



SPONSOR: Sen. Brown & Rep. Bolden & Rep. Dorsey Walker &
Rep. K. Johnson
Sen. Gay

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 243

AN ACT TO AMEND TITLE 29, TITLE 30, AND TITLE 31 OF THE DELAWARE CODE RELATING TO THE BABY BOND ACCOUNT FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 4, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~Chapter 4. Delaware Children's Trust Fund Act [Repealed].~~

~~§ 401-408. Title; intent and purpose of chapter; definitions; Board of Directors — established; composition; qualifications; advisors; terms; rules and regulations; compensation; duties and responsibilities; award of grants; separate nature of Fund; designation of tax refund as donation; investments; availability of funds for disbursement; reports of Board to Clearinghouse Committee [Repealed].~~

Chapter 4. Baby Bond Account Fund.

§ 401. Definitions.

For purposes of this chapter:

(1) "Account holder" means an eligible individual who is the owner of an individual account established under § 403 of this title.

(2) "Board" means the Plans Management Board established under § 2722 of Title 29.

(3) "Eligible individual" means an infant born on or after [the implementation date of this Act] who meets all of the following:

a. Is born to a parent who meets one of the following:

1. Is domiciled in this State at the infant's birth.

2. Establishes residence in this State within 6 months of the infant's birth.

b. Resides in a household having an annual household income on the infant's date of birth that does not exceed 200 percent of the federal poverty level.

(4) "Federal poverty level" means a measure of income promulgated annually by the United States Department of Health and Human Services under 42 U.S.C. § 9902 that established a threshold for poverty in the United States based on the size of household.

(5) "Fund" means the Baby Bond Account Fund established under § 402 of this title.

(6) "Household income" means income as defined in 7 C.F.R. §§ 245.2 and 245.6 or any subsequent superseding federal law or regulation.

(7) "Individual account" means an account established within the Baby Bond Account Fund for an eligible individual under § 403 of this title.

(8) "State Registrar" means the State Registrar of Vital Statistics established under § 3105 of Title 16. § 402. Baby Bond Account Fund; regulatory authority.

(a) There is established in the Office of the State Treasurer a fund known as the "Baby Bond Account Fund".

(b) The Fund consists of individual accounts of eligible individuals.

(c) The Fund is to be appropriated an amount sufficient to do the following:

(1) Create individual accounts in the amount of \$2,000 for each eligible individual.

(2) Pay the administrative expenses of carrying out this chapter.

(d) The moneys in the Fund may not be appropriated for or expended on a purpose other than the purposes under subsection (c) of this section.

(e) The Board shall administer the money in the Fund. In administering the Fund, the Board shall do the following:

(1) Adhere to the standard of care under § 2722(d)(3) of Title 29.

(2) Ensure that interest earnings that are attributable to money in the Fund are deposited into the Fund.

(g) The Office of the State Treasurer shall provide administrative support for the Fund.

(h) The State Treasurer, in consultation with the Board, shall adopt regulations to implement and administer this chapter.

§ 403. Creation of an individual account.

(a)(1) On the twentieth day of each month, the State Registrar shall transmit to the State Treasurer the name, address, and social security number of an eligible individual for whom the State Registrar received a certificate of birth under § 3121 of Title 16.

(2) On receipt of the information under paragraph (a)(1) of this section, the State Treasurer shall establish an individual account for the eligible individual and credit the account with \$2,000.

(b) If an eligible individual is not provided with an individual account under subsection (a) of this section, the eligible individual may apply to the State Treasurer to create the individual account. The State Treasurer shall prepare an application form.

(c) If the amounts in the Fund are insufficient to credit an individual account \$2,000, the Board shall determine guidelines to process new individual accounts and the appropriate allocation of moneys to be made to those accounts.

§ 404. Identifying an individual account; notification of eligibility for individual account.

(a) The State Treasurer shall assign a unique personal identifier to each individual account.

(b) The State Treasurer shall notify the parents of each eligible individual for whom an individual account is established under § 403(a)(2) of this title of the following:

(1) The unique personal identifier associated with the eligible individual's individual account.

(2) Information about the Fund, including requirements for withdrawing money from an individual account.

(3) Information on economic literacy training. The Board shall determine the economic literacy training curriculum to be used to fulfill the provisions of this paragraph (b)(3), however, the curriculum must include information offering a basic understanding of the following:

a. Budgets and savings accounts.

b. Credit and interest.

c. How to use financial services.

d. How to use a savings plan to reach the account holder's savings goal for an individual account.

(c) The State Treasurer shall provide the public with information about the Fund, including information on eligibility criteria, the application process, and requirements for withdrawing money from an individual account.

§ 405. Allocation or deposit made to individual account.

(a) The State Treasurer shall allocate to each individual account an amount equal to the net earnings and net losses from each investment of sums in the Fund which are attributable, on a pro rata basis, to sums credited to the individual account, reduced by an appropriate share of the administrative expenses paid out of the net earnings, as determined by the Board.

