
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 879 Session of
2015

INTRODUCED BY BAKER, BARTOLOTTA, McILHINNEY, TEPLITZ, GORDNER,
PILEGGI, SMITH, FONTANA, STEFANO, VANCE, VULAKOVICH, FOLMER,
GREENLEAF, RAFFERTY, AUMENT, HAYWOOD, WARD, BLAKE AND
SCARNATI, JUNE 8, 2015

REFERRED TO FINANCE, JUNE 8, 2015

AN ACT

1 Providing for the establishment of a savings program by the
2 Treasury Department to encourage savings accounts for
3 individuals with disabilities; establishing the Pennsylvania
4 ABLE Savings Program and the ABLE Savings Program Fund; and
5 imposing duties on the Treasury Department.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 CHAPTER 1

9 PRELIMINARY PROVISIONS

10 Section 101. Short title.

11 This act shall be known and may be cited as the Pennsylvania
12 ABLE Act.

13 Section 102. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "ABLE." Achieving a Better Life Experience.

18 "ABLE account contract." A contract between a program

1 manager or the department and an account owner.

2 "ABLE savings account." An individual savings account
3 established in accordance with this act.

4 "Account." An ABLE savings account.

5 "Account owner." A person or legal entity authorized to be
6 an ABLE account owner under section 529A of the Internal Revenue
7 Code who enters into an ABLE account contract under this act.

8 "Department." The Treasury Department of the Commonwealth.

9 "Designated beneficiary." An eligible individual whose
10 qualified disability expenses may be paid from the account.

11 "Eligible individual." An eligible individual as defined in
12 section 529A(e)(1) of the Internal Revenue Code.

13 "Fund." The ABLE Savings Program Fund established in section
14 302.

15 "Internal Revenue Code." The Internal Revenue Code of 1986
16 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

17 "Nonqualified withdrawal." A withdrawal from an account
18 which is not:

19 (1) A qualified withdrawal.

20 (2) A rollover distribution.

21 "Program." The Pennsylvania ABLE Savings Program established
22 under section 301.

23 "Qualified ABLE program." As defined in section 529A(b)(1)
24 of the Internal Revenue Code.

25 "Qualified disability expense." A qualified disability
26 expense included under section 529A of the Internal Revenue
27 Code.

28 "Qualified withdrawal." A withdrawal from an account to pay
29 the qualified disability expenses of the designated beneficiary
30 of the account.

1 "Rollover distribution." A rollover distribution as used in
2 section 529A of the Internal Revenue Code.

3 CHAPTER 3
4 PENNSYLVANIA ABLE SAVINGS PROGRAM

5 Section 301. Pennsylvania ABLE Savings Program.

6 (a) Establishment.--The department may establish and
7 maintain a savings program through which ABLE savings accounts
8 may be opened for eligible individuals for payment of qualified
9 disability expenses. Notwithstanding any other provision of law,
10 an ABLE savings program established by the department shall be
11 maintained at all times in such a manner as to ensure the
12 program's status as a qualified ABLE program.

13 (b) Purpose.--The purpose of the program is to empower an
14 individual with a disability and the individual's family to save
15 private funds in a savings account to support the individual
16 with a disability in maintaining health, independence and
17 quality of life.

18 (c) Administration.--The department may utilize the
19 administrative or investment structures of the Tuition Account
20 Investment Program established by the act of April 3, 1992
21 (P.L.28, No.11), known as the Tuition Account Programs and
22 College Savings Bond Act, without separately soliciting
23 proposals for assistance in the management of all or part of the
24 program.

25 (d) Investment manager and trustee.--The department may
26 contract with one or more persons or other legal entities to
27 serve as investment managers, program managers and trustees to
28 the department on behalf of the program. If the department
29 contracts with investment managers, program managers or trustees
30 in order to fulfill the objectives of the program, the

1 investment managers, program managers and trustees shall work
2 with the department to create a program to develop investment
3 portfolios and to supervise investments and the investment
4 programs selected.

5 (e) Contracts with other states.--The department may
6 contract with another state for any of the following:

7 (1) For another state to provide all or part of the
8 program to beneficiaries residing in this Commonwealth.

9 (2) For the department to provide all or part of the
10 program to beneficiaries residing in another state.

