

House Bill 1314

By: Representatives Sheldon of the 105th, Hill of the 180th, Kaiser of the 59th, and Mosby of the 90th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 30 of the Official Code of Georgia Annotated, relating to the
2 Georgia Council on Developmental Disabilities, so as to provide for the comprehensive
3 regulation of individual development accounts; to provide for definitions; to provide for
4 procedures, conditions, and limitations with respect to the creation and operation of such
5 accounts; to provide for powers, duties, and authority of the Georgia Council on
6 Developmental Disabilities; to provide for powers, duties, and authority of certain fiduciary
7 organizations; to amend Code Section 49-4-183 of the Official Code of Georgia Annotated,
8 relating to administration of article by the Department of Behavioral Health and
9 Developmental Disabilities, so as to add to uses for individual development accounts; to
10 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 8 of Title 30 of the Official Code of Georgia Annotated, relating to the Georgia
15 Council on Developmental Disabilities, is amended by designating the current provisions as
16 Article 1 and adding a new article to read as follows:

17 style="text-align:center">"ARTICLE 2

18 30-8-20.

19 As used in this article, the term;

20 (1) 'Account holder' means the person who is the owner of an individual development
21 account.

22 (2) 'Assistive technology' means any item, piece of equipment, or product system,
23 whether acquired commercially, off the shelf, modified, or customized, that is used to
24 increase, maintain, or improve functional capabilities of individuals with disabilities.

25 (3) 'Community based organization' means any nonprofit or charitable association that
26 is approved to implement the individual development account reserve fund.

27 (4) 'Emergency' includes making payments for necessary medical expenses, to avoid
28 eviction of the account holder from the account holder's residence, and for necessary
29 living expenses following a loss of employment.

30 (5) 'Federal poverty level' means poverty level as defined annually by the federal Office
31 of Management and Budget.

32 (6) 'Fiduciary organization' means a nonprofit, fundraising organization that is exempt
33 from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, or a
34 community development financial institution or community development credit union.
35 Nothing in this paragraph shall be construed as preventing a fiduciary organization from
36 cooperating with a financial institutional or for profit entity to carry out the purposes of
37 this article.

38 (7) 'Financial institution' means a bank, trust company, savings bank, building and loan
39 association, savings and loan company or association, or credit union authorized to do
40 business in this state.

41 (8) 'Individual development account' means a contract between an account holder and
42 a fiduciary organization for the deposit of savings by an account holder at a financial
43 institution and the deposit by the fiduciary organization of matching funds into a separate
44 reserve account at a financial institution to allow the account holder to accumulate assets
45 for use toward achieving any of the specific purposes enumerated in Code Section
46 37-8-22.

47 (9) 'Lower income household' means a household having an income equal to or less than
48 80 percent of the median household income for the area as determined by the Department
49 of Behavioral Health and Developmental Disabilities. In making the determination, the
50 Department of Behavioral Health and Developmental Disabilities shall give consideration
51 to any data on area household income published by the United States Department of
52 Housing and Urban Development.

53 (10) 'Matching funds' means the moneys contributed from an individual development
54 account reserve fund to an individual development account by a community based
55 organization at a one-to-one ratio up to a five-to-one match.

56 30-8-21.

57 (a) A person whose household income is less than or equal to 300 percent of the federal
58 poverty level may open an individual development account for the purposes set forth in
59 Code Section 30-8-22.

60 (b) A person who qualifies to become an account holder may enter into an agreement with
61 a fiduciary organization for the establishment of an individual development account.

62 (c) A person applying to establish an individual development account shall enter into an
63 individual agreement developed by the person and the fiduciary organization. The
64 agreement shall provide for the amount of regular savings deposits, the matching funds
65 rate, the asset goal, and the training classes and financial counseling the individual will
66 attend.

67 30-8-22.

68 (a) A person may establish an individual development account only for one or more of the
69 following purposes:

70 (1) The acquisition of postsecondary education or job training;

71 (2) The purchase of a primary residence. In addition to payment on the purchase price
72 of the residence, individual development account moneys may be used to pay any usual
73 or reasonable settlement, financing, or other closing costs. The account holder shall not
74 have owned or held any interest in a residence during the three years prior to making the
75 purchase. However, this three-year period shall not apply to displaced homemakers or
76 other individuals who have lost home ownership as a result of divorce;

77 (3) Costs for major repairs or improvement to a primary residence;

78 (4) The capitalization of a small business. Individual development account moneys may
79 be used for capital, plant, equipment, and inventory expenses or for working capital
80 pursuant to a business plan. The business plan shall be approved by a financial
81 institution, nonprofit microenterprise program, or other qualified agent demonstrating
82 business expertise and shall be approved by the fiduciary organization. The business plan
83 shall include a description of the services or goods to be sold, a marketing plan, and
84 projected financial statements; and

85 (5) The purchase of assistive technology.

86 (b)(1) If an emergency occurs, an account holder may withdraw all or part of the account
87 holder's deposits to an individual development account for a purpose not described in
88 subsection (a) of this Code section with the approval of the fiduciary organization.

89 (2) The account holder shall reimburse the individual development account for the
90 amount withdrawn under this subsection within 12 months after the date of such
91 withdrawal. Failure of an account holder to make a timely reimbursement to the
92 individual development account shall be grounds for removing the account holder from
93 the individual development account program. Until the reimbursement has been made
94 in full, an account holder shall not withdraw any matching funds or accrued interest on
95 matching funds from the individual development account.

