

CHAPTER 93

AN ACT concerning individual development accounts, supplementing chapter 10 of Title 44 of the Revised Statutes and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.44:10-86 Short title.

1. This act shall be known and may be cited as the "New Jersey Individual Development Account Act."

C.44:10-87 Findings, declarations regarding individual development accounts.

2. a. The Legislature finds and declares that:

(1) Economic well-being does not come solely from income, spending and consumption, but also requires savings, investment and accumulation of assets, since assets can improve economic stability, connect people with a viable and hopeful future, stimulate development of human and other capital, yield personal and social dividends and enhance the welfare of offspring.

(2) With the enactment of the "Work First New Jersey Act," P.L.1997, c.38 (C.44:10-55 et seq.) and companion legislation, emphasizing moving people off of public assistance and into employment, there is an urgent need to provide incentives for savings accounts that will complement and stabilize the movement of people from public assistance and into employment.

(3) Income-based social policy should be complemented with asset-based social policy, because while income-based policies ensure that consumption needs, including food, child care, rent, clothing and health care are met, asset-based policies provide the means to achieve some degree of economic self-sufficiency.

(4) The State of New Jersey should develop policies, such as individual development accounts, that promote higher rates of personal savings and net private domestic investment.

b. It is the intent of the Legislature, therefore, to provide for the establishment of individual development accounts which accounts are designed to:

(1) provide individuals and families, especially those with limited means, an opportunity to accumulate assets;

(2) facilitate and mobilize savings;

(3) promote education, home ownership and micro enterprise development; and

(4) stabilize families and build communities.

C.44:10-88 Definitions regarding individual development accounts.

3. As used in this act:

"Account holder" means a person who is the owner of an individual development account.

"Commissioner" means the Commissioner of Community Affairs.

"Community-based organization" means a not-for-profit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)) and exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. s.501 (a)), that is approved by the commissioner to implement the New Jersey Individual Development Account Program established under this act.

"Department" means the Department of Community Affairs.

"Economic literacy" means a basic understanding of budgets and savings accounts, credit and interest and how to use financial services; and having a savings plan and using it to reach the account holder's savings goal for an individual development account.

"Eligible individual" means an adult with an annual household gross income up to a maximum of 200 percent of the official poverty level.

"Financial institution" means a state or federally chartered bank, savings bank, savings and loan association or credit union with an office in this State.

"Fund" means the Individual Development Account Fund established pursuant to 42 U.S.C. s.604(h) and 45 C.F.R. Part 263 (45 C.F.R. s.263.0 et seq.).

"Individual development account" means an account established pursuant to 42 U.S.C. s.604(h) and 45 C.F.R. Part 263 (45 C.F.R. s.263.0 et seq.) in trust for an eligible individual that is a trust account pursuant to the "Multiple-party Deposit Account Act," P.L.1979, c.491

(C.17:16I-1 et seq.).

"Program" means the New Jersey Individual Development Account Program established pursuant to the provisions of this act.

"Program contributor" means a person or entity who makes a contribution to an individual development account reserve fund, except that "program contributor" does not mean the account holder.

"Reserve fund" means the individual development account reserve fund created by a community-based organization for the purposes of: funding the costs incurred in the administration of the program; receiving matching funds from the State; and providing matching funds for individual development accounts pursuant to section 5 of this act.

C.44:10-89 New Jersey Individual Development Account Program.

4. a. The New Jersey Individual Development Account Program is hereby established within the Department of Community Affairs. The purpose of this program shall be to provide each eligible individual in this State with an opportunity to establish an individual development account in a financial institution, to the extent funding will permit. The individual development account may be used for any of the purposes specified under subsection c. of section 5 of this act.

b. There is established in the department, the Individual Development Account Fund. This fund shall be used by the commissioner to provide:

(1) grants to community-based organizations selected by the commissioner to participate in the program; and

(2) a State match of one dollar for every one dollar of earned income deposited into an individual development account by the account holder, except that the maximum amount provided as a match per individual development account per calendar year shall be \$1,500. The earned income deposited into an individual development account shall not be deposited on behalf of the account holder by a third party.