11 (3) For the department and another state to engage in
12 joint efforts to establish and maintain ABLE savings
13 programs.

14 Section 302. ABLE Savings Program Fund.

15 (a) Fund established.--The ABLE Savings Program Fund is
16 established in the State Treasury. The fund shall consist of all
17 the following:

18 (1) All contributions made to accounts of eligible
19 individuals pursuant to ABLE account contracts and all
20 interest, earnings and additions to the accounts.

21 (2) Any fees or charges levied on accounts to cover
22 expenses in administering the program.

23 (3) Other money appropriated or made available to the
24 department for the program from any source and all interest,
25 earnings and additions to the money.

26 (b) Continuing appropriation.--All money in the fund,
27 including fees and charges levied on an account to cover the
28 expenses in administering the program, contributions and
29 increase in value on the contributions, for distribution to or
30 on behalf of eligible individuals, is hereby appropriated to the

1 department on a continuing basis to carry out the provisions of
2 this act.

3 (c) Assets.--The assets of the fund shall be preserved,
4 invested and expended solely to and for the purposes of carrying
5 out this act.

6 (d) Investment.--The money in the fund shall be invested in
7 accordance with policies established by the department to
8 provide for an appropriate balance of risk, liquidity and return
9 commensurate with the management of a prudent investor. The
10 department, the investment managers, program managers and
11 trustees shall have the authority to invest and reinvest the
12 money in the fund in all lawful investments.

13 Section 303. Operating and administrative costs.

14 The department shall prepare and, through the Governor,
15 submit annually to the General Assembly a budget covering the
16 operating and administrative expenses of the program. Upon
17 approval by the General Assembly in an appropriation bill,
18 expenses as incurred by the program and the department shall be
19 paid from program fees and charges or from other available
20 funds.

21 Section 304. Interdepartmental cooperation.

22 The head of any department, board, commission, agency or
23 instrumentality of the Commonwealth, unless otherwise prohibited
24 by law, shall assist the department in providing information
25 about the program to potential eligible individuals and their
26 families.

27 Section 305. Department powers and duties.

28 In addition to the powers granted by other provisions of this
29 act, the department shall have the powers necessary or
30 convenient to carry out this act, including, but not limited to,

1 the power to:

2 (1) Administer the program and the fund.

3 (2) Enter into contracts with individuals for the
4 establishment of ABLE savings accounts.

5 (3) Pay to an account owner or designated beneficiary,
6 or a third party authorized by an account owner, upon receipt
7 of appropriate documentation if required by the department,
8 funds from the account to pay for the eligible individual's
9 qualified disability expenses.

10 (4) Contract for goods and services and engage and
11 employ personnel, including, but not limited to, the service
12 of private consultants, actuaries, managers, legal counsel
13 and auditors for rendering professional, managerial and
14 technical assistance and advice.

15 (5) Solicit and accept gifts, grants, loans and other
16 aid from any person, corporation or other entity or from a
17 government entity and participate in any Federal, State or
18 local government program that results in additional funds
19 being available to pay for the qualified disability expenses
20 of eligible individuals with ABLE savings accounts.

21 (6) Charge and collect administrative fees and charges
22 in connection with any transaction, including continued
23 participation in the program.

24 (7) Close ABLE savings accounts and return any remaining
25 funds, minus any fees, to the account owner.

26 (8) Contract for insurance, letters of credit and
27 collateral agreements.

28 (9) Adjust the terms of contracts with account owners.

29 (10) Solicit answers from appropriate Federal agencies
30 regarding the application of security or other Federal laws

1 to the program.

2 (11) Consider means whereby contributions into an ABLE
3 savings account can be deducted from salary.

4 (12) Promulgate regulations to implement the provisions
5 of this act.

6 (13) Take any other action necessary to carry out the
7 purpose of this act and incidental to the duties imposed on
8 the department.

9 CHAPTER 5

10 ACCOUNTS

11 Section 501. ABLE savings accounts.

12 (a) ABLE account contract.--An ABLE savings account may be
13 opened through a contract entered into by an account owner and
14 the department. If the account owner is a fiduciary, the account
15 owner shall continue to have signatory authority over the
16 account until the account owner relinquishes the authority.

