

House Bill 226 (COMMITTEE SUBSTITUTE)

By: Representatives Sheldon of the 105<sup>th</sup>, Houston of the 170<sup>th</sup>, Hill of the 21<sup>st</sup>, Cooper of the 41<sup>st</sup>, Clark of the 98<sup>th</sup>, and others

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 the Georgia TANF Program by the Department of Human  
9 Services, so as to add to uses for individual development accounts; to provide for related  
10 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

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

16 "ARTICLE 2

17 30-8-20.

18 As used in this article, the term:

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

21 (2) 'Assistive technology' means any item, piece of equipment, or product system,  
22 whether acquired commercially, off the shelf, modified, or customized, that is used to  
23 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 guidelines' means poverty level as issued annually by the federal  
 30 Department of Health and Human Services.

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 30-8-22.

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 Human Services or a household whose income is less than or equal to 300 percent of  
 49 the federal poverty guidelines, whichever is more. In making the determination, the  
 50 Department of Human Services shall give consideration to any data on area household  
 51 income published by the United States Department of Housing and Urban Development  
 52 and the federal poverty guidelines.

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 income is the lesser of 80 percent of the median household income for  
 58 the area or whose income is less than or equal to 300 percent of the federal poverty

59 guidelines may open an individual development account for the purposes set forth in Code  
 60 Section 30-8-22.

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

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

68 30-8-22.

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

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

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

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

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

86 (5) The purchase of assistive technology.

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

90 (2) The account holder shall reimburse the individual development account for the  
 91 amount withdrawn under this subsection within 12 months after the date of such  
 92 withdrawal. Failure of an account holder to make a timely reimbursement to the  
 93 individual development account shall be grounds for removing the account holder from  
 94 the individual development account program. Until the reimbursement has been made

95 in full, an account holder shall not withdraw any matching funds or accrued interest on  
 96 matching funds from the individual development account.

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

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

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

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

111 30-8-23.

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

115 30-8-24.

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

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

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

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

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

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

133 30-8-25.

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

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

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

152 (d) A fiduciary organization selected to administer moneys directed by the state to  
153 individual development account purposes or receiving tax deductible contributions shall  
154 provide the Georgia Council on Developmental Disabilities with an annual report of the  
155 fiduciary organization's individual development account program activity. The report shall  
156 be filed no later than 90 days after the end of the fiscal year of the fiduciary organization.  
157 The report shall include, but shall not be limited to:

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

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

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

163 (4) The number of withdrawals made; and

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

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

168 30-8-26.

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

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

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

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

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

176 30-8-27.

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

181 **SECTION 3.**

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

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

190 **SECTION 4.**

191 This Act shall become effective on July 1, 2011.

192 **SECTION 5.**

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