

CHAPTER 58
SENATE BILL No. 330

AN ACT concerning family postsecondary education savings accounts; amending K.S.A. 2005 Supp. 75-646 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2005 Supp. 75-646 is hereby amended to read as follows: 75-646. (a) Family postsecondary education savings accounts established pursuant to the provisions of K.S.A. 2005 Supp. 75-640 ~~to through~~ 75-648, and amendments thereto, shall be governed by the provisions of this section.

(b) A family postsecondary education savings account may be opened by any person ~~or persons who desire~~ *who desires* to save money for the payment of the qualified higher education expenses of the designated beneficiary. Such ~~persons~~ *person* shall be considered the account owner.

(1) An application for such account shall be in the form prescribed by the state treasurer and contain the following:

(A) The name, address and social security number or employer identification number of the account owner ~~or owners~~;

(B) the designation of a designated beneficiary;

(C) the name, address and social security number of the designated beneficiary;

(D) the certification relating to no excess contributions; and

(E) such other information as the state treasurer may require.

(2) The state treasurer may establish a nominal nonrefundable application fee for such application.

(c) Any person may make contributions to the account after the account is opened.

(d) Contributions to accounts may be made only in cash.

(e) An account owner may withdraw all or part of the balance from an account on sixty-days' notice or such shorter period as may be authorized under rules and regulations governing the program.

(f) (1) An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the prior designated beneficiary in accordance with procedures established pursuant to the provisions of K.S.A. 2005 Supp. 75-640 ~~to through~~ 75-648, and amendments thereto.

(2) An account owner may transfer all or a portion of an account to another family postsecondary education savings account, the designated beneficiary of which is a member of the family as defined in section 529 of the federal internal revenue code of 1986, as amended.

(3) Changes in designated beneficiaries and transfers under this subsection shall not be permitted to the extent that they would constitute excess contributions or unauthorized investment choices.

(g) The program shall provide separate accounting for each designated beneficiary.

(h) Subject to the provisions of section 529 of the internal revenue code of 1986, in effect on January 1, 2002, or later versions as established in rules and regulations adopted by the treasurer, an account owner of any account shall be permitted to direct the investment of any contributions to an account or the earnings thereon.

(i) Neither an account owner nor a designated beneficiary may use an interest in an account as security for a loan. Any pledge of an interest in an account shall be of no force and effect.

~~(j) Except as provided in K.S.A. 2005 Supp. 75-640 through 75-648, and amendments thereto, or section 529 of the federal internal revenue code of 1986, as amended, any withdrawal made within one year after an account has been opened under a qualified tuition program as defined in section 529 of the federal internal revenue code of 1986, as amended, is a nonqualified withdrawal.~~

~~(k)~~ (j) (1) The state treasurer shall adopt rules and regulations to prevent contributions on behalf of a designated beneficiary in excess of an amount equal to the average amount of the qualified higher education expenses that would be incurred for five years of study at institutions of postsecondary education located in the midwest states. Such amount shall be determined annually by the state treasurer.

(2) Such rules and regulations shall include requirements that any

excess contributions with respect to a designated beneficiary be promptly withdrawn in a nonqualified withdrawal or transferred to another account.

~~(k)~~ (1) If there is any distribution from an account to any individual or for the benefit of any individual during a calendar year, such distribution shall be reported to the federal internal revenue service and ~~the~~ *each* account owner ~~or owners~~, the designated beneficiary, or the distributee to the extent required by federal law or regulation.

(2) Statements shall be provided to each account owner at least once each year within 60 days after the end of the twelve-month period to which they relate. The statement shall identify the contributions made during a preceding twelve-month period, the total contributions made to the account through the end of the period, the value of the account at the end of such period, distributions made during such period and any other information that the state treasurer shall require to be reported to the account owner.

(3) Statements and information relating to accounts shall be prepared and filed to the extent required by federal and state tax law.

~~(m)~~ (1) A state or local government, or agency or instrumentality thereof, or organization described in section 501(c)(3) of the federal internal revenue code of 1986, as amended, may open and become the account owner of an account to fund scholarships for persons whose identity will be determined upon disbursement.

(2) In the case of any account opened pursuant to provision (1) of this subsection, the requirement set forth in subsection (b) that a designated beneficiary be designated when an account is opened shall not apply and each individual who receives an interest in such account as a scholarship shall be treated as a designated beneficiary with respect to such interest.

~~(n)~~ (m) An annual fee may be imposed upon the account owner or owners for the maintenance of the account.

~~(o)~~ (n) An account owner or designated beneficiary of a Kansas postsecondary education savings account must be a citizen or resident of the United States of America.

~~(p)~~ (o) The program shall disclose the following information in writing to each account owner and prospective account owner of a family postsecondary education savings account:

(1) The terms and conditions for purchasing a family postsecondary education savings account;

(2) any restrictions on the substitution of beneficiaries;

(3) the person or entity entitled to terminate the savings agreement;

(4) the period of time during which a beneficiary may receive benefits under the savings agreement;

(5) the terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;

(6) the probable tax consequences associated with contributions to and distributions from accounts; and

(7) all other rights and obligations pursuant to savings agreements, and any other terms, conditions and provisions deemed necessary and appropriate by the state treasurer.

~~(q)~~ (p) Nothing in K.S.A. 2005 Supp. 75-640 ~~to through~~ 75-648, and amendments thereto, or in any savings agreement entered into pursuant to K.S.A. 2005 Supp. 75-640 ~~to through~~ 75-648, and amendments thereto, shall be construed as a guarantee by the state of Kansas or any institution of postsecondary education that a beneficiary will be admitted to the institution of postsecondary education or, upon admission to any institution of postsecondary education, will be permitted to continue to attend or will receive a degree from such institution of postsecondary education.

~~(r)~~ (q) Moneys in a family postsecondary education savings account shall be exempt from attachment, execution or garnishment as provided by K.S.A. 60-2308, and amendments thereto.

(r) *On or before the 10th day of the 2007, 2008 and 2009 legislative sessions, the state treasurer shall submit a report on the Kansas postsecondary education savings program to the senate committee on education and the house committee on higher education. Such report shall include the total number of contributions to and withdrawals from the program and the total amount of such contributions and withdrawals which were made during the preceding year.*

Sec. 2. K.S.A. 2005 Supp. 75-646 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 29, 2006.
