

# HOUSE BILL No. 5306

October 23, 1997, Introduced by Reps. Martinez, Schauer, Hale, Price, Godchaux, LaForge, Hanley, Cherry, Quarles, Rison, Jellema, Gire, Scott and Bogardus and referred to the Committee on Urban Policy and Economic Development.

A bill to permit the establishment and maintenance of individual or family development accounts; to provide penalties and remedies; to provide for certain tax deductions; and to prescribe the requirements of and restrictions on individual or family development accounts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "individual or family development account program act".

3       Sec. 2. As used in this act:

4       (a) "Account holder" means a person who is the owner of an  
5 individual or family development account or the family if the  
6 account is a family account.

7       (b) "Community development organization" or "organization"  
8 means a charitable organization exempt from taxation under  
9 section 501(c)(3) of the internal revenue code of 1986, that is

1 approved by the director of the Michigan jobs commission or his  
2 or her designee to implement the individual or family development  
3 account program.

4 (c) "Contributor" means a person that makes a deposit to an  
5 individual or family development account and is not the account  
6 holder.

7 (d) "Department" means the Michigan jobs commission.

8 (e) "Director" means the director of the Michigan jobs  
9 commission.

10 (f) "Education expenses" means tuition and fees required for  
11 the enrollment or attendance of a student at an eligible educa-  
12 tional institution, and expenses for fees, books, supplies, and  
13 equipment required for courses of instruction at an eligible edu-  
14 cational institution.

15 (g) "Eligible educational institution" means any of the  
16 following:

17 (i) A college, university, community college, or junior col-  
18 lege described in section 4, 5, or 6 of article VIII of the state  
19 constitution of 1963 or established under section 7 of article  
20 VIII of the state constitution of 1963.

21 (ii) A state-licensed vocational or technical education  
22 program.

23 (iii) A state-licensed proprietary school.

24 (h) "Federal poverty level" means the most recent poverty  
25 income guidelines published by the United States department of  
26 health and human services.

1 (i) "Financial institution" means a state chartered bank,  
2 savings and loan association, credit union, or trust company  
3 authorized to act as fiduciary and under the supervision of the  
4 financial institutions bureau of the department of commerce; or a  
5 national banking association or federal savings and loan associa-  
6 tion or credit union authorized to act as fiduciary in this  
7 state.

8 (j) "Individual or family development account" or "account"  
9 means a financial instrument established pursuant to section 4.

10 (k) "Individual or family development account reserve fund"  
11 or "reserve fund" means a fund created by an approved community  
12 development organization to fund the costs incurred to administer  
13 a program and to provide matching funds for money in an account.

14 (l) "Program" means the individual or family development  
15 account program established in section 3.

16 (m) "Program contributor" means a person that makes a con-  
17 tribution to an account reserve fund and is not either of the  
18 following:

19 (i) The account holder.

20 (ii) A contributor that is exempt from taxation under sec-  
21 tion 501(c)(3) of the internal revenue code of 1986.

22 Sec. 3. (1) The individual or family development account  
23 program is established within the Michigan jobs commission. The  
24 program shall provide eligible individuals and families with an  
25 opportunity to establish accounts to be used for education, home  
26 ownership or improvements, or small business capitalization as  
27 provided in section 4.

1 (2) The department shall solicit proposals from community  
2 development organizations to administer the accounts on a  
3 not-for-profit basis. Community development organization propos-  
4 als shall include both of the following:

5 (a) A requirement that the individual or family account  
6 holder match contributions of a community development organiza-  
7 tion by contributing cash or volunteer work.

8 (b) A process for including account holders in decision  
9 making regarding the investment of money in their accounts.

10 (3) In reviewing the proposals of community development  
11 organizations, the department shall consider all of the following  
12 factors:

13 (a) The not-for-profit status of the organization.

14 (b) The fiscal accountability of the organization.

15 (c) The ability of the organization to provide or raise  
16 money for matching contributions.

17 (d) The ability of the organization to establish and admin-  
18 ister a reserve fund.

19 (e) The significance and quality of proposed auxiliary  
20 services.

21 (f) The relationship of proposed auxiliary services to the  
22 goals of the individual or family development account program.

23 (4) The department shall promulgate rules pursuant to the  
24 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
25 24.328, to implement this act.

26 Sec. 4. (1) An individual or family whose household income  
27 is less than or equal to 185% of the federal poverty level for an

1 individual or that family's family size may establish an  
2 individual or family development account with a financial insti-  
3 tution for the purpose of accumulating and withdrawing money for  
4 qualified expenses. The account holder may withdraw money from  
5 the account without penalty for any of the following qualified  
6 expenses:

7 (a) Educational expenses for the individual account holder  
8 or any member of the family who is 17 years of age or older if  
9 the account is a family development account for postsecondary  
10 education at an eligible educational institution.

11 (b) Purchase of a primary residence by the individual  
12 account holder or any member of the family if the account is a  
13 family development account.