Community-based organizations may raise additional, non-federal or State funds to increase the State match rate and the State maximum annual match amount.

c. The commissioner shall implement this program by entering into agreements with community-based organizations which the commissioner shall select through a request for proposal process, pursuant to the provisions of P.L.1987, c.7 (C.52:14-34.4 et seq.).

d. In reviewing the proposals of community-based organizations, the commissioner shall consider the following factors:

(1) the not-for-profit status of the organization;

(2) the fiscal accountability of the organization;

(3) the ability of the organization to provide its moneys or raise moneys from program contributors for matching contributions which are in addition to State matching funds;

(4) the plan of the organization for the development, implementation and management of an individual development account program;

(5) the capacity of the organization to provide economic literacy training, either directly or through another provider;

(6) the organization's history of working with low-income populations;

(7) the target population and the extent to which the organization plans to exceed the 33.3 percent minimum participation under this act by current or former Work First New Jersey recipients pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), or Aid to Families with Dependent Children recipients or Temporary Assistance for Needy Families recipients pursuant to 42 U.S.C. s.601 et seq.; and

(8) the length of time, in months and years, of the operation of the program, taking into account the resources that are available to the organization.

e. (1) The commissioner shall select community-based organizations and enter into a contract for services with each organization selected that requires the organization to establish and maintain an individual development account reserve fund and work with each eligible individual and any local financial institution to establish an individual development account, among other services to be provided for eligible individuals and their households, if any.

(2) The commissioner shall have the discretion to disburse moneys from the fund in

a manner and an amount the commissioner deems appropriate and consistent with the community-based organization's contract for services and proposal selected pursuant to this subsection and subsections c., d. and f. of this section.

f. (1) No more than 10 percent of the federal Temporary Assistance for Needy Families funds under this act may be used for administrative purposes by a community-based organization selected to participate in the program.

(2) No more than 10 percent of the federal Temporary Assistance for Needy Families funds under this act may be used to provide economic literacy training and one-on-one financial counseling to account holders by an organization selected to participate in the program.

g. At all times, a minimum of 33.3 percent of the account holders participating in the program shall be current or former Work First New Jersey recipients pursuant to P.L.1997, c.38 (C.44:10-55 et seq.) or Aid to Families with Dependent Children recipients or Temporary Assistance for Needy Families recipients pursuant to 42 U.S.C. s.601 et seq., unless otherwise authorized by the commissioner.

C.44:10-90 Opening an individual development account; conditions.

5. a. An eligible individual may, in agreement with a community-based organization selected by the commissioner pursuant to section 4 of this act, open an individual development account for the purpose of accumulating and withdrawing moneys for specified expenditures pursuant to this section. Upon satisfaction of the organization's requirements for economic literacy by an account holder, the organization shall certify to the commissioner that the account holder may withdraw moneys from the account on the approval of the organization, without penalty, for any of the expenditures listed in subsection c. of this section.

b. The commissioner shall establish by regulation:

(1) the minimum monthly deposit amount that each account holder shall be required to maintain and the maximum monthly deposit amount that each account holder shall be permitted to make, during their participation in the program;

(2) the minimum time period the account holder shall maintain an individual development account, pursuant to section 4 of this act, in order to be eligible to withdraw the moneys deposited and receive the State matching funds, pursuant to this subsection and subsections c., d. and e. of this section;

(3) the prior notice of the account holder's intent to, and purpose for, withdrawing individual development account funds and the minimum time period that an account holder shall give notice to the individual development account trustee community-based organization prior to an approved withdrawal in order to be eligible to receive State matching funds pursuant to this subsection and subsections c., d. and e. of this section; and

(4) the maximum length of time an account holder may participate in the program.

c. Upon satisfaction of the provisions of subsections a. and b. of this section by the community-based organization:

