S T A T E O F N E W Y O R K

6677

2013-2014 Regular Sessions

I N A S S E M B L Y

April 12, 2013

Introduced by M. of A. BOYLAND -- read once and referred to the Committee on Banks

AN ACT to amend the banking law, in relation to creating the individual development account program to provide savings incentives and opportunities for certain foster children to pursue home ownership, postsecondary education, and business development

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The banking law is amended by adding a new article 17 to read as follows:

ARTICLE XVII

ASSET DEVELOPMENT INITIATIVE FOR CERTAIN FOSTER CHILDREN

SECTION 9050. DEFINITIONS.
9051. ESTABLISHMENT OF PROGRAM; RULES.
9052. PARTICIPANT ELIGIBILITY.
9053. CONTRIBUTIONS AND EXPENDITURES BY PARTICIPANT.
9054. DUTIES OF SPONSORING ORGANIZATIONS.
9055. MATCHING FUNDS; LIMITATIONS ON AMOUNT AND AVAILABILITY.
9056. WITHDRAWALS; TERMINATION OF ACCOUNT FOR UNQUALIFIED WITHDRAWALS.
9057. FUNDING.
9058. COORDINATION.
9059. INTERAGENCY CONTRACTS.
9060. AGENCY COOPERATION.

S 9050. DEFINITIONS. IN THIS ARTICLE:

1. "ASSETS FOR INDEPENDENCE ACT" MEANS THE FEDERAL ASSETS FOR INDEPENDENCE ACT (42 U.S.C. SECTION 604 NOTE).

2. "FINANCIAL INSTITUTION" MEANS A FINANCIAL ENTITY, INCLUDING, BUT NOT LIMITED TO: A BANK, TRUST COMPANY, NATIONAL BANK, SAVINGS BANK, FEDERAL MUTUAL SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, FEDERAL SAVINGS AND LOAN ASSOCIATION, FEDERAL MUTUAL SAVINGS AND LOAN ASSOCI-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD10009-01-3

ATION, CREDIT UNION, FEDERAL CREDIT UNION, BRANCH OF A FOREIGN BANKING CORPORATION, PUBLIC PENSION FUND, RETIREMENT SYSTEM, SECURITIES BROKER, SECURITIES DEALER, SECURITIES FIRM, AND INSURANCE COMPANY.

3. "INDIVIDUAL DEVELOPMENT ACCOUNT" MEANS A DEPOSIT ACCOUNT ESTABLISHED BY A PARTICIPANT AT A FINANCIAL INSTITUTION SELECTED BY A SPONSORING ORGANIZATION.

4. "PARTICIPANT" MEANS AN INDIVIDUAL WHO HAS ENTERED INTO AN AGREEMENT WITH A SPONSORING ORGANIZATION TO PARTICIPATE IN THE PROGRAM.

5. "PROGRAM" MEANS THE INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM ESTABLISHED UNDER THIS ARTICLE.

6. "SERVICE PROVIDER" MEANS A PERSON TO WHOM A QUALIFIED EXPENDITURE FROM A PARTICIPANT'S INDIVIDUAL DEVELOPMENT ACCOUNT IS MADE. SERVICE PROVIDER INCLUDES:

(A) A PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION;

(B) A PROVIDER OF OCCUPATIONAL OR VOCATIONAL EDUCATION, INCLUDING A PROPRIETARY SCHOOL;

(C) A MORTGAGE LENDER;

(D) A TITLE INSURANCE COMPANY;

(E) THE LESSOR OR VENDOR OF OFFICE SUPPLIES OR EQUIPMENT OR RETAIL SPACE, OFFICE SPACE, OR OTHER BUSINESS SPACE; AND

(F) ANY OTHER PROVIDER OF GOODS OR SERVICES USED FOR THE START OF A BUSINESS.

7. "SPONSORING ORGANIZATION" HAS THE MEANING ASSIGNED TO "QUALIFIED ENTITY" BY SECTION 404(7), ASSETS FOR INDEPENDENCE ACT, EXCEPT THAT THE TERM DOES NOT INCLUDE A STATE AGENCY.

