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

9171

I N A S S E M B L Y

February 1, 2016

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law and the tax law, in relation to NY ABLE account ownership, contributions and distributions; and to repeal certain provisions of the tax law relating thereto

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

Section 1. Subdivisions 2 and 3 of section 84.03 of the mental hygiene law, as added by a chapter of the laws of 2015 amending the mental hygiene law, the tax law, the social services law and the state finance law, relating to establishing the NY ABLE act, as proposed in legislative bills numbers S.4472-D and A.776-B, are amended to read as follows:

2. "Account" or "NY ABLE account" shall mean an individual savings account established in accordance with the provisions of [this article] SECTION 529A OF THE INTERNAL REVENUE CODE.

3. "Account owner" shall mean a person who opens a savings account pursuant to the provisions of [this article] SECTION 529A OF THE INTERNAL REVENUE CODE, AS AMENDED, OR ANY REGULATIONS PROMULGATED THEREUNDER. The account owner [may] MUST also be the designated beneficiary of the account.

S 2. Subdivisions 1 and 2 of section 84.05 of the mental hygiene law, as added by a chapter of the laws of 2015 amending the mental hygiene law, the tax law, the social services law and the state finance law, relating to establishing the NY ABLE act, as proposed in legislative bills numbers S.4472-D and A.776-B, are amended to read as follows:

1. The comptroller shall establish a NY ABLE account plan for all eligible individuals [and families] for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life. The comptroller is hereby authorized to promulgate any and all rules and regulations necessary for the implementation of this article in consultation with the commissioners of the office for people with developmental disabilities, the office of mental health, the department of health, and the office of temporary and disability assistance.

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

LBD10067-11-6

2. The comptroller may implement the NY ABLE savings account program through use of third party vendors as administrators of such accounts, and financial organizations as account depositories and managers. Under the program, ELIGIBLE individuals may establish accounts directly with an account depository.

S 3. Subdivisions 2 and 8 of section 84.09 of the mental hygiene law, as added by a chapter of the laws of 2015 amending the mental hygiene law, the tax law, the social services law and the state finance law, relating to establishing the NY ABLE act, as proposed in legislative bills numbers S.4472-D and A.776-B, are amended to read as follows:

2. [A NY ABLE account may be opened by any person who desires to save money for the payment of the qualified living expenses of a designated beneficiary. Such person who opens a NY ABLE account shall be considered the account owner as set forth in this article.]

(a) An application for [such] A NY ABLE account shall be in the form prescribed by the program and contain the following:

(i) the name, address and social security number or employer identification number of the account owner;

(ii) the designation of a designated beneficiary;

(iii) the name, address and social security number of the designated beneficiary; and

(iv) such other information as the program may require.

(b) The comptroller may establish a nominal fee for such application.

8. An account owner may change the designated beneficiary of an account to another beneficiary [who is qualified under the provisions of this article] ONLY AS PERMITTED UNDER SECTION 529A OF THE INTERNAL REVENUE CODE.

S 4. Subsection (b) of section 612 of the tax law, as added by a chapter of the laws of 2015 amending the mental hygiene law, the tax law, the social services law and the state finance law, relating to establishing the NY ABLE act, as proposed in legislative bills numbers S.4472-D and A.7767-B, is REPEALED.

S 5. Paragraphs 42 and 43 of subsection (c) of section 612 of the tax law, as added by a chapter of the laws of 2015 amending the mental hygiene law, the tax law, the social services law and the state finance law, relating to establishing the NY ABLE act, as proposed in legislative bills numbers S.4472-D and A7767-B, are REPEALED.

S 6. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2015 amending the mental hygiene law, the tax law, the social services law and the state finance law, relating to establishing the NY ABLE act, as proposed in legislative bills numbers S.4472-D and A.7767-B, takes effect.