



Substitute House Bill No. 6738

Public Act No. 15-80

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING THE FEDERAL ACHIEVING A BETTER LIFE EXPERIENCE ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2015*) As used in this section and sections 2 to 8, inclusive, of this act:

(1) "Achieving a better life experience account" or "ABLE account" means an account established and maintained pursuant to sections 2 to 8, inclusive, of this act for the purposes of paying the qualified disability expenses related to the blindness or disability of a designated beneficiary.

(2) "Contracting state" means a state without a qualified ABLE program that has entered into a contract with the State Treasurer or other officer of this state to provide residents of the contracting state with access to qualified ABLE programs.

(3) "Deposit" means a deposit, payment, contribution, gift or other transfer of funds.

(4) "Depositor" means any person making a deposit into an ABLE

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account pursuant to a participation agreement.

(5) "Designated beneficiary" means any individual state resident or resident of a contracting state originally designated in the participation agreement who is an eligible individual and is the owner of an ABLE account.

(6) "Disability certification" means, with respect to an individual, a certification to the satisfaction of the Secretary of the Treasury of the United States 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, that results in marked and severe functional limitations, and that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve months, or is blind within the meaning of Section 1614(a)(2) of the Social Security Act, and (ii) such impairment or blindness occurred before the date on which the individual attained the age of twenty-six, and (B) includes a copy of the individual's diagnosis relating to the individual's relevant impairment or blindness that is signed by a physician who is licensed pursuant to chapter 370 of the general statutes.

(7) "Eligible individual" means an individual who is entitled to benefits during a taxable year 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 the age of twenty-six, provided a disability certification with respect to such individual is filed with the State Treasurer for such taxable year.

(8) "Federal ABLÉ Act" means the federal ABLÉ Act of 2014, P.L. 113-295, as amended from time to time.

(9) "Participation agreement" means an agreement between the trust established pursuant to section 2 of this act and depositors that

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provides for participation in an ABLE account for the benefit of a designated beneficiary.

(10) "Qualified disability expenses" means any expenses related to an eligible individual's blindness or disability that are 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 that are approved by the Secretary of the Treasury of the United States under regulations adopted by the Secretary pursuant to the federal ABLE Act.

Sec. 2. (NEW) (*Effective October 1, 2015*) (a) (1) The State Treasurer shall establish a qualified ABLE program pursuant to the federal ABLE Act and sections 1 to 8, inclusive, of this act. Under the program: (A) The State Treasurer shall administer individual ABLE accounts to encourage and assist eligible individuals and their families in saving private funds to provide support for eligible individuals, and (B) a person may make contributions to an individual ABLE account to meet the qualified disability expenses of the designated beneficiary of the account.

(2) For the purposes of the program, there is established within the Office of the State Treasurer the Connecticut Achieving A Better Life Experience Trust. The trust shall constitute an instrumentality of the state and shall perform essential governmental functions, as provided in sections 1 to 8, inclusive, of this act. The trust shall receive and hold all payments and deposits intended for ABLE accounts as well as gifts, bequests, endowments or federal, state or local grants and any other funds from public or private sources and all earnings, until disbursed in accordance with sections 1 to 8, inclusive, of this act.

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(b) (1) The amounts on deposit in the trust shall not constitute property of the state and the trust shall not be construed to be a department, institution or agency of the state. Amounts on deposit in the trust shall not be commingled with state funds and the state shall have no claim to or against, or interest in, such amounts, except as provided in subdivision (2) of this subsection. Any contract entered into by, or any obligation of, the trust shall not constitute a debt or obligation of the state and the state shall have no obligation to any designated beneficiary or any other person on account of the trust and all amounts obligated to be paid from the trust shall be limited to amounts available for such obligation on deposit in the trust. The amounts on deposit in the trust may only be disbursed in accordance with the provisions of sections 1 to 8, inclusive, of this act.

(2) The trust shall continue in existence as long as it holds any deposits or other funds or has any obligations and until its existence is terminated by law, and upon termination of the trust, any unclaimed assets of the trust shall return to the state. Property of the trust shall be governed by section 3-61a of the general statutes.

(c) The State Treasurer shall be responsible for the receipt, maintenance, administration, investment and disbursements of amounts from the trust. The trust shall not receive deposits in any form other than cash. No depositor or designated beneficiary may direct the investment of any contributions or amounts held in the trust other than in the specific fund options provided for by the trust and shall not direct investments in such specific fund options more than two times in any calendar year. No interest, or portion of any interest, in the program shall be used as security for a loan.

(d) A person may make deposits to an ABLE account to meet the qualified disability expenses of the designated beneficiary of the account, provided the trust and deposits meet the other requirements of this section, the federal ABLE Act and any regulations adopted

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pursuant to the federal ABLÉ Act by the Secretary of the Treasury of the United States.

(e) On or before December 31, 2016, and annually thereafter, the State Treasurer shall submit (1) in accordance with the provisions of subsection (a) of section 3-37 of the general statutes, a report to the Governor on the operations of the trust, including the receipts, disbursements, assets, investments and liabilities and administrative costs of the trust for the prior fiscal year, and (2) in accordance with the provisions of section 11-4a of the general statutes, a report on the trust to the joint standing committees of the General Assembly having cognizance of matters relating to finance and public health, and shall make such report available to each depositor and designated beneficiary. The report required under subdivision (2) of this subsection shall include, but need not be limited to: (A) The number of ABLÉ accounts; (B) the total amount of contributions to such accounts; (C) the total amount and nature of distributions from such accounts; and (D) a description of issues relating to the abuse of such accounts, if any.

