

House Bill 1384

By: Representatives Sinkfield of the 50th, Jamieson of the 22nd, Manning of the 32nd, Marin of the 66th, Thomas of the 43rd, Post 1, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the imposition, rate, and computation of income tax, so as to provide for income
3 exclusions and tax credits with respect to individual development accounts; to provide for
4 procedures, conditions, and limitations; to provide for powers, duties, and authority of the
5 state revenue commissioner with respect to the foregoing; to amend Chapter 8 of Title 50 of
6 the Official Code of Georgia Annotated, relating to the Department of Community Affairs,
7 so as to provide for the comprehensive regulation of individual development accounts and
8 programs; to provide for definitions; to provide for procedures, conditions, and limitations
9 with respect to the creation and operation of such accounts; to provide for powers, duties, and
10 authority of the department; to provide for powers, duties, and authority of certain fiduciary
11 organizations; to provide for related matters; to provide an effective date; to repeal
12 conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
16 imposition, rate, and computation of income tax, is amended by adding a new Code section
17 immediately following Code Section 48-7-29.8 to be designated as Code Section 48-7-29.9,
18 to read as follows:

19 "48-7-29.9.

20 (a) There shall be allowed to each charitable donor making a contribution to a reserve
21 account on behalf of an individual development account program pursuant to Article 7 of
22 Chapter 8 of Title 50 an income tax credit with respect to the income taxes imposed under
23 this chapter in an amount equal to 50 percent of the total monetary contribution paid during
24 such income tax year by a charitable donor to the reserve account on behalf of an
25 individual development account program or owner in this state.

1 (b) Any unused tax credit shall be allowed to be carried forward to apply to the charitable
 2 donor's succeeding years' tax liability. No such tax credit shall be allowed the charitable
 3 donor against prior years' tax liability. All or any portion of an unused tax credit may be
 4 transferred by the charitable donor to another taxpayer.

5 (c) In no event shall the aggregate amount of credits claimed and allowed in any taxable
 6 year exceed \$4 million. The commissioner shall, in that event, provide for a pro rata
 7 reduction in the amount of credits allowed.

8 (d) Moneys withdrawn by the taxpayer from an individual development account for an
 9 approved purpose, as described in Code Section 50-8-172, are excluded from the tax
 10 imposed under this chapter. A withdrawal by a taxpayer for a purpose other than such an
 11 approved purpose shall not be allowed the exclusion under this subsection.

12 (e) The commissioner shall promulgate any rules and regulations necessary to implement
 13 and administer this Code section.

14 (f) In no event shall the charitable donor be able to designate an individual development
 15 account owner with whom the charitable donor shares a financial or familial relationship."

16 SECTION 2.

17 Chapter 8 of Title 50 of the Official Code of Georgia Annotated, relating to the Department
 18 of Community Affairs, is amended by striking Article 7, which is reserved, and inserting in
 19 its place a new Article 7 to read as follows:

20 "ARTICLE 7

21 50-8-170.

22 (a) As used in this article, the term:

23 (1) 'Charitable donor' means a person, business, or corporation who contributes to the
 24 reserve account for the purposes of individual development account programs in this
 25 state.

26 (2) 'Eligible individual or family member' means one whose household income is equal
 27 to or less than 80 percent of the median household income for the area or less than 200
 28 percent of the federal poverty guidelines, whichever is greater, who enters into an
 29 agreement developed with a fiduciary organization for the establishment of an individual
 30 development account. The agreement must provide for the amount of savings deposits,
 31 the matching rate, the asset goal, and the financial literacy education classes to be
 32 completed, additional training specific to the asset, and financial counseling the
 33 individual will attend, as well as other services designed to increase the financial

1 independence of the person through achievement of the account's approved purpose and
2 such other situations specified by rules and regulations of the department.

3 (3) 'Fiduciary organization' means any nonprofit fundraising organization that is exempt
4 from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended; any
5 community development financial institution certified by the Community Development
6 Financial Institution Fund; any credit union chartered under federal or state law; or any
7 Indian tribe as defined in Section 4(12) of the Native American Housing Assistance and
8 Self-Determination Act of 1996 (25 U.S.C. Section 4103(12)), and includes any tribal
9 subsidiary, subdivision, or other wholly owned tribal entity.

