SENATE BILL No. 194

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February 18, 2003, Introduced by Senators PATTERSON, KUIPERS, CROPSEY, GOSCHKA, BISHOP, JELINEK, BIRKHOLZ and OLSHOVE and referred to the Committee on Finance.

A bill to permit the establishment and maintenance of worker financial security accounts; to provide for certain tax credits and deductions; to prescribe the requirements of and restrictions on worker financial security accounts; and to provide penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "worker financial security account act".

Sec. 2. As used in this act:

(a) "Account administrator" means any of the following:

(*i*) A state or nationally chartered bank, savings and loan association, credit union, or trust company authorized to act as fiduciary and under the supervision of the office of financial and insurance services; or a national banking association or federal savings and loan association or credit union authorized

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to act as fiduciary in this state.

(*ii*) A broker-dealer, commodity issuer, or investment advisor registered pursuant to the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or a federal investment company registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64.

(*iii*) A certified public accountant licensed to practice in this state pursuant to article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736.

(*iv*) Life insurers.

(b) "Account holder" means the resident individual who is a taxpayer and establishes a worker financial security account or for whose benefit a worker financial security account is established.

(c) "Domicile" means a place where an individual has his or her true, fixed, and permanent home and principal establishment, to which, whenever absent, he or she intends to return. Domicile continues until another permanent home or principal establishment is established.

(d) "Eligible expense" means 1 or both of the following:

(*i*) An expense paid by the taxpayer for reasonable living expenses as determined by the department of treasury of a qualified taxpayer for whose benefit an account under this act has been established.

(*ii*) If the taxpayer is unemployed, an amount equal to the difference between the taxpayer's average monthly gross income for the 12-month period immediately preceding the first month in which the employee received unemployment benefits and the average monthly amount of unemployment benefits received by the taxpayer during the tax year. Amounts under this subparagraph shall not be withdrawn from an account more than once each month.

(*iii*) If the taxpayer is retired, an amount equal to the difference between the taxpayer's average monthly gross income for the 12-month period immediately preceding the date that the taxpayer retired and the taxpayer's average monthly amount of social security benefits received by the taxpayer during the tax year. Amounts under this subparagraph shall not be withdrawn from an account more than once each month.

(e) "Qualified taxpayer" means an individual with gross salaries and wages as reported pursuant to section 61 of the internal revenue code equal to or less than $75,000.00 who meets 1 of the following criteria:

(*i*) Received unemployment benefits during the tax year.

(*ii*) Received unemployment benefits during the tax year for a period of time prior to the tax year in which withdrawals that are deductible from the taxpayer's tax base under section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30 are made, and who has been continuously unemployed after receiving the maximum amount of benefits available under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(*iii*) Is 65 years of age or older and is retired. As used in this subparagraph, "retired" means that the individual is not employed, or is employed or works for 10 hours or less each week and receives salary, wages, or other compensation for that work or employment that is subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(f) "Resident" means an individual domiciled in this state.

(g) "Unemployment benefits" means benefits allowed under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(h) "Worker financial security account" or "account" means an account established in this state pursuant to this act to be used to pay the eligible expenses of a qualified taxpayer.

Sec. 3. (1) For tax years that begin after December 31, 2001, a resident individual may establish a worker financial security account with an account administrator for 1 or more of the following:

(a) Himself or herself.

(b) His or her spouse.

(2) To establish an account, the qualified taxpayer shall enter into an agreement with an account administrator.

(3) An account holder shall designate a beneficiary for the account at the time he or she enters into an agreement under subsection (2).

(4) Contributions to an account shall only be made in cash or cash equivalent such as check, money order, or credit or debit card, electronic fund transfer, or payroll deduction.

(5) Except as otherwise provided in this subsection, the total amount in an account at any time shall not exceed $75,000.00. Any contribution that would raise the amount in an

account to more than $75,000.00 shall be refused by the account administrator or promptly withdrawn from the account and returned to the account holder. An amount refused or withdrawn under this subsection is not considered a withdrawal for purposes of section 5(1). Accrued interest shall be considered when determining if the account holds more than $75,000.00 but that interest does not need to be withdrawn to meet the maximum allowed in the account under this section. Money may be contributed and withdrawn at any time consistent with the provisions of this act as long as the maximum amount allowed in the account, exclusive of interest as provided in this subsection, is not exceeded at any point in time.

Sec. 4. (1) An account administrator shall administer the worker financial security account from which the payments are made and has a fiduciary duty to the person for whose benefit the account administrator administers an account.

(2) The account administrator shall utilize the funds held in an account solely for the purpose of paying the eligible expenses of the account holder or his or her spouse who is a qualified taxpayer.

(3) The account administrator shall pay the eligible expenses of the qualified taxpayer on whose behalf the account has been established directly based on bills or other evidence of a debt or account due or shall pay or reimburse the account holder from the account holder's account for eligible expenses paid by the account holder based on documentation submitted to the account administrator.

Sec. 5. (1) Subject to subsection (2), if an account holder withdraws money for any purpose other than a purpose described in section 4(2), the administrator shall withhold from the amount of the withdrawal and on behalf of the account holder shall pay a penalty to the department of treasury equal to 10% of the amount of the withdrawal.

(2) The amount of a disbursement of any assets of an account pursuant to a filing for protection under title 11 of the United States Code, 11 U.S.C. 101 to 1330, by an account holder or an account holder's spouse is not considered a withdrawal for purposes of this section.

(3) Upon the death of the account holder, the account administrator shall distribute the principal and accumulated interest of the account to the beneficiary of the account holder as designated under section 4(3).