

# HOUSE BILL No. 5764

February 28, 2002, Introduced by Reps. Patterson, Richardville, Ruth Johnson, Pappageorge, Howell, Newell, Vander Veen, Drolet, Gosselin, Hager, Jelinek, DeRossett, Vander Roest, Bisbee, Stewart, Mortimer, Tabor, Hummel, Meyer, Julian, Gilbert, Toy, Voorhees, Birkholz and Scranton and referred to the Committee on Tax Policy.

A bill to permit the establishment and maintenance of worker financial security accounts; to provide for certain tax credits and deductions; to prescribe the requirements of and restrictions on worker financial security accounts; and to provide penalties and remedies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "worker financial security account act".

3       Sec. 2. As used in this act:

4       (a) "Account administrator" means any of the following:

5       (i) A state chartered bank, savings and loan association,  
6 credit union, or trust company authorized to act as fiduciary and  
7 under the supervision of the financial institutions bureau of the  
8 office of financial and insurance services; or a national banking

1 association or federal savings and loan association or credit  
2 union authorized to act as fiduciary in this state.

3 (ii) A broker-dealer, commodity issuer, or investment advi-  
4 sor registered pursuant to the uniform securities act, 1964  
5 PA 265, MCL 451.501 to 451.818, or a federal investment company  
6 registered under the investment company act of 1940, title I of  
7 chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to  
8 80a-64.

9 (iii) A certified public accountant licensed to practice in  
10 this state pursuant to article 7 of the occupational code, 1980  
11 PA 299, MCL 339.720 to 339.736.

12 (b) "Account holder" means the resident individual who is an  
13 eligible taxpayer and establishes a worker financial security  
14 account or for whose benefit a worker financial security account  
15 is established.

16 (c) "Domicile" means a place where an individual has his or  
17 her true, fixed, and permanent home and principal establishment,  
18 to which, whenever absent, he or she intends to return. Domicile  
19 continues until another permanent home or principal establishment  
20 is established.

21 (d) "Eligible expense" means an expense paid by the taxpayer  
22 for reasonable living expenses as determined by the department of  
23 treasury of a qualified taxpayer who has established an account  
24 under this act.

25 (e) "Qualified taxpayer" means an individual who meets 1 of  
26 the following criteria:

1           (i) Received benefits under the Michigan employment security  
2 act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, during the tax  
3 year.

4           (ii) Received benefits during the tax year under the  
5 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1  
6 to 421.75, for a period of time prior to the tax year in which  
7 withdrawals are made from an account that are deductible from the  
8 taxpayer's tax base under section 30 of the income tax act of  
9 1967, 1967 PA 281, MCL 206.30, and who has been continuously  
10 unemployed after receiving the maximum amount of benefits avail-  
11 able under the Michigan employment security act, 1936 (Ex Sess)  
12 PA 1, MCL 421.1 to 421.75.

13           (iii) Is 65 years of age or older and is retired. As used  
14 in this subparagraph, "retired" means that the individual is not  
15 employed, or is employed or works for 10 hours or less each week  
16 and receives salary, wages, or other compensation for that work  
17 or employment that is subject to taxation under the income tax  
18 act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

19           (f) "Resident" means an individual domiciled in this state.

20           (g) "Worker financial security account" or "account" means  
21 an account established in this state pursuant to this act to be  
22 used to pay the eligible expenses of an account holder.

23           Sec. 3. (1) For tax years that begin after December 31,  
24 2001, a resident individual may establish a worker financial  
25 security account with an account administrator for himself or  
26 herself or for his or her spouse.

1       (2) To establish an account, the qualified taxpayer shall  
2 enter into an agreement with an account administrator.

3       (3) Contributions to an account shall only be made in cash,  
4 by check, by money order, by credit card, or by any other similar  
5 method, but shall not be property.

6       (4) The total cumulative contributions to an account shall  
7 not exceed \$125,000.00. Any amount in excess of \$125,000.00  
8 shall be promptly withdrawn from the account and returned to the  
9 account holder and is not considered to be a withdrawal for pur-  
10 poses of section 5(1).

11       Sec. 4. (1) An account administrator shall administer the  
12 worker financial security account from which the payments are  
13 made and has a fiduciary duty to the person for whose benefit the  
14 account administrator administers an account.

15       (2) The account administrator shall utilize the funds held  
16 in an account solely for the purpose of paying the eligible  
17 expenses of the account holder or his or her spouse.

18       (3) The account administrator shall pay the eligible  
19 expenses of the person on whose behalf the account has been  
20 established directly based on bills or other evidence of a debt  
21 or account due or shall reimburse the account holder from the  
22 account holder's account for eligible expenses paid by the  
23 account holder based on documentation submitted to the account  
24 administrator.

25       Sec. 5. (1) Subject to subsection (2), if an account holder  
26 withdraws money for any purpose other than a purpose described in  
27 section 4(2), the administrator shall withhold from the amount of

1 the withdrawal and on behalf of the account holder shall pay a  
2 penalty to the department of treasury equal to 10% of the amount  
3 of the withdrawal.

4 (2) The amount of a disbursement of any assets of an account  
5 pursuant to a filing for protection under title 11 of the United  
6 States Code, 11 U.S.C. 101 to 1330, by an account holder or an  
7 account holder's spouse is not considered a withdrawal for pur-  
8 poses of this section.

9 (3) Upon the death of the account holder, the account admin-  
10 istrator shall distribute the principal and accumulated interest  
11 of the account to the estate of the account holder.

12 Sec. 6. This act shall not take effect unless all of the  
13 following bills of the 91st Legislature are enacted into law:

14 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
15 (request no. 06506'02).

16 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5765  
17 (request no. 06507'02).