

House Bill 987 (AS PASSED HOUSE AND SENATE)

By: Representatives Jones of the 25th, Thomas of the 21st, Anderson of the 10th, Cameron of the 1st, and Barrett of the 24th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to
2 employment security, so as to provide for portable benefit plans and portable benefit
3 accounts for independent contractors; to provide for definitions; to provide for voluntary
4 contributions; to provide for independent contractors to opt in to withholdings; to provide for
5 independent contractors to opt out at any time; to exclude voluntary contributions from
6 establishing the classification of employer or employment; to provide for related matters; to
7 provide for a short title; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Voluntary Portable Benefit Plan Act."

11 **SECTION 2.**

12 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment
13 security, is amended in Article 2, relating to definitions, by adding a new Code section to
14 read as follows:

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15 "34-8-43.1.

16 (a) As used in this chapter, the term:

17 (1) 'Hiring party' means a person or entity that hires or enters into a contract for the
18 performance of services by an independent contractor.

19 (2) 'Independent contractor' means an individual who performs services for a hiring party
20 in exchange for compensation but is free from control or direction over the performance
21 of such services, as set forth in subsection (f) of Code Section 34-8-35.

22 (3) 'Portable benefit account' means an account that is administered by a portable benefit
23 account provider and owned and controlled by an independent contractor who can
24 allocate funds within the account to pay for or into one or more portable benefit plans,
25 to pay any costs for services related to one or more portable benefit plans, or to pay for
26 other expenses as determined by such independent contractor.

27 (4) 'Portable benefit account provider' means a bank or financial institution that has
28 federal deposit insurance; an investment management firm; a technology provider or
29 program manager that offers portable benefit account services through a bank, financial
30 institution, or investment management firm; or other legal entity that administers a
31 portable benefit account in compliance with the provisions of this Code section.

32 (5) 'Portable benefit plan' means a plan that is held by an independent contractor and that
33 provides for certain benefits, including, but not limited to, health insurance,
34 unemployment insurance, disability insurance, life insurance, or retirement benefits for
35 such independent contractor.

36 (b) Any person or entity, including, but not limited to, an internet or application based
37 entity, may voluntarily contribute funds to a portable benefit account of an independent
38 contractor.

39 (c) Voluntary contributions to a portable benefit account of an independent contractor as
40 provided for in subsection (b) of this Code section may be made using funds withheld from
41 compensation owed to such independent contractor, provided that:

- 42 (1) Withholding such compensation is expressed in a written agreement;
43 (2) Such written agreement is clear, unambiguous, and prominently displayed in the
44 hiring contract or other contract with such independent contractor;
45 (3) Such withholding is voluntary and requires the independent contractor to opt in; and
46 (4) The independent contractor may choose to opt out of such withholding at any time.
47 (d) Voluntary contributions by a person or entity to a portable benefit account of an
48 independent contractor as provided for in subsections (b) and (c) of this Code section shall
49 not cause such person or entity to be classified as an employer as set forth in Code Section
50 34-8-33 nor cause services provided by such independent contractor to be classified as
51 employment as set forth in Code Section 34-8-35."

52 **SECTION 3.**

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