(b) An individual may make a deposit into an account holder's individual account. The State Treasurer shall process deposits into an individual account in a manner and method to be determined by the State Treasurer.

§ 406. Permitted distributions from an individual account.

(a)(1) Except as provided under paragraph (a)(2) of this section, money may not be distributed from an individual account before an account holder is 18 years old.

(2) An account holder may request a distribution from the account holder's individual account before the account holder is 18 years old to pay for qualified tuition and related expenses, as "qualified tuition and related expenses" is defined in Section 25A(f)(1) of the Internal Revenue Code of 1986, 26 U.S.C. § 25A(f)(1), of the account holder if the account holder is an eligible student, as "eligible student" is defined in Section 25A(b)(3) of the Internal Revenue Code, 26 U.S.C. § 25A(b)(3).

(b) After an account holder is 18 years old or older, the State Treasurer may distribute money from an individual account only if the account holder establishes that the money is to be used for one or more of the following qualified expenses:

(1) The account holder's post-secondary educational expense.

(2) The account holder's cost of acquisition of a primary residence.

(3) The account holder's qualified business capitalization expenses, as approved by the Board.

(4) The account holder's investment in financial assets or personal capital that provides long-term gains to wages and wealth, as approved by the Board.

(c)(1) For an account holder to request a distribution from the account holder's individual account, the account holder must be domiciled in this State.

(2) If the account holder is 25 years old or older and domiciled in another state for 5 or more consecutive years, the money in the account holder's individual account is presumed abandoned and must be transferred to the State Escheator under Subchapter II of Chapter 11 of Title 12.

(d) If an account holder dies with a balance in an individual account that is greater than zero, the State Treasurer shall close the individual account and do one of the following, as applicable, on receipt of notice of the account holder's death:

(1) Transfer the balance in the individual account to the individual account of the account holder's surviving spouse.

(2) Transfer the balance to the duly appointed legal representative of the account holder's estate.

(3) Transfer the balance to an individual entitled to the balance under the laws of this State.

Section 2. Amend § 2722, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2722. Plans Management Board.

(a) Establishment; purposes. — There is hereby established the Plans Management Board (the “Board”). The Board’s purpose ~~shall be~~ is to administer all of the following, collectively known as “the Plans”, in accordance with the individual purposes of each of the Plans:

(1) ~~the~~ The College Investment Plan established pursuant to under subchapter XII, Chapter 34 of Title 14, Title 14.

(2) ~~the~~ The Delaware Achieving a Better Life Experience Program established pursuant to under Chapter 96A of Title 16, Title 16.

(3) ~~and the~~ The Deferred Compensation Program established pursuant to under Chapter 60A of this title (collectively, “the Plans”), in each case, in accordance with the individual purposes of each of the Plans. title.

(4) The Baby Bond Account Fund established under Chapter 4 of Title 31.

(d) Standard of care. —

(1) With respect to the Deferred Compensation Program, (“Program”) the Board, its subcommittees, and each of their members shall discharge their duties with respect to the Program solely in the interest of the participants and beneficiaries of the Program and for the exclusive purpose of providing Program benefits to participants and their beneficiaries, including defraying reasonable expenses of administering the Program, with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the purposes of the Program.

(2) With respect to the College Investment Plan (“Plan”) and Delaware Achieving a Better Life Experience Program (“Program”), the Board, its subcommittees, and each of their members shall discharge their duties with respect to the Plan and Program in accordance with the implementing Plan and Program trust documents and applicable law. When investing, managing, or using trust assets, the Board, its subcommittees, and each of their members shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the purposes of the Plan and Program. The Board may authorize the use of administrative fees from the Plan and Program to defray reasonable expenses of administering each Plan and Program, including marketing expenses, and to fund scholarship, match, or promotional programs as the Board, in its discretion, may establish.

(3)a. With respect to the Baby Bond Account Fund (“Fund”), the Board, its subcommittees, and each of their members shall discharge their duties with respect to the Fund solely in the interest of the holders of accounts in the Fund.

b. When investing, managing, and using Fund assets, the Board shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

c. In making each investment, the Board shall act with the reasonable expectation that the return on each investment be commensurate with the risk associated with each investment.

Section 3. Amend § 1106, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1106. Modifications.

(b) Subtractions. — There shall be subtracted from federal adjusted gross income:

(10) The following amounts under Chapter 4 of Title 31:

a. A contribution credited to an individual's individual account, as defined in § 401 of Title 31.

b. A distribution from an individual account, including interest and earnings.

Section 4. This Act is effective immediately and is implemented on January 1, 2022.

SYNOPSIS

This Act establishes the Baby Bond Account Fund ("Fund") to deposit \$2,000 in an account for an individual born on or after January 1, 2022, into a household with an annual household income that does not exceed 200% of the federal poverty level. The Plans Management Board, established under § 2722 of Title 29, is to then invest and otherwise administer the money in the individual accounts in the Fund. Once the individual turns 18 years old, the individual may request a distribution from the individual's account for certain qualified expenses. The money in the individual's account is excluded from the individual's federal adjusted gross income for purposes of state taxation.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Brown