

HOUSE BILL No. 5027

June 29, 2005, Introduced by Reps. Hunter, Tobocman, Mayes, Kolb, Green, Lipsey, McConico, Murphy, Clemente, Dillon, Farrah, Hune, Leland and Lemmons, III and referred to the Committee on Banking and Financial Services.

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; 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.

7 (b) "Community development organization" or "organization"
8 means, except as otherwise provided in this subdivision, a

1 charitable organization exempt from taxation under section
2 501(c)(3) of the internal revenue code, that is approved by the
3 director of the department of treasury or his or her designee to
4 implement the individual or family development account program. For
5 purposes of administering individual or family development accounts
6 established under section 4(2)(c) for start-up capitalization of a
7 business, "community development organization" means a
8 microenterprise loan fund or a microenterprise development
9 organization.

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

13 (d) "Department" means the department of treasury.

14 (e) "Director" means the state treasurer.

15 (f) "Education expenses" means tuition and fees required for
16 the enrollment or attendance of a student at an eligible
17 educational institution, and expenses for fees, books, supplies,
18 and equipment required for courses of instruction at an eligible
19 educational institution.

20 (g) "Eligible educational institution" means any of the
21 following:

22 (i) A college, university, community college, or junior college
23 described in section 4, 5, or 6 of article VIII of the state
24 constitution of 1963 or established under section 7 of article VIII
25 of the state constitution of 1963.

26 (ii) An independent nonprofit college or university located in
27 this state.

1 (iii) A state-licensed vocational or technical education
2 program.

3 (iv) A state-licensed proprietary school.

4 (h) "Federal poverty level" means the poverty guidelines
5 published annually in the federal register by the United States
6 department of health and human services under its authority to
7 revise the poverty line under section 673(2) of subtitle B of title
8 VI of the omnibus budget reconciliation act of 1981, Public Law 97-
9 35, 42 USC 9902.

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

14 (j) "Financial literacy" means that term as defined in the
15 financial literacy act.

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

18 (l) "Individual or family development account reserve fund" or
19 "reserve fund" means a fund created by an approved community
20 development organization to provide matching funds pursuant to
21 section 3(2).

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

24 Sec. 3. (1) The individual or family development account
25 program is established within the department. The program shall
26 provide eligible individuals and families with an opportunity to
27 establish accounts to be used for education, first-time purchase of

1 a primary residence, or business capitalization as provided in
2 section 4.

3 (2) The department shall authorize community development
4 organizations to administer the accounts on a not-for-profit basis.
5 The department shall require that community development
6 organizations that administer accounts do all of the following:

7 (a) Establish and administer 1 or more reserve funds to
8 provide matching funds for account holders pursuant to individual
9 or family development account match agreements.

10 (b) Develop and implement individual or family development
11 account match agreements to be used with account holders that
12 include at least all of the following:

13 (i) The purpose for which the account holder's account is
14 established.

15 (ii) The schedule of deposits that the account holder will make
16 to the account.

17 (iii) The proposed amount of matching funds from the community
18 development organization and the projected date when those matching
19 funds will be provided.

20 (c) Develop a process for including account holders in
21 decision making regarding the investment of money in their
22 accounts.

23 (d) Develop a partnership with all account holders with whom
24 the community organization has an individual or family development
25 account match agreement to assist the account holder to effectively
26 utilize the funds available through the account and to offer
27 support services to maximize the opportunities provided by the

1 individual or family development account program.

2 (3) In reviewing the qualifications of community development
3 organizations, the department shall consider all of the following
4 factors:

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

6 (b) The fiscal accountability of the organization.

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

9 (d) The ability of the organization to establish and
10 administer reserve funds.

11 (e) The significance and quality of proposed auxiliary
12 services.

13 (f) The relationship of proposed auxiliary services to the
14 goals of the individual or family development account program.

15 Sec. 4. (1) An individual or family whose household income is
16 less than or equal to 200% of the federal poverty level for an
17 individual or for that family's family size may establish an
18 individual or family development account with a financial
19 institution for the purpose of accumulating and withdrawing money
20 for qualified expenses.

21 (2) An account holder who establishes an account shall enter
22 into an individual or family development account match agreement
23 with a community development organization and shall declare the
24 purpose for which the account is established. An account may be
25 established only to pay qualified expenses as provided in this
26 subsection. The account holder may withdraw money from the account
27 without penalty for any of the following qualified expenses:

1 (a) Educational expenses for the individual account holder or
2 any member of the family who is 17 years of age or older if the
3 account is an account for educational purposes.

4 (b) First-time purchase of a primary residence by the
5 individual account holder or any member or members of the family if
6 the account is an account for the purchase of a primary residence.

7 (c) Start-up capitalization of a business for the individual
8 account holder or any member of the family of the account holder
9 who is 18 years of age or older if the account is an account for
10 capitalization of a business.

11 (3) An account established under this section shall be an
12 account that requires 2 signatures for withdrawals. The 2 required
13 signatures shall be those of the account holder and an
14 administrator of the community development organization with which
15 the account holder has an individual or family development account
16 match agreement.

17 (4) Distributions by a community development organization
18 shall be made on behalf of an account holder pursuant to individual
19 or family development account match agreements at the same time
20 that an account holder withdraws money to pay qualified expenses.
21 Distributions by a community development organization pursuant to
22 an individual or family development account match agreement shall
23 not exceed a match of \$5.00 for every \$1.00 withdrawn from an
24 account by an account holder to pay expenses for a purpose
25 described in section 4(2).

