

House Bill 2441

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Housing and Community Services Department)

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.

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

25 [(e)] (f) The capitalization of a small business. Account moneys may be used for capital, plant,
26 equipment and inventory expenses **and to hire employees upon capitalization of the small busi-**
27 **ness**, or for working capital pursuant to a business plan. The business plan must have been devel-
28 oped by a financial institution, nonprofit microenterprise program or other qualified agent
29 demonstrating business expertise and have been approved by the fiduciary organization. The busi-

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 ness plan must include a description of the services or goods to be sold, a marketing plan and
 2 projected financial statements.

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

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

12 (i) **The purchase of an automobile, as specified in the account holder's personal develop-**
 13 **ment plan for increasing the independence of the person.**

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

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

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

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

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

32 (4) If an account holder moves from the area where the program is conducted or is otherwise
 33 unable to continue in the program, the fiduciary organization may remove the account holder from
 34 the program.

35 (5) If an account holder is removed from the program under subsection (2), (3) or (4) of this
 36 section, all matching deposits in the account and all interest earned on matching deposits shall re-
 37 vert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a
 38 source of matching deposits for other accounts.

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

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

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

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

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

45 315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be

1 allowed for donations to a fiduciary organization for distribution to individual development accounts
 2 established under ORS 458.685. The credit shall equal the lesser of \$75,000 or 75 percent of the do-
 3 nation amount. To qualify for a credit under this section, donations to a fiduciary organization must
 4 be made prior to January 1, [2016] **2022**.

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

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

12 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 13 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 14 succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be car-
 15 ried forward and used in the second succeeding tax year. Any tax credit not used in the second
 16 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not
 17 be carried forward for any tax year thereafter.

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

19 **Sec. 49.** A credit may not be claimed under ORS 315.272 for tax years beginning on or after
 20 January 1, [2016] **2022**.

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