

By: Henderson

To: Ways and Means

HOUSE BILL NO. 1546

1 AN ACT TO PROVIDE FOR INDIVIDUAL DEVELOPMENT ACCOUNTS; TO
2 DEFINE CERTAIN TERMS; TO PROVIDE THAT QUALIFYING INDIVIDUALS MAY
3 ESTABLISH AN INDIVIDUAL DEVELOPMENT ACCOUNT; TO PRESCRIBE THE
4 DUTIES OF COMMUNITY DEVELOPMENT CORPORATIONS; TO PROVIDE A LIMIT
5 ON THE NUMBER OF ACCOUNTS THAT MAY BE ESTABLISHED IN A YEAR; TO
6 REQUIRE REPORTING; TO PROVIDE FOR DEPOSITS; TO PROVIDE FOR THE
7 ESTABLISHMENT OF INDIVIDUAL DEVELOPMENT ACCOUNT FUNDS; TO REGULATE
8 WITHDRAWALS FROM SUCH ACCOUNTS; TO PROVIDE FOR ACCOUNT
9 EVALUATIONS; TO PROVIDE INCOME TAX CREDITS; TO PROVIDE THE
10 PROCEDURE FOR CLAIMING A TAX CREDIT; TO LIMIT THE AMOUNT OF TAX
11 CREDIT; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 SECTION 1. The following words and phrases shall have the
14 meanings ascribed herein unless the context clearly indicated
15 otherwise:

16 (a) "Account" refers to an individual development
17 account;

18 (b) "Community development corporation" means a
19 private, nonprofit corporation:

20 (i) Whose board of directors consists primarily of
21 community representatives and business, civic, and community
22 leaders; and

23 (ii) Whose principal purpose includes the
24 provision of:

25 1. Housing;

26 2. Community based economic development
27 projects; and

28 3. Social services; that primarily benefit
29 low income individuals and

30 (c) "Financial institution" has the same meaning as

31 "bank" in Section 81-3-1;

32 (d) "Fund" refers to an individual development account
33 fund established by a community development corporation;

34 (e) "Individual development, account" means an account
35 in a financial institution administered by a community development
36 corporation that allows a qualifying individual to deposit money:

37 (i) To be matched by the state, financial
38 institutions, corporations, and other entities; and

39 (ii) That will be used by the qualifying
40 individual for one (1) or more of the following:

41 1. To pay for costs at an accredited
42 institution of higher education or a vocational school for the
43 individual or for a dependent of the individual.

44 2. To pay for the costs associated with an
45 accredited or licensed training program that may lead to
46 employment for the individual or for a dependent of the
47 individual.

48 3. To purchase a primary residence for the
49 individual or for a dependent of the individual.

50 4. To begin or to purchase part or all of a
51 business.

52 (f) "Qualifying individual" means an individual or a
53 member of an individual's household who may establish an
54 individual development account because the individual:

55 (i) Receives or is a member of a house hold that
56 receives assistance;

57 (ii) Is a member of a household with an annual
58 household income that is less than one hundred fifty percent
59 (150%) of the federal income poverty level.

60 SECTION 2. (1) A qualifying individual may establish an
61 account by applying at a community development corporation.

62 (2) At the time of establishing an account under this
63 section, the qualifying individual must name a beneficiary to

64 replace the qualifying individual as the holder of the account if
65 the qualifying individual dies. If the beneficiary:

66 (a) Is a member of the qualifying individual's family,
67 all funds in the account remain in the account; and

68 (b) Is not a member of the qualifying individual's
69 family, all funds in the account provided by the state revert to
70 the state.

71 The qualifying individual may change the name of the
72 beneficiary at the qualifying individual discretion. A
73 beneficiary who becomes the holder of an account under this
74 chapter regarding withdrawals from the account.

75 (3) Only one (1) member of a qualifying individual's
76 household may establish an account.

77 SECTION 3. A community development corporation shall be the
78 following:

79 (a) Determine whether an individual who wants to
80 establish an account is a qualifying individual.

81 (b) Administer, through a financial institution, and
82 act as trustee for each account established through the community
83 development corporation.

84 (c) Approve or deny an individual's request to make a
85 withdrawal from the individual's account.

86 (d) Provide or arrange for training in money
87 management, budgeting, and related topics for each individual who
88 establishes an account.

89 SECTION 4. (1) An individual may deposit money from the
90 individual's earned income into the individual's account.

91 (2) An individual may deposit an unlimited amount of money
92 into the individual's account. However, only Three Hundred
93 Dollars (\$300.00) annually is eligible for a state deposit as
94 provided in Section 7 of this act.