(1) the account holder may, upon the approval of the community-based organization, withdraw moneys from the account holder's individual development account in the form of a joint check or transfer of funds made payable to the account holder and the payee of the approved withdrawal, pursuant to 45 C.F.R. s.263.22, for any of the following purposes:

(a) post-secondary educational expenses as defined in 42 U.S.C. s.604(h)(5) and 45 C.F.R. s.263.20;

(b) qualified acquisition costs of a primary residence as defined in 42 U.S.C. s.604(h)(5) and 45 C.F.R. s.263.20; and

(c) qualified business capitalization expenses, as defined in 42 U.S.C. s.604(h)(5) and 45 C.F.R. s.263.20.

(2) if the account holder withdraws any moneys from the account and uses those moneys, or any part of those moneys, for a purpose other than that permitted pursuant to this subsection, the account holder shall forfeit all matching funds associated with the unapproved withdrawal. The account holder shall receive only the moneys which the account holder has deposited into the account.

(3) the commissioner, in consultation with the Commissioner of Human Services, shall establish procedures to ensure that funds held in an individual development account under this

act are withdrawn for qualified purposes only, as defined in this subsection. Penalties for unapproved withdrawals may include taxing the withdrawal as income and, as applicable, including the withdrawal as income or resources in determining eligibility for federal and State public assistance pursuant to 45 C.F.R. s.263.23.

d. Community-based organizations approved by the department shall establish an individual development account in trust for an eligible individual in a financial institution as required pursuant to this act. Organizations may, with the approval of the commissioner, employ methods to maximize the efficiency of multiple individual development accounts, such as pooling deposits into a single account held by the financial institution, with individual account information maintained by the organization. In addition, with the approval of the commissioner, organizations shall develop an efficient means of providing the match portion of an individual development account, such as matching deposits at the time of approved withdrawal only. Organizations acting as trustees under this act shall, at all times, maintain current account information, without regard to the chosen method of administration, on all individual development accounts, which shall include: the individual development account balance, a time indexed record of deposits and withdrawals made by the account holder and the current match level. Community-based organizations under this act shall certify to the department that the accounts have been established pursuant to the provisions of this act in trust for the account holder in the manner approved by the commissioner.

e. A community-based organization establishing an individual development account shall:

(1) sign an agreement with an eligible individual to the effect that the account shall be kept in the name of the eligible individual as the account holder and that the eligible individual shall have an officer of the organization as a trustee of the account;

(2) open and keep the account in the name of the eligible individual, with an officer of the organization as trustee;

(3) permit the account holder to deposit earned income, as defined in 42 U.S.C. s.604(h)(2)(C), into an individual development account which shall be matched by the organization when withdrawn for an approved expenditure, pursuant to subsection c. of this section;

(4) maintain the records of individual development accounts in a manner that enables the organization to determine the amounts deposited by the account holder and amounts paid by the organization as matching funds;

(5) require the individual development account to earn a rate of interest that reasonably reflects the prevailing market rate paid on like deposits by financial institutions in this State, which shall be credited to the account holder;

(6) permit the account holder, after obtaining the signature of the trustee, to withdraw moneys from the account for any of the purposes listed in subsection c. of this section;

(7) remit matching funds in the form of a joint check or transfer of funds made payable to the account holder and the payee of the approved withdrawal, pursuant to 45 C.F.R. s.263.22 at the time the account holder withdraws funds for a purpose permitted pursuant to subsection c. of this section;

(8) work with other community-based organizations and State agencies to coordinate the program with other private and public programs designed for asset accumulation and self-sufficiency, such as transportation, child care and health care services, New Jersey Housing and Mortgage Finance Agency programs, Federal National Mortgage Association (Fannie Mae) mortgage programs and other programs under the direction of the Department of Human Services, such as the Family Loan Pilot Program and Entrepreneur Development Services Pilot Program;