10 (4) 'Financial institution' means a bank, trust company, savings bank, building and loan
11 association, savings and loan company or association, credit union, or any financial
12 institution approved by the department.

13 (5) 'Individual development account' means an account established for an eligible
14 individual or family member as part of a qualified individual development account
15 program by an agreement, with the following requirements:

16 (A) The sole owner of the account is the individual or family member for whom the
17 account was created;

18 (B) The holder of the account is a qualified financial institution;

19 (C) The assets of the account will not be commingled with other property except in a
20 common trust fund or common investment fund; and

21 (D) Any amount in the account will be paid out only for the purpose of paying the
22 qualified purposes of the account owner, except if it meets the qualifications of an
23 emergency use.

24 (6) 'Qualified purposes' means using the account owner's accumulated savings and
25 matching funds for any of the following:

26 (A) Securing postsecondary education, including, but not limited to, community
27 college courses, courses at a four-year college or university, 529 college plans, or
28 postcollege or graduate courses for the account owner or any member of the account
29 owner's family;

30 (B) Securing postsecondary occupational training, including, but not limited to,
31 vocational or trade school training for the account owner or any member of the account
32 owner's family;

33 (C) Purchasing a home for a primary residence;

34 (D) Costs for major repairs or improvement to a primary residence;

35 (E) Business capitalization;

36 (F) Purchasing of an automobile necessary to transport account owner or family
37 member to place of employment or education;

- 1 (G) Assistive technology;
- 2 (H) Individual retirement account deposits; and
- 3 (I) Enrollment of the account owner's child in day care to enable the account owner to
4 participate in job training, any work related activity, or an educational program.
- 5 (7) 'Reserve account' means a separate account for all matching funds and earnings
6 dedicated to individual development account owners, the sole holder of which is a
7 qualified financial institution, a qualified fiduciary organization, or an Indian tribe.

8 50-8-171.

9 Once the account owner has saved for a minimum of six months, reached his or her savings
10 goal, and fulfilled all financial literacy education components, the account owner's savings
11 will be matched and the total amount will be transferred from the reserve account directly
12 to the vendor or service provider through whom the account owner is purchasing the asset.

13 50-8-172.

14 (a) If an emergency occurs, an account owner may withdraw all or part of the account
15 owner's deposits to an individual development account with the approval of the fiduciary
16 organization.

17 (b) The account owner must reimburse his or her individual development account for the
18 amount withdrawn under this Code section within 12 months after the date of the
19 withdrawal. Until the timely reimbursement has been made in full, an account owner may
20 not withdraw any matching funds or accrued interest on matching funds from the account.
21 Upon a failure of an account owner to make a timely reimbursement to the account,
22 matching funds shall be forfeited.

23 (c) If an account owner withdraws moneys from an individual development account for
24 other than a qualified purpose, the fiduciary organization may remove the account owner
25 from the program.

26 (d) Before becoming eligible to draw down matching funds to pay for qualified purposes,
27 individual development account owners must complete a financial literacy education
28 course offered by a qualified financial institution, a qualified fiduciary organization, an
29 Indian tribe, or a government entity.

30 50-8-173.

31 Deposits to individual development accounts made by the account owner shall not exceed
32 \$2,000.00 annually and must come from income, including, but not limited to, child
33 support payments, supplemental security income payments, disability benefits, community

1 service under temporary assistance to needy families, and job training program stipends or
2 such other sources as specified by the department.

3 50-8-174.

4 The department may select fiduciary organizations through competitive processes. In
5 making the selections, the department may consider factors including, but not limited to:

6 (1) The ability of the fiduciary organization to implement and administer the individual
7 development account program, including the ability to verify account owner eligibility,
8 certify that matching funds are used only for qualified purposes, and exercise general
9 fiscal accountability;

10 (2) The capacity of the fiduciary organization to provide or raise matching funds for the
11 deposits of account owners;

12 (3) The capacity of the fiduciary organization to provide financial counseling, financial
13 literacy education and training specific to the assets the account owners will be
14 purchasing, and other related services to account owners;

15 (4) The links the fiduciary organization has to other activities and programs designed to
16 increase the independence of this state's low-income households and individuals through
17 education and training, home ownership, small business capitalization, and other asset
18 building programs; and

19 (5) The feasibility of the fiduciary organization's program design, including matching
20 rates and savings goals, to lead to asset purchase.

