

# HOUSE BILL No. 4268

February 11, 1999, Introduced by Reps. Martinez, DeHart, Godchaux, Scranton, Jellema, Quarles, Schauer, Garza, Brater, Bogardus, DeWeese and Baird and referred to the Committee on Employment Relations, Training and Safety.

A bill to permit the establishment and maintenance of individual or family development accounts; to provide penalties and remedies; to provide for certain tax deductions; and to prescribe the requirements of and restrictions on individual or family development accounts.

## **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  
9 charitable organization exempt from taxation under section

1 501(c)(3) of the internal revenue code of 1986, that is approved  
2 by the director of the department of treasury or his or her des-  
3 ignee to implement the individual or family development account  
4 program. For purposes of administering individual or family  
5 development accounts established under section 4(2)(c) for  
6 start-up capitalization of a business, "community development  
7 organization" means a microenterprise loan fund or a microenter-  
8 prise development organization.

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

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

13 (e) "Director" means the director of the department of  
14 treasury.

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

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

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

26 (ii) An independent nonprofit college or university located  
27 in 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 most recent poverty  
5 income guidelines published by the United States department of  
6 health and human services.

7 (i) "Financial institution" means a state chartered bank,  
8 savings and loan association, credit union, or trust company; or  
9 a national banking association or federal savings and loan asso-  
10 ciation or credit union.

11 (j) "Individual or family development account" or "account"  
12 means a financial instrument established pursuant to section 4.

13 (k) "Individual or family development account reserve fund"  
14 or "reserve fund" means a fund created by an approved community  
15 development organization to provide funds pursuant to section  
16 3(2).

17 (l) "Program" means the individual or family development  
18 account program established in section 3.

19 Sec. 3. (1) The individual or family development account  
20 program is established within the department. The program shall  
21 provide eligible individuals and families with an opportunity to  
22 establish accounts to be used for education, first-time purchase  
23 of a primary residence, or business capitalization as provided in  
24 section 4.

25 (2) The department shall authorize community development  
26 organizations to administer the accounts on a not-for-profit

1 basis. The department shall require that community development  
2 organizations that administer accounts do all of the following:

3 (a) Establish and administer 1 or more reserve funds to pro-  
4 vide matching funds on behalf of account holders pursuant to  
5 individual or family development account match agreements.

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

9 (i) The purpose for which the account holder's account is  
10 established.

11 (ii) The schedule of deposits that the account holder will  
12 make to the account.

13 (iii) A proposed schedule of the amount of matching funds  
14 the account holder will need from the community development  
15 organization and the projected date when those matching funds  
16 will be provided.

17 (c) Develop a process for including account holders in deci-  
18 sion making regarding the investment of money in their accounts.

19 (d) Develop a partnership with all account holders with whom  
20 the community organization has an individual or family develop-  
21 ment account match agreement to assist the account holder to  
22 effectively utilize the funds available through the account and  
23 to offer support services to maximize the opportunities provided  
24 by the individual or family development account program.

25 (3) In reviewing the qualifications of community development  
26 organizations, the department shall consider all of the following  
27 factors:

- 1 (a) The not-for-profit status of the organization.  
2 (b) The fiscal accountability of the organization.  
3 (c) The ability of the organization to provide or raise  
4 money for matching contributions.  
5 (d) The ability of the organization to establish and admin-  
6 ister reserve funds.

7 (e) The significance and quality of proposed auxiliary  
8 services.

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

11 Sec. 4. (1) An individual or family whose household income  
12 is less than or equal to 185% of the federal poverty level for an  
13 individual or for that family's family size may establish an  
14 individual or family development account with a financial insti-  
15 tution for the purpose of accumulating and withdrawing money for  
16 qualified expenses.

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

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

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

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

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

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

24 (5) Distributions under subsection (4) shall be made by  
25 check to the order of the account holder and the entity the  
26 account holder is paying.

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

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

7 (8) The maximum total of all deposits made into an account  
8 in a tax year that is exempt from taxation for that tax year is  
9 \$2,500.00. The total maximum balance in an account that is  
10 exempt from taxation is \$5,000.00. Accumulated interest earned  
11 on an account is not included for purposes of this subsection.

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

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

19 (a) The first time an account holder withdraws money from an  
20 account that is not withdrawn pursuant to section 4, the account  
21 holder is subject to a penalty of 10% of the amount of the with-  
22 drawal and the amount withdrawn is added into taxable income in  
23 the year of the withdrawal pursuant to section 30 of the income  
24 tax act of 1967, 1967 PA 281, MCL 206.30.

25 (b) The second time an account holder withdraws money from  
26 an account that is not withdrawn pursuant to section 4, all of  
27 the following apply:

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

3 (ii) The amount withdrawn is added into taxable income pur-  
4 suant to section 30 of the income tax act of 1967, 1967 PA 281,  
5 MCL 206.30.

6 (iii) No money deposited into an account by the account  
7 holder after the date of a withdrawal under this subdivision is  
8 exempt from taxation under the income tax act of 1967, 1967 PA  
9 281, MCL 206.1 to 206.532.

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

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

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

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

25 (b) To pay medical expenses of the account holder or the  
26 account holder's family that are not covered by any health  
27 benefit plan.



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

8 Sec. 6. (1) Money deposited in or withdrawn from an indi-  
9 vidual or family development account by an account holder to pay  
10 qualified expenses is exempt from taxation under the income tax  
11 act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

12 (2) Interest earned on a family development account is  
13 exempt from taxation pursuant to the income tax act of 1967, 1967  
14 PA 281, MCL 206.1 to 206.532.

15 (3) An entity subject to the single business tax imposed by  
16 the single business tax act, 1975 PA 228, MCL 208.1 to 208.145,  
17 may claim a deduction equal to the contributions made to the  
18 reserve fund of a community development organization against the  
19 tax imposed by the single business tax act, 1975 PA 228, MCL  
20 208.1 to 208.145.

21 (4) An individual who is not an account holder and who is  
22 subject to the tax imposed by the income tax act of 1967, 1967 PA  
23 281, MCL 206.1 to 206.532, may claim a deduction equal to the  
24 contributions made to the reserve fund of a community development  
25 organization against the tax imposed by the income tax act of  
26 1967, 1967 PA 281, MCL 206.1 to 206.532.

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

10 (6) Each account holder shall provide the community develop-  
11 ment organization with which he or she has an individual or  
12 family development account match agreement copies of all bank  
13 statements issued relating to that account holder's account. At  
14 the end of the tax year, the community development organization  
15 shall give the account holder a letter on the organization's let-  
16 terhead that states the total amount, based on deposits, with-  
17 drawals, addbacks, and any disallowed deposits made in the tax  
18 year, that the account holder may claim as a deduction under sec-  
19 tion 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30.

20 Sec. 7. This act takes effect January 1, 1999.

21 Enacting section 1. This act does not take effect unless  
22 all of the following bills of the 90th Legislature are enacted  
23 into law:

24 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
25 no. 00735'99).

26 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
27 no. 01157'99).