96 (c) If an account holder withdraws moneys from an individual development account for
 97 other than an approved purpose, the fiduciary organization may remove the account holder
 98 from the program.

99 (d) If an account holder moves from the area where the program is conducted or is
 100 otherwise unable to continue in the program, the fiduciary organization may remove the
 101 account holder from the program.

102 (e) If an account holder is removed from the program under subsection (b), (c), or (d) of
 103 the Code section, all matching funds accrued and the interest earned on matching funds
 104 shall revert to the fiduciary organization. The fiduciary organization shall use the reverted
 105 funds as a source of matching funds for other individual development accounts.

106 (f) An individual shall only contribute to an individual development account such amounts
 107 as are derived from earned income, child support payments, Social Security Supplemental
 108 Income disability payments, community service under Temporary Assistance for Needy
 109 Families, SI benefits, an Americorps stipend, or a job training stipend.

110 30-8-23.

111 The total amount paid into an individual development account during its existence,
 112 including amounts from funds, matching funds, and interest or investment earnings, shall
 113 not exceed \$60,000.00.

114 30-8-24.

115 The Georgia Council on Developmental Disabilities may select fiduciary organizations
 116 through competitive processes. In making the selections, the Georgia Council on
 117 Developmental Disabilities shall consider factors including, but not limited to:

118 (1) The ability of the fiduciary organization to implement and administer the individual
 119 development account program, including the ability to verify account holder eligibility,
 120 certify that matching funds are used only for approved purposes, and exercise general
 121 fiscal accountability;

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

124 (3) The capacity of the fiduciary organization to provide financial counseling, at least 12
 125 hours of economic education and training specific to the assets the individuals will be
 126 purchasing, and other related services to account holders;

127 (4) The links that the fiduciary organization has to other activities and programs designed
 128 to increase the independence of this state's lower income households through education
 129 and training, home ownership, and small business development; and

130 (5) The feasibility of the fiduciary organization's program design, including match rates
131 and regular savings amounts, to lead to asset purchase.

132 30-8-25.

133 (a) Subject to the Georgia Council on Developmental Disabilities rules, a fiduciary
134 organization shall have sole authority over and responsibility for the administration of
135 individual development accounts. The responsibility of the fiduciary organization shall
136 extend to all aspects of the individual development account program, including marketing
137 to participants, soliciting matching contributions, counseling account holders, providing
138 financial literacy education, and conducting required verification and compliance activities.
139 The fiduciary organization may establish program provisions as the organization believes
140 necessary to ensure account holder compliance with this article. Notwithstanding any
141 provisions of this article to the contrary, a fiduciary organization may establish income
142 limitations for account holders that are lower than the income limitations otherwise
143 established by this article.

144 (b) A fiduciary organization may act in partnership with other entities, including
145 businesses, government agencies, nonprofit organizations, community development
146 corporations, community action programs, housing authorities, and congregations to assist
147 in the fulfillment of fiduciary organization responsibilities under this article.

148 (c) A fiduciary organization may use a reasonable portion of moneys allocated to the
149 individual development account program for administration, operation, and evaluation
150 purposes.

151 (d) A fiduciary organization selected to administer moneys directed by the state to
152 individual development account purposes or receiving tax deductible contributions shall
153 provide the Georgia Council on Developmental Disabilities with an annual report of the
154 fiduciary organization's individual development account program activity. The report shall
155 be filed no later than 90 days after the end of the fiscal year of the fiduciary organization.

156 The report shall include, but shall not be limited to:

157 (1) The number of individual development accounts administered by the fiduciary
158 organization;

159 (2) The amount of deposits and matching funds for each individual development
160 account;

161 (3) The purpose of each individual development account;

162 (4) The number of withdrawals made; and

163 (5) Any other information the Georgia Council on Developmental Disabilities may
164 require for the purpose of making a return on investment analysis.

165 (e) The Georgia Council on Developmental Disabilities may make all reasonable and
 166 necessary rules to ensure fiduciary organization compliance with this article.

167 30-8-26.

168 Financial institutions holding individual development accounts shall at a minimum:

169 (1) Keep the individual development account in the name of the account holder;

170 (2) Permit deposits to be made in the individual development account;

171 (3) Require the individual development account to earn a market rate of interest; and

172 (4) Permit the account holder, after obtaining the written authorization of the fiduciary
 173 organization, to withdraw money from the individual development account for any of the
 174 permissible uses.

175 30-8-27.

176 Funds deposited in individual development accounts shall not be counted as income, assets,
 177 or resources of the account holder for the purpose of determining financial eligibility for
 178 assistance or services pursuant to any federal, federally assisted, state, or municipal
 179 program based on need."

180 **SECTION 3.**

181 Code Section 49-4-183 of the Official Code of Georgia Annotated, relating to administration
 182 of article by the Department of Behavioral Health and Developmental Disabilities, is
 183 amended by revising paragraph (11) of subsection (b) as follows:

184 "(11) The establishment and maintenance of individual development accounts. The
 185 funds in such accounts may be used for postsecondary educational expenses, the purchase
 186 of a first home, assistive technology, or business capitalization. The funds in such
 187 accounts shall not be considered in determining eligibility for cash assistance pursuant
 188 to 42 U.S.C. Section 604(h)."

189 **SECTION 4.**

190 This Act shall become effective on July 1, 2010.

191 **SECTION 5.**

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