

House Bill 2011

Sponsored by Representative READ (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands allowable purposes for establishing individual development account.

Allows moneys in certain accounts to be rolled over into college savings network account or individual retirement account, retirement plan or similar account or plan when account holder has achieved account's approved purpose in accordance with personal development plan.

Extends sunset for tax credit for donations to fiduciary organizations for distribution to individual development accounts.

Extends sunset for tax credit for withdrawals from individual development accounts used to purchase primary residences.

A BILL FOR AN ACT

1
2 Relating to individual development accounts; amending ORS 315.271 and 458.685 and sections 9 and
3 11, chapter 765, Oregon Laws 2007, and section 49, chapter 913, Oregon Laws 2009.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 458.685 is amended to read:

6 458.685. (1) A person may establish an individual development account only for a purpose ap-
7 proved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

8 (a) The acquisition of post-secondary education or job training.

9 (b) If the account holder has established the account for the benefit of a household member who
10 is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare
11 the member for post-secondary education or job training.

12 (c) If the account holder has established a college savings network account under ORS 348.841
13 to 348.873 on behalf of a designated beneficiary, the establishment of an additional college savings
14 network account on behalf of the same designated beneficiary.

15 (d) The purchase of a primary residence. In addition to payment on the purchase price of the
16 residence, account moneys may be used to pay any usual or reasonable settlement, financing or
17 other closing costs. The account holder must not have owned or held any interest in a residence
18 during the three years prior to making the purchase. However, this three-year period shall not apply
19 to displaced homemakers, *[or]* other individuals who have lost home ownership as a result of divorce
20 **or owners of manufactured homes.**

21 (e) **The rental of a primary residence when housing stability is essential to achieve state**
22 **policy goals. Account moneys may be used for security deposits, first and last months' rent,**
23 **application fees and other expenses necessary to move into the primary residence, as speci-**
24 **fied in the account holder's personal development plan for increasing the independence of the**
25 **person.**

26 *[(e)]* (f) The capitalization of a small business. Account moneys may be used for capital, plant,
27 equipment and inventory expenses **and to hire employees upon capitalization of the small busi-**
28 **ness,** or for working capital pursuant to a business plan. The business plan must have been devel-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 oped by a financial institution, nonprofit microenterprise program or other qualified agent
 2 demonstrating business expertise and have been approved by the fiduciary organization. The busi-
 3 ness plan must include a description of the services or goods to be sold, a marketing plan and
 4 projected financial statements.

5 [(f)] (g) Improvements, repairs or modifications necessary to make or keep the account holder's
 6 primary dwelling habitable, accessible or visitable for the account holder or a household member.
 7 This paragraph does not apply to improvements, repairs or modifications made to a rented primary
 8 dwelling to achieve or maintain a habitable condition for which ORS 90.320 (1) places responsibility
 9 on the landlord. As used in this paragraph, "accessible" and "visitable" have the meanings given
 10 those terms in ORS 456.508.

11 [(g)] (h) The purchase of equipment, technology or specialized training required to become
 12 competitive in obtaining or maintaining employment or to start or maintain a business, as specified
 13 in the account holder's personal development plan for increasing the independence of the person.

14 (i) **The purchase or repair of a vehicle, as specified in the account holder's personal de-**
 15 **velopment plan for increasing the independence of the person.**

16 (j) **The saving of funds for retirement, as specified in the account holder's personal de-**
 17 **velopment plan for increasing the independence of the person.**

18 (k) **The payment of debts owed for educational or medical purposes when the account**
 19 **holder is saving for another allowable purpose, as specified in the account holder's personal**
 20 **development plan for increasing the independence of the person.**

21 (L) **The creation or improvement of a credit score by obtaining a secured loan or a fi-**
 22 **nanacial product that is designed to improve credit, as specified in the account holder's per-**
 23 **sonal development plan for increasing the independence of the person.**

24 (m) **The replacement of a primary residence when replacement offers significant oppor-**
 25 **tunity to improve habitability or energy efficiency.**

26 (2)(a) If an emergency occurs, an account holder may withdraw all or part of the account
 27 holder's deposits to an individual development account for a purpose not described in subsection (1)
 28 of this section. As used in this paragraph, an emergency includes making payments for necessary
 29 medical expenses, to avoid eviction of the account holder from the account holder's residence and
 30 for necessary living expenses following a loss of employment.

