

The Senate Health and Human Services Committee offered the following substitute to HB 1314:

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"ARTICLE 2

30-8-20.

As used in this article, the term:

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

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

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

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

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

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

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

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

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

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

55 30-8-21.

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

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

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

66 30-8-22.

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

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

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

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

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

84 (5) The purchase of assistive technology.

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

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

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

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

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

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

109 30-8-23.

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

113 30-8-24.

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

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

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

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

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

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

131 30-8-25.

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

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

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

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

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

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

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

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

161 (4) The number of withdrawals made; and

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

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

166 30-8-26.

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

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

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

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

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

174 30-8-27.

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

179 **SECTION 3.**

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

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

188 **SECTION 4.**

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

190 **SECTION 5.**

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