

MICHIGAN EDUCATION TRUST ACT (EXCERPT)
Act 316 of 1986

***** 390.1428.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2024 REGULAR SESSION SINE DIE *****

390.1428.amended Termination of advance tuition payment contract; refund.

Sec. 8. (1) An advance tuition payment contract must authorize a termination of the contract if any of the following occurs:

- (a) The qualified beneficiary dies.
- (b) The qualified beneficiary is not admitted to a state institution of higher education after making proper application.
- (c) The qualified beneficiary certifies to the trust any of the following:
 - (i) That the qualified beneficiary has decided to attend and has been accepted by a Michigan independent, degree-granting institution of postsecondary education recognized by the state board of education.
 - (ii) That the qualified beneficiary has decided to attend and has been accepted by an eligible educational institution in this state. The trust shall cause any contract entered on or after January 1, 1988 to be amended as needed to comply with this subparagraph. As used in this subparagraph and subsection (3), "eligible educational institution" means that term as defined in section 529 of the internal revenue code.
 - (iii) That the qualified beneficiary has decided not to attend a state institution of higher education and requests, in writing, before July 15 of the year in which the qualified beneficiary desires to terminate the contract, that the advance tuition payment contract be terminated. This subparagraph applies only to a qualified beneficiary who has obtained a high school diploma or has reached the age of majority.
- (d) Other circumstances, determined by the trust and set forth in the advance tuition payment contract, occur.

(2) Except as provided in section 7(2)(b) and (3)(b) and subsection (5), an advance tuition payment contract must provide for a refund if the contract is terminated, paid to a person to whom the refund is payable under the contract. All of the following apply to the refund described in this subsection:

(a) If the qualified beneficiary has a high school diploma or has reached the age of majority, and attends an institution of higher education, the amount of a refund, except as provided in subsection (4), is the lesser of the average tuition cost of all state institutions of higher education on the date of termination of the contract, or the face amount of the payment or payments and any accrued investment income attributable to the payment or payments, if the qualified beneficiary is covered by the first alternative described in section 7(5), or the lowest tuition cost of all state institutions of higher education on the date of termination of the contract if the qualified beneficiary is covered by the second alternative described in section 7(5) or does not attend an institution of higher education.

(b) The amount of a refund must be reduced by an appropriate percentage if the purchaser entered into an advance tuition payment contract that provided for a fixed number of credit hours less than the total number of credit hours required by a state institution of higher education for the awarding of a baccalaureate degree, by the amount transferred to a community or junior college on behalf of a qualified beneficiary if the contract is terminated as provided in section 6(4), and by the amount transferred to a state institution of higher education on behalf of a qualified beneficiary.

(c) The contract may provide that the trust may deny payment of a refund if the contract is terminated after the qualified beneficiary has completed more than 1/2 of the credit hours required by the state institution of higher education for the awarding of a baccalaureate degree. A contract provision denying a refund for more than halfway completion may be waived by the trust or amended by agreement of the trust and the purchaser as to any contract entered on or after January 1, 1988. This subdivision does not affect the termination and refund rights of a graduate of a community or junior college.

(d) Except as provided in subsection (3), the trust shall make full refund payments not later than August 15 of the year due. If the board determines that full refund payments under this subdivision would violate the actuarial soundness requirement under section 13, the trust may instead make refund payments in equal installments over 4 years not later than August 15 of each year.

(3) An advance tuition payment contract must authorize, or be amended as needed to authorize, a person, who is entitled under the advance tuition payment contract to terminate the contract, to direct payment of a refund to an independent degree-granting college or university located in this state, to a community or junior college located in this state, or to an eligible educational institution in this state. If directed to make payments under this subsection, the trust shall transfer to the designated institution an amount equal to the tuition due for the qualified beneficiary, but the trust shall not transfer a cumulative amount greater than the refund to

which the person is entitled. If the refund exceeds the total amount of transfers directed to the designated institution, the excess must be returned to the person to whom the refund is otherwise payable.

(4) Notwithstanding any other provision of this act, the amount of a refund paid if an advance tuition payment contract is terminated by a person that directs the trust under subsection (3) to transfer the refund to an independent degree-granting college or university located in this state must not be less than the prevailing weighted average tuition cost of state institutions of higher education for the number of credit hours covered by the contract on the date of termination. In calculating the amount of a refund for an advance payment contract containing the restrictions provided under section 7(5), the prevailing weighted average tuition cost must be based only on those state institutions of higher education at which the qualified beneficiary could have received sufficient credit hours for a baccalaureate degree.

(5) The trust may offer an advance tuition payment contract that does not provide for a refund under subsection (2) to a purchaser that is an individual, a state or local government agency or instrumentality, or a person exempt from taxation as an organization described in section 501(c)(3) of the internal revenue code, and that is purchasing the contract as part of a scholarship program. The price of a contract offered under this subsection must be established to reflect that the terms of the contract do not provide for a refund.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986;—Am. 2004, Act 388, Imd. Eff. Oct. 12, 2004;—Am. 2024, Act 171, Eff. (sine die).