S 9051. ESTABLISHMENT OF PROGRAM; RULES. 1. THE SUPERINTENDENT MAY DEVELOP AND IMPLEMENT A PROGRAM UNDER WHICH:

(A) INDIVIDUAL DEVELOPMENT ACCOUNTS ARE FACILITATED AND ADMINISTERED BY SPONSORING ORGANIZATIONS FOR ELIGIBLE INDIVIDUALS TO PROVIDE THOSE INDIVIDUALS WITH AN OPPORTUNITY TO ACCUMULATE ASSETS AND TO FACILITATE AND MOBILIZE SAVINGS;

(B) SPONSORING ORGANIZATIONS ARE PROVIDED GRANT FUNDS FOR USE IN ADMINISTERING THE PROGRAM AND MATCHING QUALIFIED EXPENDITURES MADE BY PROGRAM PARTICIPANTS; AND

(C) AT LEAST EIGHTY-FIVE PERCENT OF THE GRANT FUNDS DESCRIBED BY PARAGRAPH (B) OF THIS SUBDIVISION MUST BE USED BY THE SPONSORING ORGANIZATION FOR MATCHING QUALIFIED EXPENDITURES.

2. THE DEPARTMENT SHALL CONTRACT WITH SPONSORING ORGANIZATIONS TO FACILITATE THE ESTABLISHMENT OF AND TO ADMINISTER THE INDIVIDUAL DEVELOPMENT ACCOUNTS IN ACCORDANCE WITH THE PROGRAM IMPLEMENTED BY THE SUPERINTENDENT. THE PROGRAM MUST INCLUDE GUIDELINES FOR CONTRACT MONITORING, REPORTING, TERMINATION, AND RECAPTURE OF STATE FUNDS.

3. THE SUPERINTENDENT SHALL STATE THE SELECTION CRITERIA FOR SPONSORING ORGANIZATIONS AND SHALL GIVE PRIORITY TO ORGANIZATIONS THAT HAVE DEMONSTRATED:

(A) A CAPACITY TO ADMINISTER INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS; OR

(B) A COMMITMENT TO SERVE AREAS OF THIS STATE THAT CURRENTLY DO NOT HAVE INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS AVAILABLE.

S 9052. PARTICIPANT ELIGIBILITY. 1. ONLY FOSTER CHILDREN WHO ARE AT LEAST FIFTEEN YEARS OF AGE AND YOUNGER THAN TWENTY-THREE YEARS OF AGE MAY PARTICIPATE IN THE PROGRAM.

2. THE SUPERINTENDENT SHALL ESTABLISH ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE PROGRAM THAT ARE CONSISTENT WITH THE PURPOSES OF THE PROGRAM AND WITH THE ASSETS FOR INDEPENDENCE ACT.

S 9053. CONTRIBUTIONS AND EXPENDITURES BY PARTICIPANT. 1. A PARTICIPANT MAY CONTRIBUTE TO THE PARTICIPANT'S INDIVIDUAL DEVELOPMENT ACCOUNT.

2. A PARTICIPANT'S CONTRIBUTIONS TO THE PARTICIPANT'S INDIVIDUAL DEVELOPMENT ACCOUNT SHALL ACCRUE INTEREST.

3. A PARTICIPANT MAY WITHDRAW MONEY FROM THE PARTICIPANT'S ACCOUNT ONLY TO PAY FOR THE FOLLOWING QUALIFIED EXPENDITURES:

(A) POSTSECONDARY EDUCATION OR TRAINING EXPENSES FOR THE ACCOUNT HOLDER;

(B) THE EXPENSES OF PURCHASING OR FINANCING A HOME FOR THE ACCOUNT HOLDER FOR THE FIRST TIME;

(C) THE EXPENSES OF A SELF-EMPLOYMENT ENTERPRISE; AND

(D) START-UP BUSINESS EXPENSES FOR THE ACCOUNT HOLDER.

S 9054. DUTIES OF SPONSORING ORGANIZATIONS. 1. THE SUPERINTENDENT SHALL ADOPT RULES TO ESTABLISH THE DUTIES OF SPONSORING ORGANIZATIONS UNDER THE PROGRAM.

2. EACH SPONSORING ORGANIZATION SHALL PROVIDE TO THE DEPARTMENT ANY INFORMATION NECESSARY TO EVALUATE THE SPONSORING ORGANIZATION'S PERFORMANCE IN FULFILLING THE DUTIES OUTLINED IN THE SUPERINTENDENT'S RULES.

