

[CHAPTER 257]
INDIVIDUAL DEVELOPMENT ACCOUNTS

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[§257-1] Definitions. As used in this chapter:

“Eligible educational institution” means:

- (1) An institution described in sections 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on June 28, 1999; and
- (2) An area vocational education school defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)), as such sections are in effect on June 28, 1999.

“Fiduciary organization” means an organization that serves as an intermediary between an individual account holder and the financial institution holding the individual’s individual development account funds. Fiduciary organizations may include:

- (1) One or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under section 501(a) of the Code; or
- (2) State or local government agencies submitting an application jointly with another organization.

Nothing in this definition shall be construed as preventing an organization described in paragraph (2) from cooperating with a financial institution or for-profit community development corporation to carry out the purposes of this chapter.

The fiduciary organization’s responsibilities may include:

- (1) Marketing participation;
- (2) Soliciting matching contributions;
- (3) Counseling program participants; and
- (4) Conducting required verification and compliance activities.

“Financial institution” means an organization authorized to do business pursuant to chapter 412, or under federal laws relating to financial institutions, and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

“Household” means adults related by blood, marriage, or adoption, or who are unrelated but have maintained a stable family relationship together over a period of time, and individuals under eighteen years of age related to the above adults by marriage, blood, or adoption, who are living together. Living together refers to domicile as evidence by the parties’ intent to maintain a home for their family and does not include a temporary visit.

“Individual development account” means an optional, interest bearing, subsidized, tax-benefitted account used exclusively for the purpose of paying the qualified expenditure of an eligible individual as determined by the fiduciary organization.

“Post-secondary educational expenses” means:

- (1) Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution; and
- (2) Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

“Qualified acquisition costs” means the costs of acquiring, constructing, or reconstructing a residence and shall include any usual or reasonable settlement, financing, or other closing costs.

“Qualified business” means any business that does not contravene any law or public policy.

“Qualified business capitalization expenses” means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

“Qualified expenditures” means an expense as determined by a fiduciary organization, which may include but not be limited to:

- (1) Costs associated with first home-ownership;
- (2) Post-secondary education;
- (3) Vocational training; and
- (4) Small or micro-business capitalization.

“Qualified plan” means a business plan or a plan to use a business asset purchased, that:

- (1) Is approved by a financial institution, a micro-enterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;
- (2) Includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and
- (3) May require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

“Qualified principal residence” means a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986), the qualified acquisition costs of which do not exceed one hundred per cent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e) of the Code). [L 1999, c 160, pt of §25]

Revision Note

“June 28, 1999” substituted for “the date of the enactment of this chapter”.

[§257-2] Eligible individuals. (a) The income of the household of the individual development account holder shall not exceed eighty per cent of the area household median income.

(b) The individual shall enter into an individual development account agreement with a fiduciary organization. [L 1999, c 160, pt of §25]

[§257-3] Fiduciary organizations. (a) Fiduciary organizations shall serve as an intermediary between individual development account holders and financial institutions holding accounts. The fiduciary organization’s responsibilities may include:

- (1) Marketing participation;
- (2) Soliciting matching contributions;
- (3) Counseling program participants; and
- (4) Conducting verification and compliance activities.

(b) Locally-based organizations shall enter into a competitive process for the right to become fiduciary organizations for a portion of the state matching dollars that would be authorized initially. Fiduciary organization proposals shall be evaluated and participation rights awarded on the basis of such items as:

- (1) Their ability to market the program to potential individual development account holders and potential matching fund contributors;
- (2) Their ability to provide safe and secure investments for individual development accounts;
- (3) Their overall administrative capacity, including:
 - (A) Certifications or verifications required to assure compliance with eligibility requirements;
 - (B) Authorized uses of the accounts matching contributions by individuals or businesses; and
 - (C) Penalties for unauthorized distributions;
- (4) Their capacity to provide financial counseling and other related services to potential participants; and
- (5) Their links to other activities designed to increase the independence of individuals and families through high return investments, including homeownership, education and training, and small business development.

(c) If the State approves an application to fund an individual development account project under this section, the State shall, not later than one month after June 28, 1999, authorize the applicant to conduct the project with state funds for five project years in accordance with the approved application and this section; provided that an applicant may apply for funding during future fiscal years for five project years if the State lacks the resources to fund an individual development account project pursuant to this subsection.

(d) For each individual development account program approved under this section, the State shall make a grant to the qualified entity or collaboration of entities authorized to conduct the project on the first day of the project year in an amount not to exceed \$100,000 per year for five years.

(e) From among the individuals eligible for assistance under the Hawaii individual development account program, each selected fiduciary organization shall select the individuals whom the fiduciary organization deems to be best suited to receive such assistance. [L 1999, c 160, pt of §25]

Revision Note

“June 28, 1999” substituted for “the date of the enactment of this Act”.