(9) provide financial counseling to account holders and assist them in establishing a secure, low-risk, effective savings opportunity, for the purposes of an individual development account, for income that is in excess of the individual development account maximum match of \$1,500 per year or income that does not meet the definition of earned income, as defined in paragraph (3) of this subsection, such as federal and State earned income tax credits, homestead and property tax rebates, inheritance, monetary damages recovered in a legal proceeding and income from the sale of an asset. The account shall be tailored to each account holder's

resources and financial goals and shall be held in a separate account from the individual development account. Accounts investigated may include money market accounts, individual retirement accounts, certificates of deposit and individual development accounts that do not include matching federal or State funds; and

(10) be deemed to have a fiduciary duty with respect to moneys in an individual development account or reserve fund. The commissioner may require that an organization post and maintain a fidelity bond or other security with regard to the position of the organization as fiduciary for the moneys in an individual development account or reserve fund.

C.44:10-91 Transfer of account on death of holder.

6. a. Notwithstanding the provisions of any other law to the contrary, in the event of the death of the account holder, the ownership of the individual development account shall be transferred to the ownership of a contingent beneficiary, which the account holder shall name at the time the account is established and may change at any time. If the beneficiary is deceased or otherwise cannot accept the transfer, the moneys in the individual development account derived from the account holder's earned income and any interest accrued thereon shall be transferred to the estate of the account holder.

b. If an individual development account is closed pursuant to subsection a. of this section or an account holder withdraws from the individual development account program or forfeits his State matching funds due to an unauthorized withdrawal, any moneys held for matching funds for that account may be retained in the reserve fund for reallocation to be used as matching funds for new individual development accounts.

C.44:10-92 Moneys in, interest on account not considered gross income.

7. a. Moneys deposited into or withdrawn from an individual development account by an account holder pursuant to subsection c. of section 5 of this act or matched by a community-based organization pursuant to paragraph (7) of subsection e. of section 5 of this act shall not be considered gross income otherwise includable as income pursuant to subsections a., b., k., and p. of N.J.S.54A:5-1.

b. Interest earned by an individual development account shall not be considered gross income otherwise includable as income pursuant to subsection e. of N.J.S.54A:5-1.

c. Monies deposited in an individual development account and the interest from an individual development account under this act shall not be taken into account in determining eligibility or the amount of assistance under State and federal means-tested programs pursuant to 42 U.S.C s.604(h) and 45 C.F.R. s.263.20.

C.44:10-93 Regulations; consultation with Human Services.

8. a. The commissioner shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this act.

b. The commissioner shall consult with the Commissioner of Human Services regarding the development, operation and administration of the program and ensuring compliance with 42 U.S.C. s.604(h) and 45 C.F.R. Part 263 (45 C.F.R. s.263.0 et seq.).

C.44:10-94 Report to Legislature.

9. a. The commissioner shall report to the Legislature annually on the effectiveness of the program in providing eligible individuals in this State with an opportunity to establish an individual development account and may include in the report recommendations for change, if any, to make the program more effective. This report shall be due within 30 days of the end of the anniversary of the effective date of this section for each year the program is in operation.

b. The Department of Community Affairs shall make available to the Departments of Labor and Human Services necessary individual development account statistical and program information in a usable format and in a timely manner, so that those departments may prepare federal and other reports.

10. Upon certification by the Director of the Division of Budget and Accounting in the State Department of the Treasury that federal funds to support the expenditure are available, there is appropriated \$2,000,000 in federal Temporary Assistance for Needy Families funds to the Department of Community Affairs for the purpose of funding the Individual Development Account Fund established pursuant to section 4 of this act for adults with one or more dependent children, who are, or except for income and resources would be, eligible for Work First New Jersey pursuant to P.L.1997, c.38 (C.44:10-55 et seq.). The department is authorized to use other federal and State funds which may become available for adults without dependent children.

11. This act shall take effect on the 180th day following enactment, except that section 8 shall take effect immediately.

Approved May 10, 2001.