95 SECTION 5. (1) Not more than eight hundred (800) accounts
96 may be established in the state each year.

97 (2) A community development corporation shall use money that
98 is in an individual development account fund established under
99 Section 8 of this act to allow a qualified individual on a waiting
100 list maintained by the community development corporation to
101 establish an account.

102 SECTION 6. (1) Each community development corporation shall
103 annually provide the Department of Banking and Consumer Finance
104 with information needed to determine:

105 (a) The number of accounts administered by the
106 community development corporation;

107 (b) The length of time each account under subdivision
108 one (1) has been established; and

109 (c) The amount of money an individual has deposited
110 into each account under subdivision one (1) during the preceding
111 twelve (12) months.

112 (2) The department of commerce shall use the information
113 provided under subsection (a) to deposit the correct amount of
114 money into each account as provided in Section 12 of this chapter.

115 SECTION 7. (1) The Department of Banking and Consumer
116 Finance shall allocate, for each account that has been established
117 for not more than four (4) years, Three Dollars (\$3.00) for each
118 One Dollar (\$1.00) an individual deposited into the individual's
119 account during the preceding twelve (12) months. However, the
120 department's allocation under this subsection may not exceed Nine
121 Hundred Dollars (\$900.00) for each account described in this
122 subsection.

123 (2) Not later than June 30 of each year, the department
124 shall deposit into each account established under this act the
125 appropriate amount of money determined under this section.

126 (3) Money from a federal block grant program under Title
127 IV-A of the federal Social Security Act may be used by the state
128 to provide money under this section for deposit into an account
129 held by an individual who receives assistance under IC

130 12-14-2.

131 SECTION 8. (1) Each community development corporation shall
132 establish an individual development account fund to provide money
133 to be used to finance additional accounts to be administered by
134 the community development corporation under this chapter.

135 (2) Each community development corporation shall encourage
136 individuals, financial institutions, corporations, and other
137 entities to contribute to the fund. A contributor to the fund may
138 qualify for a tax credit.

139 (3) A community development corporation may allow an
140 individual to establish a new account as adequate funding becomes
141 available.

142 (4) Only money from the fund may be used to make the deposit
143 described in subsection (5) into an account established under this
144 section.

145 (5) The community development corporation shall annually
146 deposit at least Three Dollars (\$3.00) into each account for each
147 One Dollar (\$1.00) an individual has deposited into the
148 individual's account as of June 30.

149 (6) A community development corporation may not allow a
150 qualifying individual to establish an account if the community
151 development corporation does not have adequate funds to deposit
152 into the account under subsection (e).

153 SECTION 9. (1) An account must earn interest at a rate that
154 is competitive in the county where the account is located.

155 (2) Interest earned on an account during a taxable year is
156 not subject to taxation.

157 SECTION 10. (1) An individual must request and receive
158 authorization from the community development corporation that
159 administers the individual's account before withdrawing money from
160 the account for any purpose.

161 (2) An individual who is denied authorization to withdraw
162 money under subsection (1) may appeal the community development

163 corporation's decision to the department of commerce under rules
164 adopted by the department of commerce under IC 4-22-2.

165 SECTION 11. (1) Money withdrawn from an individual's
166 account is not subject to taxation if the money is used for at
167 least one (1) of the following:

168 (a) To pay for costs at an accredited institution of
169 higher education or a vocational school for the individual or for
170 a dependent of the individual.

171 (b) To pay for the costs associated with an accredited
172 or a licensed training program that may lead to employment for the
173 individual or for a dependent of the individual.

174 (c) To purchase a primary residence for the individual
175 or for a dependent of the individual.

176 (d) To begin or to purchase part of all of a business.

177 (2) At the time of requesting authorization under Section 10
178 of this act to withdraw money from an individual's account under
179 subsection (1)(d), the individual must provide the community
180 development corporations with a business plan that:

181 (a) Is approved by:

182 (i) A financial institution; or

183 (ii) A nonprofit loan fund that has demonstrated
184 fiduciary stability;

185 (b) Includes a description of services or goods to be
186 sold, a marketing plan, and projected financial statements; and

187 (c) May require the individual to obtain the assistance
188 of an experienced business advisor.

189 SECTION 12. Money in an account may not be considered:

190 (a) An asset of an individual when determining the
191 individual's eligibility for assistance;

192 (b) A countable asset.

193 SECTION 13. Each community development corporation shall
194 annually:

195 (a) Evaluate the individual development accounts

196 administered by the community development corporation; and

197 (b) Submit a report containing the evaluation
198 information to the department of commerce.