[§257-4] Penalties. (a) The fiduciary organization shall establish a grievance committee and a procedure to hear, review, and decide in writing any grievance made by an individual development account holder who disputes a decision of the operating organization that a withdrawal is subject to penalty.

(b) Each fiduciary organization shall establish regulations as are necessary, including prohibiting eligibility for further assistance under an individual development account project conducted under this chapter, to ensure compliance with this chapter if an individual participating in the individual development account project moves from the community in which the project is conducted or is otherwise unable to continue participating in the project. [L 1999, c 160, pt of §25]

[§257-5] Death. In the event of an account holder’s death, the account may be transferred to the ownership of a contingent beneficiary. An account holder shall name contingent beneficiaries at the time the account is established and may change beneficiaries at any time. If the named beneficiary is deceased or otherwise cannot accept the transfer, the moneys shall be transferred to the individual development account match fund of the fiduciary organization. [L 1999, c 160, pt of §25]

[§257-6] Financial institutions. (a) Financial institutions shall be permitted to establish individual development accounts pursuant to this chapter. The financial institution shall certify to the fiduciary organization, on forms prescribed by same and accompanied by any documentation required by it, that such accounts have been established pursuant to all the provisions of this chapter and that deposits have been made on behalf of the account holder.

(b) A financial institution establishing an individual development account shall:

(1) Keep the account in the name of the account holder;

(2) Permit deposits to be made in the account by the following, subject to the indicated conditions:

(A) The account holder; or

(B) A contribution made on behalf of the account holder. Such deposits may include moneys to match the account holder’s deposits. [L 1999, c 160, pt of §25]

[§257-7] Assets; disregarded. The department of human services and the housing and community development corporation of Hawaii shall collaborate with individual development account fiduciary organizations to ensure that the accounts as provided for in this chapter, including any earned interest, shall be disregarded in the determination of benefits or eligibility for services account holders may receive from said agencies as allowed by federal and state laws and regulations.

The department of human services shall establish rules to be aligned with individual development accounts after June 28, 1999. [L 1999, c 160, pt of §25]

Revision Note

“June 28, 1999” substituted for “the approval of this Act”.

[§257-8] Matches. (a) The State shall match an amount of up to \$100,000 per calendar year for individual development accounts.

(b) Not more than a 2:1 match of state funds to account holder deposits shall be deposited into any individual development account in a given year. [L 1999, c 160, pt of §25]

[§257-9] Tax exemption. All moneys contributed into an individual development account, including state and private matches, individual savings, and interest earned, shall be exempt from taxation. [L 1999, c 160, pt of §25]

§257-10 Tax credit. (a) Taxpayers subject to the tax imposed under chapter 235 who contribute matching funds for individual development accounts may be eligible for the tax credit provided under section 235-5.6.

(b) Individuals, organizations, and businesses seeking the tax credit can contribute a matching share to designated individuals or contribute to a fiduciary organization and permit it to allocate the funds to all of its participants on a proportionate basis.

(c) The administrator of the fiduciary organization, with the cooperation of the participating organizations, shall maintain records of the names of contributors and the total amount each contributor contributes to an individual development account match fund for the taxable year. All contributions shall be verified by the department of human services. The department of human services shall total all contributions that the department certifies. Upon each determination, the department of human services shall issue a certificate to the taxpayer. The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation.

When the total amount of certified contributions reaches \$1,000,000, the department shall immediately discontinue certifying contributions and notify the department of taxation. In no instance, shall the total amount of certified contributions exceed \$1,000,000 over the five year period between January 1, 2000, and December 31, 2004.

(d) The state shall provide no more than \$1,000,000 in tax credits for private individuals, businesses, and organizations contributing funds to individual development account programs. [L 1999, c 160, pt of §25; am L 2000, c 184, § 2]

Note

The 2000 amendment applies to taxable years beginning after December 31, 1999 and before January 1, 2005. L 2000, c 184, §5.

[§257-11] Administration; evaluation; information; reporting. (a) The fiduciary organization running an individual development account program shall have sole authority over the administration of the project. The State may prescribe only such regulations with respect to demonstration projects under this chapter as are necessary to ensure compliance pursuant to this chapter.

(b) Each individual development account program shall annually report the number of accounts, the amount of savings and matches for each account, the uses of the account, and the number of businesses, homes, and educations purchased, as well as other information as may be required for responsible operation of the program.

(c) The fiduciary organization shall submit to the legislature its findings and recommendations no later than twenty days prior to the convening of each legislative session.

(d) Selected fiduciary organizations may use no more than ten per cent of state funds as appropriated under this [chapter] to cover administrative costs in any given year. [L 1999, c 160, pt of §25]