(9) Each savings plan under the program shall provide separate accounting for each designated beneficiary.

**History:** 2000, Act 161, Imd. Eff. June 16, 2000 ;-- Am. 2001, Act 215, Eff. Jan. 1, 2002 ;-- Am. 2004, Act 387, Imd. Eff. Oct. 12, 2004 ;-- Am. 2007, Act 153, Imd. Eff. Dec. 20, 2007 ;-- Am. 2010, Act 6, Imd. Eff. Mar. 4, 2010