

No. 51. An act relating to promoting economic development.

(S.138)

Sec. C.7. 33 V.S.A. chapter 80 is added to read:

CHAPTER 80. VERMONT ACHIEVING A BETTER LIFE

EXPERIENCE (ABLE) SAVINGS PROGRAM

§ 8001. PROGRAM ESTABLISHED

(a) The State Treasurer or designee shall have the authority to establish the Vermont Achieving A Better Life Experience (ABLE) Savings Program consistent with the provisions of this chapter under which a person may make contributions for a taxable year, for the benefit of an individual who is an eligible individual for such taxable year, to an ABLE account which is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account; and which:

(1) limits a designated beneficiary to one ABLE account for purposes of this section;

(2) allows for the establishment of an ABLE account only for a designated beneficiary who is a resident of Vermont or a resident of a contracting State; and

(3) meets the other requirements of this chapter.

(b)(1) The Treasurer or designee may solicit proposals from financial organizations to implement the Program as account depositories and managers.

(2) A financial organization that submits a proposal shall describe the investment instruments which will be held in accounts.

(3) The Treasurer shall select from among the applicants one or more financial organizations that demonstrate the most advantageous combination, both to potential program participants and this State, of the following criteria:

(A) the financial stability and integrity of the financial organization;

(B) the safety of the investment instrument offered;

(C) the ability of the financial organization to satisfy recordkeeping and reporting requirements;

(D) the financial organization's plan for promoting the program and the investment the organization is willing to make to promote the program;

(E) the fees, if any, proposed to be charged to the account owners;

(F) the minimum initial deposit and minimum contributions that the financial organization will require;

(G) the ability of the financial organization to accept electronic withdrawals, including payroll deduction plans; and

(H) other benefits to the State or its residents included in the proposal, including fees payable to the State to cover expenses of operation of the Program.

(c) The Treasurer or designee shall have the authority to adopt rules, policies, and procedures necessary to implement the provisions of this chapter and comply with applicable federal law.

§ 8002. DEFINITIONS

In this chapter:

(1) “ABLE account” means an account established by an eligible individual, owned by the eligible individual, and maintained under the Vermont ABLÉ Savings Program.

(2) “Designated beneficiary” means the eligible individual who establishes an ABLÉ account under this chapter and is the owner of the account.

(3) “Disability certification” means a certification to the satisfaction of the Secretary by the individual or the parent or guardian of the individual that:

(A) certifies that:

(i) the individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, or the individual is blind within the meaning of Section 1614(a)(2) of the Social Security Act, and

(ii) such blindness or disability occurred before the individual attained 26 years of age; and

(B) includes a copy of the individual’s diagnosis relating to the individual’s relevant impairment or impairments, signed by a physician meeting the criteria of Section 1861(r)(1) of the Social Security Act.

(4) “Eligible individual” means:

(A) a person who during a taxable year is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained 26 years of age; or

(B) a person for whom a disability certification is filed with the Secretary for the taxable year.

(5) “Financial organization” means an organization authorized to do business in this State and that is:

(A) licensed or chartered by the Department of Financial Regulation;

(B) chartered by an agency of the federal government; or

(C) subject to the jurisdiction and regulation of the federal Securities and Exchange Commission.

(6) “Member of family” means a brother, sister, stepbrother, or stepsister of a designated beneficiary.

(7) “Qualified disability expense” means an expense related to the eligible individual’s blindness or disability which is made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: education, housing, transportation, employment training and

support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are approved by the Secretary under regulations and consistent with the purposes of this section.

(8) “Secretary” means the Secretary of the U.S. Department of the Treasury.

§ 8003. PROGRAM LIMITATIONS

(a) Cash contributions. The Treasurer or designee shall not accept a contribution:

(1) unless it is in cash; or

(2) except in the case of a contribution under 26 U.S.C. § 529A(c)(1)(C) (relating to a change in a designated beneficiary or program), if such contribution to an ABLE account would result in aggregate contributions from all contributors to the ABLE account for the taxable year exceeding the amount in effect under subsection 2503(b) of this title for the calendar year in which the taxable year begins.

(b) Separate accounting. The Treasurer or designee shall provide separate accounting for each designated beneficiary.

(c) Limited investment direction. A designated beneficiary may, directly or indirectly, direct the investment of any contributions to the Vermont ABLE

Savings Program, or any earnings thereon, no more than two times in any calendar year.

(d) No pledging of interest as security. A person shall not use an interest in the Vermont ABLE Savings Program, or any portion thereof, as security for a loan.

(e) Prohibition on excess contributions. The Treasurer or designee shall adopt adequate safeguards under the Vermont ABLE Savings Program to prevent aggregate contributions on behalf of a designated beneficiary in excess of the limit established by the State pursuant to 26 U.S.C. § 529(b)(6).

§ 8004. REPORTS

(a) In general. The Treasurer or designee shall make such reports regarding the Program to the Secretary and to designated beneficiaries with respect to contributions, distributions, the return of excess contributions, and such other matters as the Secretary may require.

(b) Notice of establishment of account. The Treasurer or designee shall submit a notice to the Secretary upon the establishment of an ABLE account that includes the name and state of residence of the designated beneficiary and such other information as the Secretary may require.

(c) Electronic distribution statements. The Treasurer or designee shall submit electronically on a monthly basis to the Commissioner of Social Security, in the manner specified by the Commissioner, statements on relevant

distributions and account balances from all ABLE accounts created under the Vermont ABLÉ Savings Program.

(d) Requirements. The Treasurer or designee shall file the reports and notices required under this section at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

Sec. C.8. VERMONT ABLÉ TASK FORCE; REPORTS

The State Treasurer shall convene a Vermont ABLÉ Task Force to include representatives of the Department of Disabilities, Aging, and Independent Living, the Vermont Developmental Disabilities Council, Vermont Center for Independent Living; Green Mountain Self-Advocates, and other stakeholders with relevant expertise, to provide recommendations on or before January 15, 2016 to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on planning and delivery of the ABLÉ Savings Program, including:

- (1) promotion and marketing of the Program;
- (2) rules governing operation of ABLÉ accounts, including mechanisms for consumer convenience;
- (3) fees charged to account owners;
- (4) future enhancements to protect from the loss of State benefits as may be necessary to fulfill the intent of the ABLÉ Act;
- (5) the composition and charge of an ABLÉ Advisory Board; and

(6) a progress update on implementation of the Program consistent with U.S. Treasury Department Rules, the Internal Revenue Code, and the federal ABLE Act (P.L. 113-295 of 2014).