S 9055. MATCHING FUNDS; LIMITATIONS ON AMOUNT AND AVAILABILITY. 1. AT THE TIME A PARTICIPANT IN THE PROGRAM MAKES A WITHDRAWAL FROM THE PARTICIPANT'S INDIVIDUAL DEVELOPMENT ACCOUNT FOR A QUALIFIED EXPENDITURE DESCRIBED BY SUBDIVISION THREE OF SECTION NINE THOUSAND FIFTY-THREE OF THIS ARTICLE, THE PARTICIPANT SHALL RECEIVE MATCHING FUNDS FROM THE SPONSORING ORGANIZATION, PAYABLE DIRECTLY TO THE SERVICE PROVIDER.

2. THE SPONSORING ORGANIZATION SHALL DETERMINE THE AMOUNT OF FEDERAL MATCHING FUNDS SPENT FOR EACH INDIVIDUAL DEVELOPMENT ACCOUNT AS LIMITED BY THE GUIDELINES ESTABLISHED BY THE ASSETS FOR INDEPENDENCE ACT.

3. THIS ARTICLE DOES NOT CREATE AN ENTITLEMENT OF A PARTICIPANT TO RECEIVE MATCHING FUNDS. THE NUMBER OF PARTICIPANTS WHO RECEIVE MATCHING FUNDS UNDER THE PROGRAM IN ANY YEAR IS LIMITED BY THE AMOUNT OF MONEY AVAILABLE FOR THAT PURPOSE IN THAT YEAR.

S 9056. WITHDRAWALS; TERMINATION OF ACCOUNT FOR UNQUALIFIED WITHDRAWALS. 1. THE SUPERINTENDENT SHALL ESTABLISH GUIDELINES TO ENSURE THAT A PARTICIPANT DOES NOT WITHDRAW MONEY FROM THE PARTICIPANT'S INDIVIDUAL DEVELOPMENT ACCOUNT EXCEPT FOR A QUALIFIED EXPENDITURE DESCRIBED BY SUBDIVISION THREE OF SECTION NINE THOUSAND FIFTY-THREE OF THIS ARTICLE.

2. THE SPONSORING ORGANIZATION SHALL INSTRUCT THE FINANCIAL INSTITUTION TO TERMINATE A PARTICIPANT'S ACCOUNT IF THE PARTICIPANT DOES NOT COMPLY WITH THE GUIDELINES ESTABLISHED BY THE SUPERINTENDENT.

3. A PARTICIPANT WHOSE INDIVIDUAL DEVELOPMENT ACCOUNT IS TERMINATED UNDER THIS SECTION IS ENTITLED TO WITHDRAW FROM THE PARTICIPANT'S ACCOUNT THE AMOUNT OF MONEY THE PARTICIPANT CONTRIBUTED TO THE ACCOUNT AND ANY INTEREST THAT HAS ACCRUED ON THAT AMOUNT.

S 9057. FUNDING. 1. THE LEGISLATURE MAY APPROPRIATE MONEY FOR THE PURPOSES OF THIS ARTICLE.

2. THE DEPARTMENT MAY SOLICIT AND ACCEPT GIFTS, GRANTS, AND DONATIONS FROM ANY PUBLIC OR PRIVATE SOURCE OF THE PURPOSES OF THIS ARTICLE.

3. IF MONEY IS NOT APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSES OF THIS ARTICLE THE DEPARTMENT IS ONLY REQUIRED TO IMPLEMENT SECTION NINE THOUSAND FIFTY-EIGHT OF THIS ARTICLE.

S 9058. COORDINATION. THE DEPARTMENT SHALL:

1. SERVE AS A CLEARINGHOUSE FOR INFORMATION RELATING TO STATE AND LOCAL AND PUBLIC AND PRIVATE PROGRAMS THAT FACILITATE ASSET DEVELOPMENT; AND

2. POST THE INFORMATION DESCRIBED BY SUBDIVISION ONE OF THIS SECTION ON THE DEPARTMENT'S WEBSITE.

S 9059. INTERAGENCY CONTRACTS. THE DEPARTMENT MAY ENTER INTO INTERAGENCY CONTRACTS WITH OTHER STATE AGENCIES TO FACILITATE THE EFFECTIVE ADMINISTRATION OF THIS ARTICLE.

S 9060. AGENCY COOPERATION. TO THE EXTENT ALLOWED BY LAW, THE SUPERINTENDENT SHALL PROVIDE INFORMATION TO THE DEPARTMENT AS NECESSARY TO IMPLEMENT THIS ARTICLE.

S 2. This act shall take effect September 1, 2013.