26 (5) Distributions under subsection (4) shall be made by check
27 to the order of the account holder and the entity the account

1 holder is paying.

2 (6) A community development organization may use not more than
3 5% of the money in the reserve funds established under this act to
4 administer a program established pursuant to section 3.

5 (7) A financial institution in which an account has been
6 established shall provide that the accounts earn at least the
7 market rate of interest.

8 (8) The maximum total of all deposits made into an account in
9 a tax year that may be claimed as a credit against the taxpayer's
10 tax liability for that tax year is \$2,500.00. The total maximum
11 balance in an account shall not exceed \$5,000.00. Accumulated
12 interest earned on an account is not included for purposes of
13 determining the maximum balance allowed under this subsection.

14 (9) Deposits to accounts that will cause the total in the
15 account to exceed the maximums under this section shall be returned
16 to the account holder.

17 Sec. 5. (1) Except as provided in subsection (4), if money is
18 withdrawn during a tax year from an account by an account holder
19 and is not withdrawn pursuant to section 4, all of the following
20 apply:

21 (a) The first time an account holder withdraws money from an
22 account that is not withdrawn pursuant to section 4, the account
23 holder is subject to a penalty of 10% of the amount of the
24 withdrawal and the amount withdrawn is added to the tax liability
25 of the taxpayer in the year of the withdrawal pursuant to section
26 272 of the income tax act of 1967, 1967 PA 281, MCL 206.272.

27 (b) The second time an account holder withdraws money from an

1 account that is not withdrawn pursuant to section 4, all of the
2 following apply:

3 (i) The account holder is subject to a penalty of 10% of the
4 amount of the withdrawal.

5 (ii) The amount withdrawn is added to the tax liability of the
6 taxpayer pursuant to section 272 of the income tax act of 1967,
7 1967 PA 281, MCL 206.272.

8 (iii) No money deposited into an account by the account holder
9 after the date of a withdrawal under this subdivision may be used
10 to calculate a credit under section 272 of the income tax act of
11 1967, 1967 PA 281, MCL 206.272.

12 (2) Penalties charged under subsection (1) shall be paid from
13 the account if there are sufficient funds in the account and shall
14 be deposited into the community development account reserve fund of
15 the community development organization with which the account
16 holder has an individual or family development account match
17 agreement.

18 (3) If an account holder withdraws money under subsection
19 (1)(b), all money remaining in the account after the withdrawal
20 shall be included in income in the tax year in which the withdrawal
21 is made.

22 (4) Money withdrawn by an account holder from an account for
23 any of the following purposes is not subject to the penalties
24 provided under subsections (1) and (3):

25 (a) To prevent the account holder from being evicted from his
26 or her home.

27 (b) To pay medical expenses of the account holder or the

1 account holder's family that are not covered by any health benefit
2 plan.

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

9 (6) An account holder shall not make any withdrawals from an
10 account until after the account holder has completed a course in
11 financial literacy pursuant to the financial literacy act.

12 Sec. 6. (1) Money deposited in an individual or family
13 development account by an account holder to pay qualified expenses
14 may be used to calculate a credit under section 272 of the income
15 tax act of 1967, 1967 PA 281, MCL 206.272.

16 (2) Interest earned on a family development account is exempt
17 from taxation pursuant to section 30 of the income tax act of 1967,
18 1967 PA 281, MCL 206.30.

19 (3) An entity subject to the single business tax imposed by
20 the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, may
21 claim a deduction under section 9 of the single business tax act,
22 1975 PA 228, MCL 208.9, equal to the contributions made to the
23 reserve fund of a community development organization against the
24 tax imposed by the single business tax act, 1975 PA 228, MCL 208.1
25 to 208.145.

26 (4) An individual who is not an account holder and who is
27 subject to the tax imposed by the income tax act of 1967, 1967 PA

1 281, MCL 206.1 to 206.532, may claim a deduction under section 30
2 of the income tax act of 1967, 1967 PA 281, MCL 206.30, equal to
3 the contributions made to the reserve fund of a community
4 development organization against the tax imposed by the income tax
5 act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

6 (5) The administrator of a community development organization
7 that administers 1 or more reserve funds, with the cooperation of
8 the participating financial institutions, shall submit the names of
9 contributors and the total amount that each contributor contributes
10 to an individual or family development account reserve fund for
11 each tax year to the department. The director shall determine the
12 date by which the information shall be submitted to the department
13 by the administrator of the community development organization.

14 (6) Each account holder shall provide the community
15 development organization with which he or she has an individual or
16 family development account match agreement copies of all bank
17 statements issued relating to that account holder's account. At the
18 end of the tax year, the community development organization shall
19 give the account holder a letter on the organization's letterhead
20 that states the total amount, based on deposits, withdrawals,
21 addbacks, and any disallowed deposits made in the tax year, that
22 the account holder may claim as a credit under section 272 of the
23 income tax act of 1967, 1967 PA 281, MCL 206.272.

24 Sec. 7. This act takes effect January 1, 2006.

25 Enacting section 1. This act does not take effect unless all
26 of the following bills of the 93rd Legislature are enacted into
27 law:

1 (a) Senate Bill No. _____ or House Bill No. 5021(request no.
2 03358'05).

3 (b) Senate Bill No. _____ or House Bill No. 5022(request no.
4 03609'05).