17 (b) Fiduciaries.--To the extent that Federal law requires an
18 eligible individual to be the account owner, the following may
19 enter into an ABLE account contract as fiduciary for an eligible
20 individual who is a minor or who lacks capacity to enter into an
21 ABLE account contract:

22 (1) A parent or guardian.

23 (2) A person or legal entity designated in writing by
24 the parent or guardian.

25 (3) A trustee of a trust for which the eligible
26 individual is a beneficiary.

27 (4) For an eligible individual receiving benefits based
28 on blindness or a disability under Title II of the Social
29 Security Act (49 Stat. 620, 42 U.S.C. § 401 et seq.) or Title
30 XVI of the Social Security Act (42 U.S.C. § 1381), the

1 representative payee for those benefits.

2 (5) Any other person or entity authorized under section
3 529A of the Internal Revenue Code with signature authority
4 over the account.

5 (c) Change of designated beneficiary.--An account owner may
6 change the designated beneficiary named in the ABLE account
7 contract to another eligible individual if permitted under
8 section 529A of the Internal Revenue Code.

9 Section 502. Nonqualified withdrawals.

10 (a) Value received.--Upon a full or partial withdrawal of
11 funds from an account, which are not used for qualified
12 disability expenses, the account owner or the account owner's
13 designee shall receive the market value of the account for the
14 amount requested.

15 (b) Fees.--The department may impose fees and charges for
16 administrative costs upon a nonqualified withdrawal or
17 termination and deduct the fee from the amount otherwise
18 payable.

19 (c) Involuntary termination.--The department may close an
20 account and return any remaining funds in the account as a
21 nonqualified withdrawal if necessary for compliance with Federal
22 law or if the department, in its sole discretion, finds that
23 termination is in the best interest of the program or the
24 designated beneficiary.

25 (d) Taxation.--In the event of a nonqualified withdrawal, to
26 the extent the amount withdrawn includes earnings on the
27 contributions to the account or contributions to the account
28 that are eligible to be deducted from Pennsylvania income tax
29 for the tax year in which the contributions were made, the
30 amount of earnings and deductible contributions shall be subject

1 to taxation as income under the laws of this Commonwealth.

2 Section 503. Treatment of accounts.

3 (a) Levy, execution and security for loans.--An account
4 shall not be subject to attachment, levy or execution by any
5 creditor of a contributor, account owner or designated
6 beneficiary and shall not be used as security for a loan.

7 (b) Disability or health benefits.--Any amounts contributed
8 to an account, any increase in the value of the account and any
9 qualified withdrawal from the account shall not be used in
10 calculating personal assets of a designated beneficiary or an
11 account owner in order to determine eligibility for disability,
12 medical assistance or other health benefits conferred by the
13 Commonwealth.

14 (c) Student aid.--Any amounts contributed to an account and
15 any increase in the value of the account shall not be used in
16 calculating personal asset contributions for determining
17 eligibility and need for student loan programs, student grant
18 programs or other student aid programs administered by an agency
19 of the Commonwealth, except as otherwise may be provided by
20 Federal law.

21 CHAPTER 7

22 EXEMPTIONS

23 Section 701. Exemption from security laws.

24 The program and accounts are exempt from any statute
25 regulating securities, including the act of December 5, 1972
26 (P.L.1280, No.284), known as the Pennsylvania Securities Act of
27 1972.

28 Section 702. State tax exemption.

29 (a) Property of funds.--The property of the program and the
30 earnings from the program shall be exempt from all taxation by

1 the Commonwealth and its political subdivisions.

2 (b) Contributions.--Contributions made to an account, any
3 increase in the value of those contributions, the retention or
4 transfer during life or as a result of death of any legal
5 interest in an account and payment of qualified disability
6 expenses of eligible individuals from an account shall be exempt
7 from all taxation by the Commonwealth and its political
8 subdivisions.

9 CHAPTER 21

10 MISCELLEANOUS PROVISIONS

11 Section 2101. Limitation.

12 Any obligation or debt under this act shall not be deemed an
13 obligation or debt of the Commonwealth, nor shall the
14 Commonwealth be liable to pay principal and interest on
15 obligations or to offset any loss of principal and interest
16 earnings on investments made by the department under this act.

17 Section 2102. Effective date.

18 This act shall take effect immediately.