

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 634

Representative Barhorst

A BILL

To amend section 113.53 of the Revised Code to 1
generally exempt funds in an Ohio ABLE account 2
from collection under the Medicaid Estate 3
Recovery Program. 4

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

Section 1. That section 113.53 of the Revised Code be 5
amended to read as follows: 6

Sec. 113.53. (A) A designated beneficiary, or a trustee or 7
guardian of a designated beneficiary who lacks capacity to enter 8
into an agreement, may apply, on forms prescribed by the 9
treasurer of state, to open a program account. A beneficiary may 10
have only one ABLE account. The treasurer of state may impose a 11
nonrefundable application fee. The application shall require the 12
applicant to provide the following information: 13

(1) The name, address, social security number, and birth 14
date of the designated beneficiary; 15

(2) The name, address, and social security number of the 16
designated beneficiary's trustee or guardian, if applicable; 17

(3) Certification by the applicant that the applicant 18

understands the maximum account value and the consequences under 19
division (C) of this section for excess contributions and 20
understands how program account values exceeding the amount 21
designated under section 103 of the "Stephen Beck, Jr., ABLE Act 22
of 2014," 26 U.S.C. 529A note, may affect the applicant's 23
resources for determining the applicant's eligibility for the 24
supplemental security income program; 25

(4) Any additional information required by the treasurer 26
of state. 27

(B) (1) To qualify for a program account, a designated 28
beneficiary must be an eligible individual at the time the 29
program account is opened. Before opening a program account, the 30
treasurer of state or program manager shall enter into an 31
agreement with the account owner that discloses the requirements 32
and restrictions on contributions and withdrawals from the 33
program account. 34

(2) Any person may make contributions to a program account 35
after the account is opened, subject to the limitations imposed 36
by section 529A of the Internal Revenue Code and any rules 37
adopted by the secretary. 38

(C) Contributions to a program account shall be made in 39
cash. The treasurer of state or program manager shall reject or 40
promptly withdraw a contribution to a program account if that 41
contribution would exceed the annual limits prescribed in 42
subsection (b) (2) (B) of section 529A of the Internal Revenue 43
Code. The treasurer or program manager shall reject or promptly 44
withdraw a contribution if the value of the program account 45
equals or exceeds the maximum account value or the designated 46
beneficiary is not an eligible individual in the current 47
calendar year. 48

(D) (1) To the extent authorized by federal law, and in 49
accordance with rules adopted by the treasurer of state, an 50
account owner may change the designated beneficiary of a program 51
account to another individual. 52

(2) No account owner may use an interest in an ABLE 53
account as security for a loan. Any pledge of an interest in an 54
account shall be void and of no force and effect. 55

(E) (1) A distribution from a program account to any 56
individual or for the benefit of any individual during a 57
calendar year shall be reported to the internal revenue service 58
and the designated beneficiary or the distributee to the extent 59
required under state or federal law. 60

(2) Statements shall be provided to each account owner of 61
a program account at least four times each year within thirty 62
days after the end of the quarterly period to which a statement 63
relates. The statement shall identify the contributions made 64
during the preceding quarter, the total contributions made to 65
the account through the last day of that quarter, the value of 66
the account on the last day of that quarter, distributions made 67
during that quarter, and any other information that the 68
treasurer of state requires to be reported to the account owner. 69

(3) Statements and information relating to program 70
accounts shall be prepared and filed to the extent required 71
under sections 113.50 to 113.56 of the Revised Code and any 72
other state or federal law. 73

(F) The program shall provide separate accounting for each 74
designated beneficiary. An annual fee may be imposed upon the 75
account owner for the maintenance of a program account. 76

~~(G)~~ (G) (1) Money in an ABLE account shall be exempt from 77

attachment, execution, or garnishment as provided in section 78
2329.66 of the Revised Code, ~~and is~~. 79

(2) Unless required by federal law, money in an ABLE 80
account is not subject to claims made under the medicaid estate 81
recovery program instituted pursuant to section 5162.21 of the 82
Revised Code, ~~in accordance with subsection (f) of section 529A-~~ 83
~~of the Internal Revenue Code and subject to any limitations~~ 84
~~imposed by the secretary.~~ 85

(H) (1) Notwithstanding any other provision of state law, 86
all of the following shall be disregarded for the purposes of 87
determining an individual's eligibility for a means-tested 88
public assistance program funded only with state, local, or 89
state and local funds and the amount of assistance or benefits 90
the individual is eligible to receive under the program: 91

(a) Any amount in an ABLE account, including earnings on 92
the account; 93

(b) Any contributions to an ABLE account; 94

(c) Any distribution from an ABLE account for qualified 95
disability expenses. 96

(2) Division (H) (1) of this section applies only to an 97
individual who is either of the following: 98

(a) The designated beneficiary of the ABLE account; 99

(b) An individual whose eligibility for the means-tested 100
program is conditioned on the ABLE account's designated 101
beneficiary disclosing the designated beneficiary's income, 102
resources, or both to the entity administering the means-tested 103
public assistance program. 104

Section 2. That existing section 113.53 of the Revised 105

Code is hereby repealed.

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