

Oregon Revised Statutes
2007 Edition
INDIVIDUAL DEVELOPMENT ACCOUNTS

458.670 Definitions for ORS 458.670 to 458.700. As used in this section and ORS 458.675 to 458.700, unless the context requires otherwise:

(1) “Account holder” means a resident of this state who:

(a) Is 12 years of age or older;

(b) Is a member of a lower income household; and

(c) Has established an individual development account with a fiduciary organization.

(2) “Fiduciary organization” means an organization selected under ORS 458.695 to administer state moneys directed to individual development accounts and that is:

(a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2006; or

(b) A federally recognized Oregon Indian tribe that is located, to a significant degree, within the boundaries of this state.

(3) “Financial institution” means:

(a) An organization regulated under ORS chapters 706 to 716, 722 or 723; or

(b) In the case of individual development accounts established for the purpose described in ORS 458.685 (1)(c), a financial institution as defined in ORS 348.841.

(4) “Individual development account” means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into the financial institution by the fiduciary organization, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(5) “Lower income household” means a household having an income equal to or less than 80 percent of the median household income for the area as determined by the Housing and Community Services Department. In making the determination, the department shall give consideration to any data on area household income published by the United States Department of Housing and Urban Development.

(6) “Resident of this state” has the meaning given that term in ORS 316.027. [1999 c.1000 §1; 2001 c.648 §3; 2007 c.765 §2]

Note: 458.670 to 458.700 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 458 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

458.675 Legislative findings. The Legislative Assembly finds that:

(1) The problem of poverty will not be solved solely by government programs and income subsidies.

(2) Family economic well-being does not come solely from income, spending or consumption, but instead requires savings, investment and the accumulation of assets.

(3) It is appropriate for the state to institute an asset-based antipoverty strategy.

(4) The state has an opportunity to take advantage of private and federal resources by making the transition to an asset-based antipoverty strategy. Those resources include, but are not limited to, the Assets for Independence Act (42 U.S.C. 604) and the Workforce Investment Act (P.L. 105-220).

(5) Investment through an individual development account system will help lower income households obtain the assets they need to succeed. Communities and this state will experience resultant economic and social benefits accruing from the promotion of job training and higher education, home ownership and small business development.

(6) It is desirable for this state to enact legislation that enables an authorized fiduciary organization sufficient flexibility to receive private, state and federal moneys for individual development accounts. The Legislative Assembly should periodically review the provisions of ORS 458.675 to 458.700 to ensure that this state maximizes the receipt of available federal moneys for individual development accounts. [1999 c.1000 §2]

Note: See note under 458.670.

458.680 Persons qualifying as account holders. (1) A person who qualifies to become an account holder may enter into an agreement with a fiduciary organization for the establishment of an individual development account.

(2) To become an account holder a person must, in addition to meeting any other qualifications, be a member of a lower income household that has a net worth of less than

\$20,000. As used in this subsection, “net worth” means the value of all assets owned in whole or part by household members, other than equity in a residence and in one vehicle, minus the total debts and obligations of household members, all as measured at the time that the person applies to establish the account.

(3) Every account holder, with support from the fiduciary organization, shall develop a personal development plan to advance account holder self-reliance. The personal development plan must include appropriate coaching, mentorship, social support, financial adequacy training and asset-specific training designed to increase the independence of the person and the person’s household through achievement of the account’s approved purpose.

(4) Notwithstanding subsection (1) of this section, a fiduciary organization may refuse to allow a qualified person to establish an account if establishment of the account would result in the members of a lower income household having more than one account. Notwithstanding subsection (1) of this section, a fiduciary organization shall refuse to allow a qualified person to establish an account if establishment of the account would result in the members of a lower income household having more than two accounts. [1999 c.1000 §3; 2007 c.765 §3]

Note: Section 8, chapter 765, Oregon Laws 2007, provides:

Sec. 8. The amendments to ORS 458.680 (3) by section 3 of this 2007 Act apply to holders of accounts established on or after the effective date of this 2007 Act [July 16, 2007]. [2007 c.765 §8]

Note: See note under 458.670.

458.685 Approved purpose of account; emergency withdrawal; removal of account holder from program. (1) A person may establish an individual development account only for a purpose approved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

(a) The acquisition of post-secondary education or job training.

(b) If the account holder has established the account for the benefit of a household member who is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare the member for post-secondary education or job training.

(c) If the account holder has established a college savings network account under ORS 348.841 to 348.873 on behalf of a designated beneficiary, the establishment of an additional college savings network account on behalf of the same designated beneficiary.

(d) The purchase of a primary residence. In addition to payment on the purchase price of the residence, account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs. The account holder must not have owned or held any interest in a residence during the three years prior to making the purchase. However, this three-year period shall not apply to displaced homemakers or other individuals who have lost home ownership as a result of divorce.

