

House Bill 2094

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Housing and Community Services Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Removes tax credit limit for donations to individual development account fiduciary organizations. Applies to tax years beginning on or after January 1, 2008.

Allows persons 12 years of age or older to be individual development account holder. Repeals Individual Children's Development Account Program. Allows exclusion of vehicle from net worth calculation for potential account holder. Expands permissible purposes of individual development account.

Eliminates restriction on individual development account size. Limits annual and total amount for deposits of state-directed moneys to accounts.

Revises fiduciary organization qualifications. Specifies required content for personal development plans.

A BILL FOR AN ACT

1
2 Relating to development accounts for individuals; creating new provisions; amending ORS 315.271,
3 458.670, 458.680, 458.685, 458.690 and 458.695; and repealing ORS 417.900.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 315.271 is amended to read:

6 315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be
7 allowed for donations to a fiduciary organization for distribution to individual development accounts
8 established under ORS 458.685. The credit shall equal [*the lesser of \$75,000 or*] 75 percent of the
9 donation amount.

10 (2) If a credit allowed under this section is claimed, the amount upon which the credit is based
11 that is allowed or allowable as a deduction from federal taxable income under section 170 of the
12 Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable in-
13 come. As used in this subsection, the amount upon which a credit is based is the allowed credit di-
14 vided by 75 percent.

15 (3) The allowable tax credit that may be used in any one tax year shall not exceed the tax li-
16 ability of the taxpayer.

17 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
18 particular year may be carried forward and offset against the taxpayer's tax liability for the next
19 succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be car-
20 ried forward and used in the second succeeding tax year. Any tax credit not used in the second
21 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not
22 be carried forward for any tax year thereafter.

23 **SECTION 2.** ORS 458.670 is amended to read:

24 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
25 wise:

26 (1) "Account holder" means [*a member of a lower income household who is the named depositor*]

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 *of an individual development account]* **a resident of this state who:**

2 **(a) Is 12 years of age or older;**

3 **(b) Is a member of a lower income household; and**

4 **(c) Has established an individual development account with a fiduciary organization.**

5 (2) “Fiduciary organization” means **an organization selected under ORS 458.695 to adminis-**
6 **ter state moneys directed to individual development accounts and that is:**

7 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
8 of the Internal Revenue Code as amended and in effect on January 1, 1999; or

9 (b) A federally recognized Indian tribe or band **that is located, to a significant degree, within**
10 **the boundaries of this state.**

11 (3) “Financial institution” means:

12 (a) An organization regulated under ORS chapters 706 to 716, 722 or 723; or

13 (b) In the case of individual development accounts established for the purpose described in ORS
14 458.685 (1)(c), a financial institution as defined in ORS 348.841.

15 (4) “Individual development account” means a contract between an account holder and a
16 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and
17 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
18 the account holder to accumulate assets for use toward achieving a specific purpose approved by
19 the fiduciary organization.

20 (5) “Lower income household” means a household having an income equal to or less than 80
21 percent of the median household income for the area as determined by the Housing and Community
22 Services Department. In making the determination, the department shall give consideration to any
23 data on area household income published by the United States Department of Housing and Urban
24 Development.

25 **(6) “Resident of this state” has the meaning given that term in ORS 316.027.**

26 **SECTION 3.** ORS 458.680 is amended to read:

27 458.680. (1) A person who qualifies to become an account holder may enter into an agreement
28 with a fiduciary organization for the establishment of an individual development account.

29 (2) [*A person qualifies to become an account holder if the person is]* **To become an account**
30 **holder a person must, in addition to meeting any other qualifications, be a member of a lower**
31 **income household that has a net worth of less than \$20,000. As used in this subsection, “net**
32 **worth” means the value of all assets owned in whole or part by household members, other than eq-**
33 **uity in a residence and in one vehicle, minus the total debts and obligations of household members,**
34 **all as measured at the time that the person applies to establish the account.**

35 (3) [*A person applying to establish an account must enroll in a personal development plan devel-*
36 *oped by the person and the fiduciary organization. The plan must provide the person with appropriate*
37 *financial counseling, career or business planning and other services]* **Every account holder, with**
38 **support from the fiduciary organization, shall develop a personal development plan to ad-**
39 **vance account holder self-reliance. The personal development plan must include appropriate**
40 **coaching, mentorship, social support, financial adequacy training and asset-specific training**
41 **designed to increase the independence of the person and the person’s household through achieve-**
42 **ment of the account’s approved purpose.**

43 (4) Notwithstanding subsection (1) of this section, a fiduciary organization may refuse to allow
44 a qualified person to establish an account if establishment of the account would result in the mem-
45 bers of a lower income household having more than one account. Notwithstanding subsection (1) of

1 this section, a fiduciary organization shall refuse to allow a qualified person to establish an account
 2 if establishment of the account would result in the members of a lower income household having
 3 more than two accounts.

4 **SECTION 4.** ORS 458.685 is amended to read:

5 458.685. (1) A person may establish an individual development account only for a purpose ap-
 6 proved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

7 (a) The acquisition of post-secondary education or job training.

8 (b) If the account holder has established the account for the benefit of a household member who
 9 is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare
 10 the member for post-secondary education or job training.

11 (c) If the account holder has established a college savings network account under ORS 348.841
 12 to 348.873 on behalf of a designated beneficiary, the establishment of an additional college savings
 13 network account on behalf of the same designated beneficiary.