14 (c) Major repairs or improvements to a primary residence of  
15 the individual account holder or any member of the family if the  
16 account is a family development account.

17 (d) Start-up capitalization of a small business for the  
18 individual account holder or any member of the family if the  
19 account is a family development account who is 18 years of age or  
20 older.

21 (2) A financial institution approved by the department shall  
22 be permitted to accept deposits into individual or family devel-  
23 opment accounts. The financial institution that accepts deposits  
24 shall certify to the department and the community development  
25 organization that administers each account, on forms prescribed  
26 by the department and accompanied by any documentation required  
27 by the department, that the accounts have been established

1 pursuant to this act and that deposits have been made on behalf  
2 of the account holder.

3 (3) A financial institution in which an account has been  
4 established shall do all of the following:

5 (a) Keep the account in the name of both the account holder  
6 and the administrator of the community development organization  
7 that administers the account.

8 (b) Permit deposits to be made to the account by the follow-  
9 ing, subject to the indicated conditions:

10 (i) The account holder.

11 (ii) A contributor, if the deposit is made on behalf of an  
12 account holder. A deposit under this subparagraph may include  
13 money to match the account holder's deposits.

14 (c) Provide that the accounts earn the market rate of  
15 interest.

16 (d) Permit the account holder to withdraw money from the  
17 account for any of the purposes listed in subsection (1).

18 (4) The maximum total of all deposits made into an account  
19 in a tax year that is exempt from taxation for that tax year is  
20 \$2,000.00. The total maximum balance in an account that is  
21 exempt from taxation is \$50,000.00. Accumulated interest earned  
22 on an account is not included for purposes of this subsection.

23 (5) If a contribution to an account will cause the account  
24 balance to exceed the maximum total for a tax year or the maximum  
25 balance in an account, the financial institution shall notify the  
26 account holder or other contributor and the administrator of the  
27 community development organization that administers the account

1 that making the deposit will cause the account balance to exceed  
2 the statutory maximums. Deposits that exceed the maximums shall  
3 be returned to the contributor who makes the contribution or  
4 shall be returned on a pro rata basis among multiple  
5 contributors.

6       Sec. 5. (1) Money withdrawn during a tax year from an  
7 account by an account holder that is not withdrawn pursuant to  
8 section 4 is subject to the following:

9       (a) The first time an account holder withdraws money from an  
10 account that is not withdrawn pursuant to section 4, a penalty of  
11 15% of the amount of the withdrawal.

12       (b) The second time an account holder withdraws money from  
13 an account that is not withdrawn pursuant to section 4, a penalty  
14 of 15% of the amount of the withdrawal and the account shall be  
15 closed.

16       (2) Interest earned on an account shall be distributed pro-  
17 portionately to the account holder and other contributors based  
18 on the individual contributions of each.

19       (3) Penalties and money forfeited by an account holder under  
20 subsection (1) shall be returned to the individual or family  
21 development account reserve fund of the community development  
22 organization that administered the account.

23       (4) An account holder shall name at least 1 contingent bene-  
24 ficiary at the time the account is established and may change  
25 beneficiaries at any time. In the event of an account holder's  
26 death, the account shall be transferred to a contingent  
27 beneficiary. If the named beneficiary is deceased or otherwise

1 cannot accept the transfer, the money shall be transferred to the  
2 estate of the beneficiary.

3       Sec. 6. (1) Money deposited in or withdrawn pursuant to  
4 section 4 from an individual or family development account by an  
5 account holder is exempt from taxation under the income tax act  
6 of 1967, 1967 PA 281, MCL 206.1 to 206.532, and under the single  
7 business tax act, 1975 PA 228, MCL 208.1 to 208.145.

8       (2) Interest earned by a family development account is  
9 exempt from taxation pursuant to the income tax act of 1967, 1967  
10 PA 281, MCL 206.1 to 206.532.

11       (3) A contributor may claim a credit equal to the contribu-  
12 tions made to accounts against the tax imposed by the single  
13 business tax imposed under the single business tax act, 1975 PA  
14 228, MCL 208.1 to 208.145.

15       (4) The administrator of a community development organiza-  
16 tion that administers an account, with the cooperation of the  
17 participating financial institutions, shall submit the names of  
18 contributors and the total amount that each contributor contrib-  
19 utes to a family development account reserve fund for each tax  
20 year to the department. The director shall determine the date by  
21 which the information shall be submitted to the department by the  
22 administrator of the community development organization. The  
23 department shall submit verification of qualified tax credits  
24 claimed pursuant to this act to the department of treasury.

25       Sec. 7. This act is effective January 1, 1998.

1 Enacting section 1. This amendatory act does not take  
2 effect unless all of the following bills of the 89th Legislature  
3 are enacted into law:

4 (a) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_(request no.  
5 02798'97).

6 (b) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_(request no.  
7 04517'97).