31 (b) The account holder must reimburse the account for the amount withdrawn under this sub-
 32 section within 12 months after the date of the withdrawal. Failure of an account holder to make a
 33 timely reimbursement to the account is grounds for removing the account holder from the individual
 34 development account program. Until the reimbursement has been made in full, an account holder
 35 may not withdraw any matching deposits or accrued interest on matching deposits from the account.

36 (3) If an account holder withdraws moneys from an individual development account for other
 37 than an approved purpose, the fiduciary organization may remove the account holder from the pro-
 38 gram.

39 (4)(a) **If the account holder of an account established for the purpose set forth in sub-**
 40 **section (1)(c) or (j) of this section has achieved the account's approved purpose in accordance**
 41 **with the personal development plan developed by the account holder under ORS 458.680, the**
 42 **account holder may withdraw, or authorize the withdrawal of, the remaining amount of all**
 43 **deposits, including matching deposits, and interest in the account as follows:**

44 (A) **For an account established for the purpose set forth in subsection (1)(c) of this sec-**
 45 **tion, by rolling over the entire withdrawal amount, not to exceed the limit established pur-**

1 suant to ORS 348.857, into one or more of the college savings network accounts under ORS
 2 348.841 to 348.873, the establishment of which is the purpose of the individual development
 3 account; or

4 (B) For an account established for the purpose set forth in subsection (1)(j) of this sec-
 5 tion, by rolling over the entire withdrawal amount into an individual retirement account, a
 6 retirement plan or a similar account or plan established under the Internal Revenue laws
 7 of the United States.

8 (b) Upon withdrawal of all moneys in the individual development account as provided in
 9 paragraph (a) of this subsection, the account relationship shall terminate.

10 (c) The rollover of moneys into a college savings network account under this subsection
 11 may not cause the amount in the college savings network account to exceed the limit on
 12 total contributions established pursuant to ORS 348.857.

13 [(4)] (5) If an account holder moves from the area where the program is conducted or is other-
 14 wise unable to continue in the program, the fiduciary organization may remove the account holder
 15 from the program.

16 [(5)] (6) If an account holder is removed from the program under subsection (2), (3) or [(4)] (5)
 17 of this section, all matching deposits in the account and all interest earned on matching deposits
 18 shall revert to the fiduciary organization. The fiduciary organization shall use the reverted funds
 19 as a source of matching deposits for other accounts.

20 **SECTION 2.** Section 9, chapter 765, Oregon Laws 2007, is amended to read:

21 **Sec. 9.** ORS 315.271 and 458.690 are repealed on [January 2, 2016] **January 2, 2022.**

22 **SECTION 3.** Section 11, chapter 765, Oregon Laws 2007, is amended to read:

23 **Sec. 11.** The amendments to ORS 458.700 by section 10, **chapter 765, Oregon Laws 2007**, [of
 24 *this 2007 Act*] become operative on [January 2, 2016] **January 2, 2022.**

25 **SECTION 4.** ORS 315.271 is amended to read:

26 315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be
 27 allowed for donations to a fiduciary organization for distribution to individual development accounts
 28 established under ORS 458.685. The credit shall equal the lesser of \$75,000 or 75 percent of the do-
 29 nation amount. To qualify for a credit under this section, donations to a fiduciary organization must
 30 be made prior to January 1, [2016] **2022.**

31 (2) If a credit allowed under this section is claimed, the amount upon which the credit is based
 32 that is allowed or allowable as a deduction from federal taxable income under section 170 of the
 33 Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable in-
 34 come. As used in this subsection, the amount upon which a credit is based is the allowed credit di-
 35 vided by 75 percent.

36 (3) The allowable tax credit that may be used in any one tax year shall not exceed the tax li-
 37 ability of the taxpayer.

38 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 39 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 40 succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be car-
 41 ried forward and used in the second succeeding tax year. Any tax credit not used in the second
 42 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not
 43 be carried forward for any tax year thereafter.

44 **SECTION 5.** Section 49, chapter 913, Oregon Laws 2009, is amended to read:

45 **Sec. 49.** A credit may not be claimed under ORS 315.272 for tax years beginning on or after

1 January 1, [2016] **2022**.

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