21 50-8-175.

22 Subject to department rules, a fiduciary organization has sole authority over, and
23 responsibility for, the administration of individual development accounts. The
24 responsibility of the fiduciary organization extends to all aspects of the account program,
25 including marketing to eligible individuals and families, soliciting matching funds,
26 counseling account owners, providing financial literacy education, and conducting required
27 verification and compliance activities. The fiduciary organization may establish program
28 provisions as the organization believes necessary to ensure account owner compliance with
29 this article:

30 (1) A fiduciary organization may act in partnership with other entities, including
31 businesses, government agencies, nonprofit organizations, community development
32 corporations, community action programs, housing authorities, and congregations to
33 assist in the fulfillment of fiduciary organization responsibilities under this article;

34 (2) A fiduciary organization may use a reasonable portion of moneys as defined by the
35 department allocated to the reserve account for administration, operation, and research

1 and evaluation purposes, including, but not limited to, the purchase of data collection
 2 software such as management information system for individual development accounts;
 3 and

4 (3) A fiduciary organization selected to administer moneys directed by the state to
 5 individual development account purposes or receiving tax deductible contributions may
 6 provide the department with an annual report based on regularly collected data of the
 7 fiduciary organization's individual development account program activity. The report
 8 may be filed no later than 90 days after the end of the fiscal year of the fiduciary
 9 organization. The report may include, but is not limited to:

- 10 (A) The number of individual development accounts administered by the fiduciary
 11 organization;
- 12 (B) The amount of deposits and matching funds for each account;
- 13 (C) The number of withdrawals made and purposes for withdrawals; and
- 14 (D) Any other information the department may require for the purpose of making a
 15 return on investment analysis.

16 50-8-176.

17 Financial institutions holding individual development accounts may at a minimum:

- 18 (1) Keep the account in the name of the account owner;
- 19 (2) Permit deposits to be made in the account;
- 20 (3) Require the account to earn a specified minimum market rate of return; and
- 21 (4) Maintain the individual development accounts without charging fees for such
 22 accounts.

23 50-8-177.

24 An account owner's savings and matching funds shall not affect his or her eligibility for
 25 any means tested public benefits, including, but not limited to, Medicaid, state children's
 26 health insurance programs, temporary assistance to needy families, food stamps,
 27 supplemental security income, or government subsidized foster care and adoption
 28 payments, child care, or housing payments.

29 50-8-178.

30 (a) A fiduciary organization selected under this article may qualify as the recipient of
 31 donations made by charitable donors that qualify the donor for a tax credit under Code
 32 Section 48-7-29.9 so long as the fiduciary organization holds the matching funds it receives
 33 in a reserve account.

1 (b) If federal funds under 42 U.S.C. Section 604, or other similar funds requiring a match
2 by the grant recipient, are available to be matched using the reserve account moneys, then
3 the amount necessary for that match may be placed in a separate reserve account that meets
4 the requirements to draw down the federal funds under 42 U.S.C. Section 604 or other
5 funds.

6 (c) If certain funds are earmarked for a certain purpose, including, but not limited to,
7 community development block grant funds, then the department shall create a separate
8 reserve account for these funds separate from the general reserve account pool.

9 (d) If an account owner is in violation of Code Section 50-8-172, then all matching funds
10 accrued and the interest on matching funds shall revert to the fiduciary organization.

11 (e) The department may seek cooperation from other state departments to fund the reserve
12 account.

13 50-8-179.

14 The department may make all reasonable and necessary rules to ensure the fiduciary
15 organization's compliance with this article."

16 **SECTION 2.**

17 This Act shall become effective on July 1, 2004.

18 **SECTION 3.**

19 All laws and parts of laws in conflict with this Act are repealed.