14 (d) The purchase of a primary residence. In addition to payment on the purchase price of the
 15 residence, account moneys may be used to pay any usual or reasonable settlement, financing or
 16 other closing costs. The account holder must not have owned or held any interest in a residence
 17 during the three years prior to making the purchase. However, this three-year period shall not apply
 18 to displaced homemakers or other individuals who have lost home ownership as a result of divorce.

19 (e) The capitalization of a small business. Account moneys may be used for capital, plant,
 20 equipment and inventory expenses or for working capital pursuant to a business plan. The business
 21 plan must have been developed by a financial institution, nonprofit microenterprise program or other
 22 qualified agent demonstrating business expertise and have been approved by the fiduciary organ-
 23 ization. The business plan must include a description of the services or goods to be sold, a marketing
 24 plan and projected financial statements.

25 **(f) Improvements, repairs or modifications necessary to make or keep the account hold-**
 26 **er's primary dwelling habitable, accessible or visitable for the account holder or a household**
 27 **member. This paragraph does not apply to improvements, repairs or modifications made to**
 28 **a rented primary dwelling to achieve or maintain a habitable condition for which ORS 90.320**
 29 **(1) places responsibility on the landlord. As used in this paragraph, "accessible" and**
 30 **"visitable" have the meanings given those terms in ORS 456.508.**

31 (2)(a) If an emergency occurs, an account holder may withdraw all or part of the account hold-
 32 er's deposits to an individual development account for a purpose not described in subsection (1) of
 33 this section. As used in this paragraph, an emergency includes making payments for necessary
 34 medical expenses, to avoid eviction of the account holder from the account holder's residence and
 35 for necessary living expenses following a loss of employment.

36 (b) The account holder must reimburse the account for the amount withdrawn under this sub-
 37 section within 12 months after the date of the withdrawal. Failure of an account holder to make a
 38 timely reimbursement to the account is grounds for removing the account holder from the individual
 39 development account program. Until the reimbursement has been made in full, an account holder
 40 may not withdraw any matching deposits or accrued interest on matching deposits from the account.

41 (3) If an account holder withdraws moneys from an individual development account for other
 42 than an approved purpose, the fiduciary organization may remove the account holder from the pro-
 43 gram.

44 (4) If an account holder moves from the area where the program is conducted or is otherwise
 45 unable to continue in the program, the fiduciary organization may remove the account holder from

1 the program.

2 (5) If an account holder is removed from the program under subsection (2), (3) or (4) of this
 3 section, all matching deposits in the account and all interest earned on matching deposits shall re-
 4 vert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a
 5 source of matching deposits for other accounts.

6 **SECTION 5.** ORS 458.690 is amended to read:

7 458.690. (1) Notwithstanding ORS 315.271, a fiduciary organization selected under ORS 458.695
 8 may qualify as the recipient of account contributions that qualify the contributor for a tax credit
 9 under ORS 315.271 only if the fiduciary organization structures the accounts to have the following
 10 features:

11 (a) The fiduciary organization matches amounts deposited by the account holder according to a
 12 formula established by the fiduciary organization. The fiduciary organization shall **maintain on de-**
 13 **posit in the account** not less than \$1 nor more than \$5 [*into the account*] for each \$1 deposited by
 14 the account holder.

15 (b) The matching deposits by the fiduciary organization to the individual development account
 16 are placed in:

17 (A) A savings account jointly held by the account holder and the fiduciary organization and
 18 requiring the signatures of both for withdrawals;

19 (B) A savings account that is controlled by the fiduciary organization and is separate from the
 20 savings account of the account holder; or

21 (C) In the case of an account established for the purpose described in ORS 458.685 (1)(c), a col-
 22 lege savings network account under ORS 348.841 to 348.873, in which the fiduciary organization is
 23 the account owner as defined in ORS 348.841.

24 (2) Deposits **of state-directed moneys** by a fiduciary organization to an **individual develop-**
 25 **ment** account may not exceed \$2,000 in any 12-month period. A fiduciary organization may designate
 26 a lower amount as a limit on annual matching deposits to an account.

27 (3) [*The total amount paid into an individual development account during its existence, including*
 28 *amounts from deposits, matching deposits and interest or investment earnings, may not exceed*
 29 *\$20,000.*] **The Housing and Community Services Department shall adopt rules to establish a**
 30 **maximum total amount of state-directed moneys that may be deposited as matching funds**
 31 **into an individual development account.**

32 **SECTION 6.** ORS 458.695 is amended to read:

33 458.695. The Housing and Community Services Department may select fiduciary organizations
 34 to administer moneys directed by the state to individual development account purposes. In making
 35 the selections, the department shall consider factors including, but not limited to:

36 (1) The ability of the fiduciary organization to implement and administer the individual devel-
 37 opment account program, including the ability to verify account holder eligibility, certify that
 38 matching deposits are used only for approved purposes and exercise general fiscal accountability;

39 (2) The capacity of the fiduciary organization to provide or raise matching funds for the deposits
 40 of account holders;

41 (3) The capacity of the fiduciary organization to provide [*financial counseling and other related*
 42 *services to account holders*] **appropriate support services and general assistance to advance ac-**
 43 **count holder self-reliance**; and

44 (4) The links that the fiduciary organization has to other activities and programs designed to
 45 increase the independence of this state's lower income households through education and training,

1 home ownership and small business development.

2 **SECTION 7. ORS 417.900 is repealed.**

3 **SECTION 8. (1) The amendments to ORS 315.271 by section 1 of this 2007 Act apply to tax**
4 **years beginning on or after January 1, 2008.**

5 **(2) The amendments to ORS 458.680 (3) by section 3 of this 2007 Act apply to holders of**
6 **accounts established on or after the effective date of this 2007 Act.**

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