Sec. 3. (NEW) (*Effective October 1, 2015*) The State Treasurer, on behalf of the trust and for purposes of the trust, may:

(1) Receive and invest moneys in the trust in any instruments, obligations, securities or property in accordance with section 4 of this act;

(2) Establish consistent terms for each participation agreement, bulk deposit, coupon or installment payments, including, but not limited to, (A) the method of payment into an ABLÉ account by payroll deduction, transfer from bank accounts or otherwise, (B) the termination, withdrawal or transfer of payments under an ABLÉ account, including transfers to or from a qualified ABLÉ program established by another state pursuant to the federal ABLÉ Act, (C)

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penalties for distributions not used or made in accordance with the federal ABLE Act, and (D) the amount of any charges or fees to be assessed in connection with the administration of the trust;

(3) Enter into one or more contractual agreements, including contracts for legal, actuarial, accounting, custodial, advisory, management, administrative, advertising, marketing and consulting services for the trust and pay for such services from the gains and earnings of the trust;

(4) Procure insurance in connection with the trust's property, assets, activities or deposits or contributions to the trust;

(5) Apply for, accept and expend gifts, grants or donations from public or private sources to enable the Connecticut Achieving A Better Life Experience Trust to carry out its objectives;

(6) Sue and be sued;

(7) Establish one or more funds within the trust and maintain separate ABLE accounts for each designated beneficiary; and

(8) Take any other action necessary to carry out the purposes of sections 1 to 8, inclusive, of this act and incidental to the duties imposed on the State Treasurer pursuant to said sections.

Sec. 4. (NEW) (*Effective October 1, 2015*) Notwithstanding the provisions of sections 3-13 to 3-13h, inclusive, of the general statutes, the State Treasurer shall invest the amounts on deposit in the trust in a manner reasonable and appropriate to achieve the objectives of the trust, exercising the discretion and care of a prudent person in similar circumstances with similar objectives. The State Treasurer shall give due consideration to the rate of return, risk, term or maturity, diversification of the total portfolio within the trust, liquidity, projected disbursements and expenditures and the expected payments,

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deposits, contributions and gifts to be received. The State Treasurer shall not require the trust to invest directly in obligations of the state or any political subdivision of the state or in any investment or other fund administered by the State Treasurer. The assets of the trust shall be continuously invested and reinvested in a manner consistent with the objectives of the trust until disbursed for qualified disability expenses, expended on expenses incurred by the operations of the trust or refunded to the depositor or designated beneficiary on the conditions provided in the participation agreement.

Sec. 5. (NEW) (*Effective October 1, 2015*) Participation in the trust and the offering, sale and solicitation of opportunities to participate in the trust are exempt from sections 36b-16 and 36b-22 of the general statutes, provided the State Treasurer has obtained written advice of counsel or written advice from the Securities Exchange Commission, or both, that the trust and the offering, sale and solicitation of opportunities to participate in the trust are not subject to federal securities laws.

Sec. 6. (NEW) (*Effective October 1, 2015*) The property of the trust and the earnings on the trust shall be exempt from taxation by the state and political subdivisions of the state.

Sec. 7. (NEW) (*Effective October 1, 2015*) The state pledges to depositors, designated beneficiaries and any party who enters into contracts with the trust, pursuant to the provisions of sections 1 to 8, inclusive, of this act, that the state will not limit or alter the rights under said sections vested in the trust or contract with the trust until such obligations are fully met and discharged and such contracts are fully performed on the part of the trust, provided nothing in this section shall preclude such limitation or alteration if adequate provision is made by law for the protection of such depositors and designated beneficiaries pursuant to the obligations of the trust or parties who entered into such contracts with the trust. The trust, on

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behalf of the state, may include a description of such pledge and undertaking for the state in participation agreements and such other obligations or contracts.

Sec. 8. (NEW) (*Effective October 1, 2015*) The State Treasurer shall take any action necessary to ensure that the trust complies with all applicable requirements of state and federal laws, rules and regulations to the extent necessary for the trust to constitute a qualified ABLE program and be exempt from taxation under the federal ABLE Act, and any regulations adopted pursuant to the federal ABLE Act by the Secretary of the Treasury of the United States.

Sec. 9. (NEW) (*Effective October 1, 2015*) (a) Notwithstanding any provision of the general statutes, moneys invested in an individual ABLE account, contributions to an individual ABLE account and distributions for qualified disability expenses pursuant to sections 1 to 8, inclusive, of this act, shall be disregarded for purposes of determining an individual's eligibility for assistance under the temporary family assistance program, as described in section 17b-112 of the general statutes, programs funded under the federal Low Income Home Energy Assistance Program block grant and any other federally funded assistance or benefit program, including, but not limited to, the state's medical assistance program, whenever such program requires consideration of one or more financial circumstances of an individual for the purpose of determining the individual's eligibility to receive any assistance or benefit or the amount of any assistance or benefit.

(b) Notwithstanding any provision of the general statutes, no moneys invested in the ABLE accounts shall be considered to be an asset for purposes of determining an individual's eligibility for need-based, institutional aid grants offered to an individual at the public eligible educational institutions in the state.

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Approved June 19, 2015