(e) The capitalization of a small business. Account moneys may be used for capital, plant, equipment and inventory expenses or for working capital pursuant to a business plan. The business plan must have been developed by a financial institution, nonprofit microenterprise program or other qualified agent demonstrating business expertise and have been approved by the fiduciary organization. The business plan must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

(f) Improvements, repairs or modifications necessary to make or keep the account holder's primary dwelling habitable, accessible or visitable for the account holder or a household member. This paragraph does not apply to improvements, repairs or modifications made to a rented primary dwelling to achieve or maintain a habitable condition for which ORS 90.320 (1) places responsibility on the landlord. As used in this paragraph, "accessible" and "visitable" have the meanings given those terms in ORS 456.508.

(g) The purchase of equipment, technology or specialized training required to become competitive in obtaining or maintaining employment or to start or maintain a business, as specified in the account holder's personal development plan for increasing the independence of the person.

(2)(a) If an emergency occurs, an account holder may withdraw all or part of the account holder's deposits to an individual development account for a purpose not described in subsection (1) of this section. As used in this paragraph, an emergency includes making payments for necessary medical expenses, to avoid eviction of the account holder from the account holder's residence and for necessary living expenses following a loss of employment.

(b) The account holder must reimburse the account for the amount withdrawn under this subsection within 12 months after the date of the withdrawal. Failure of an account holder to make a timely reimbursement to the account is grounds for removing the account holder from the individual development account program. Until the reimbursement has been made in full, an account holder may not withdraw any matching deposits or accrued interest on matching deposits from the account.

(3) If an account holder withdraws moneys from an individual development account for other than an approved purpose, the fiduciary organization may remove the account holder from the program.

(4) If an account holder moves from the area where the program is conducted or is otherwise unable to continue in the program, the fiduciary organization may remove the account holder from the program.

(5) If an account holder is removed from the program under subsection (2), (3) or (4) of this section, all matching deposits in the account and all interest earned on matching deposits shall revert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a source of matching deposits for other accounts. [1999 c.1000 §4; 2001 c.648 §4; 2003 c.280 §18; 2007 c.765 §4]

Note: See note under 458.670.

458.690 Required account features; rules. (1) Notwithstanding ORS 315.271, a fiduciary organization selected under ORS 458.695 may qualify as the recipient of account contributions that qualify the contributor for a tax credit under ORS 315.271 only if the fiduciary organization structures the accounts to have the following features:

(a) The fiduciary organization matches amounts deposited by the account holder according to a formula established by the fiduciary organization. The fiduciary organization shall maintain on deposit in the account not less than \$1 nor more than \$5 for each \$1 deposited by the account holder.

(b) The matching deposits by the fiduciary organization to the individual development account are placed in:

(A) A savings account jointly held by the account holder and the fiduciary organization and requiring the signatures of both for withdrawals;

(B) A savings account that is controlled by the fiduciary organization and is separate from the savings account of the account holder; or

(C) In the case of an account established for the purpose described in ORS 458.685 (1)(c), a college savings network account under ORS 348.841 to 348.873, in which the fiduciary organization is the account owner as defined in ORS 348.841.

(2) Account holders may not accrue more than \$3,000 of matching funds under subsection (1) of this section from state-directed moneys in any 12-month period. A fiduciary organization may designate a lower amount as a limit on annual matching

funds. A fiduciary organization shall maintain on deposit sufficient funds to cover the matching deposit agreements for all individual development accounts managed by the organization.

(3) The Housing and Community Services Department shall adopt rules to establish a maximum total amount of state-directed moneys that may be deposited as matching funds into an individual development account. [1999 c.1000 §5; 2001 c.648 §5; 2003 c.280 §19; 2007 c.765 §5]

Note: 458.690 is repealed January 2, 2016. See section 9, chapter 765, Oregon Laws 2007.

Note: See note under 458.670.

458.695 Selection of fiduciary organizations. The Housing and Community Services Department may select fiduciary organizations to administer moneys directed by the state to individual development account purposes. In making the selections, the department shall consider factors including, but not limited to:

(1) The ability of the fiduciary organization to implement and administer the individual development account program, including the ability to verify account holder eligibility, certify that matching deposits are used only for approved purposes and exercise general fiscal accountability;

(2) The capacity of the fiduciary organization to provide or raise matching funds for the deposits of account holders;

(3) The capacity of the fiduciary organization to provide appropriate support services and general assistance to advance account holder self-reliance; and

(4) The links that the fiduciary organization has to other activities and programs designed to increase the independence of this state's lower income households through education and training, home ownership and small business development. [1999 c.1000 §6; 2007 c.765 §6]

Note: See note under 458.670.