199 SECTION 14. (1) Not later than July 1, 2001 the Department
200 of Banking and Consumer Finance shall begin to evaluate the
201 program for individual development accounts established under this
202 chapter to determine whether to extend the program.

203 (2) The evaluation under subsection (1) must be completed
204 not later than December 1, 2001.

205 SECTION 15. An account may not be established under Section
206 5 of this act after June 30, 2001. However:

207 (a) An individual may continue to contribute to an
208 existing account; and

209 (b) The state's obligation to match funds in an
210 existing account as provided in Section 12 of this chapter
211 continues; during the evaluation period provided in Section 19 of
212 this chapter.

213 SECTION 16. The Department of Banking and Consumer Finance
214 may adopt rules and regulations under to implement this act.

215 (a) A corporation that is exempt form the adjusted
216 gross income tax under IC 6-3-2-2.8(2);

217 (b) A partnership;

218 (c) A limited liability company; or

219 (d) A limited liability partnership.

220 SECTION 17. (1) The State Tax Commission shall grant a tax
221 credit against any gross, adjusted gross, or supplemental net
222 income tax due equal to fifty percent (50%) of the amount
223 contributed by a person or an individual to a fund if the
224 contribution is not less than One Thousand Dollars (\$1,000.00) and
225 not more than Fifty Thousand Dollars (\$50,000.00).

226 (2) The credit provided by this chapter shall only be
227 applied against any income tax liability owned by the taxpayer
228 after the application of any credits that must be applied before

229 the credit provided by this act.

230 SECTION 18. If a pass through entity is entitled to a credit
231 under Section 17 of this act but does not have state tax liability
232 against which the tax credit may be applied, a shareholder,
233 partner, or member of the pass through entity is entitled to a tax
234 credit equal to:

235 (a) the tax credit determined for the pass through
236 entity for the taxable year; multiplied by

237 (b) the percentage of the pass through entity's
238 distributive income to which the share holder, partner, or member
239 is entitled.

240 SECTION 19. The credit provided under Section 18 of this act
241 is in addition to a tax credit to which a shareholder, partner, or
242 member of a pass through entity is otherwise entitled. However, a
243 pass through entity and a shareholder, partner, or member of the
244 pass through entity may not claim more than one (1) credit for the
245 same qualified expenditure.

246 SECTION 20. (1) A person that or an individual who desires
247 to claim a tax credit as provided in this act shall file with the
248 State Tax Commission, in the form approved by the commission, an
249 application stating the amount of the contribution that the person
250 or individual proposes to make that would qualify for a tax credit
251 and the amount sought to be claimed as a credit.

252 (2) The State Tax Commission shall promptly notify an
253 applicant whether, or the extent to which, the tax credit is
254 allowable in the state fiscal year in which the application is
255 filed, as provided in Section 17 of this act. If the credit is
256 allowable in that state fiscal year, the applicant shall within
257 thirty (30) days after receipt of the notice file with the
258 department a statement, in the form and accompanied by the proof
259 of payment as the department may prescribe, setting forth that the
260 amount to be claimed as a credit under this chapter has been paid
261 to a fund as provided in Section 17 of this act.

262 (3) The State Tax Commission may disallow any credit claimed
263 under this chapter for which the statement or proof of payment is
264 not filed within the thirty (30) day period.

265 SECTION 21. (1) The amount of tax credits allowed under
266 this chapter may not exceed Five Hundred Thousand Dollars
267 (\$500,000.00) in any state fiscal year.

268 (2) The State Tax Commission shall:

269 (a) record the time of filing of each application for
270 allowance of a credit required under Section 20 of this act; and

271 (b) approve the applications, if they otherwise qualify
272 for a tax credit under this act, in the chronological order in
273 which the applications are filed in the state fiscal year.

274 (3) When the total credits approved under this section equal
275 the maximum amount allowable in any state fiscal year, and
276 application filed after that time for the same fiscal year may not
277 be approved. However, if an applicant for whom a credit has been
278 approved falls to file the statement of proof of payment required
279 under Section 20 of this act, an amount equal to the credit
280 previously allowed or set aside for the applicant may be allowed
281 to any subsequent applicant in the year. In addition, the
282 department may, if the applicant so request, approve a credit
283 application, in whole or in part, with respect to the next
284 succeeding state fiscal year.

285 SECTION 22. A tax credit shall be allowable under this act
286 only for the taxable year of the taxpayer in which the
287 contribution qualifying for the credit is paid.

288 SECTION 23. This act shall take effect and be in force from
289 and after July 1, 2000.