458.700 Authority of fiduciary organizations; rules. (1) Subject to Housing and Community Services Department rules, a fiduciary organization has sole authority over, and responsibility for, the administration of individual development accounts. The responsibility of the fiduciary organization extends to all aspects of the account program, including marketing to participants, soliciting matching contributions, counseling account holders, providing financial literacy education, and conducting required verification and compliances activities. The fiduciary organization may establish program provisions as the organization believes necessary to ensure account holder compliance with the provisions of ORS 458.680 and 458.685. Notwithstanding ORS 458.670 (5) and 458.680 (2), a fiduciary organization may establish income and net worth limitations for account holders that are lower than the income and net worth limitations established by ORS 458.670 (5) and 458.680 (2).

(2) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, nonprofit organizations, community development corporations, community action programs, housing authorities and congregations to assist in the fulfillment of fiduciary organization responsibilities under this section and ORS 458.685, 458.690 and 458.695.

(3) A fiduciary organization may use a reasonable portion of moneys allocated to the individual development account program for administration, operation and evaluation purposes.

(4) A fiduciary organization selected to administer moneys directed by the state to individual development account purposes or receiving tax deductible contributions shall provide the Housing and Community Services Department with an annual report of the fiduciary organization's individual development account program activity. The report shall be filed no later than 90 days after the end of the fiscal year of the fiduciary organization. The report shall include, but is not limited to:

(a) The number of individual development accounts administered by the fiduciary organization;

(b) The amount of deposits and matching deposits for each account;

(c) The purpose of each account;

(d) The number of withdrawals made; and

(e) Any other information the department may require for the purpose of making a return on investment analysis.

(5) A fiduciary organization that is the account owner of a college savings network account:

(a) May make a qualified withdrawal only at the direction of the designated beneficiary and only after the college savings network account of the account holder that was established for the designated beneficiary has been reduced to a balance of zero exclusively through qualified withdrawals by the designated beneficiary; and

(b) May make nonqualified withdrawals only if the college savings network account of the account holder that was established for the designated beneficiary has a balance of less than \$100 or if the account holder or designated beneficiary has granted permission to make the withdrawal. Moneys received by a fiduciary organization from a nonqualified withdrawal made under this paragraph must be used for individual development account purposes.

(6) The department may make all reasonable and necessary rules to ensure fiduciary organization compliance with this section and ORS 458.685, 458.690 and 458.695. [1999 c.1000 §7; 2001 c.648 §6; 2003 c.280 §20]

Note: The amendments to 458.700 by section 10, chapter 765, Oregon Laws 2007, become operative January 2, 2016. See section 11, chapter 765, Oregon Laws 2007. The text that is operative on and after January 2, 2016, is set forth for the user's convenience.

458.700. (1) Subject to Housing and Community Services Department rules, a fiduciary organization has sole authority over, and responsibility for, the administration of individual development accounts. The responsibility of the fiduciary organization extends to all aspects of the account program, including marketing to participants, soliciting matching contributions, counseling account holders, providing financial literacy education, and conducting required verification and compliance activities. The fiduciary organization may establish program provisions as the organization believes necessary to ensure account holder compliance with the provisions of ORS 458.680 and 458.685. Notwithstanding ORS 458.670 (5) and 458.680 (2), a fiduciary organization may establish income and net worth limitations for account holders that are lower than the income and net worth limitations established by ORS 458.670 (5) and 458.680 (2).

(2) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, nonprofit organizations, community development corporations, community action programs, housing authorities and congregations to assist in the fulfillment of fiduciary organization responsibilities under this section and ORS 458.685 and 458.695.

(3) A fiduciary organization may use a reasonable portion of moneys allocated to the individual development account program for administration, operation and evaluation purposes.

(4) A fiduciary organization selected to administer moneys directed by the state to individual development account purposes or receiving tax deductible contributions shall

provide the Housing and Community Services Department with an annual report of the fiduciary organization's individual development account program activity. The report shall be filed no later than 90 days after the end of the fiscal year of the fiduciary organization. The report shall include, but is not limited to:

(a) The number of individual development accounts administered by the fiduciary organization;

(b) The amount of deposits and matching deposits for each account;

(c) The purpose of each account;

(d) The number of withdrawals made; and

(e) Any other information the department may require for the purpose of making a return on investment analysis.

(5) A fiduciary organization that is the account owner of a college savings network account:

(a) May make a qualified withdrawal only at the direction of the designated beneficiary and only after the college savings network account of the account holder that was established for the designated beneficiary has been reduced to a balance of zero exclusively through qualified withdrawals by the designated beneficiary; and

(b) May make nonqualified withdrawals only if the college savings network account of the account holder that was established for the designated beneficiary has a balance of less than \$100 or if the account holder or designated beneficiary has granted permission to make the withdrawal. Moneys received by a fiduciary organization from a nonqualified withdrawal made under this paragraph must be used for individual development account purposes.

(6) The department may make all reasonable and necessary rules to ensure fiduciary organization compliance with this section and ORS 458.685 and 458.695.

Note: See note under 458.670.