

# ALASKA STATE LEGISLATURE



## SECTIONAL OVERVIEW

### House Bill 188

*"An Act relating to financial accounts for persons with disabilities; relating to financial institutions; relating to property exemptions; relating to securities; and providing for an effective date."*

**Section 1:** Adds a new section to statutes and cites it as the Alaska ABLE Savings Program Act.

**Section 2:** Amends AS 06 by adding new paragraph – Chapter 65. Alaska Savings Program for Eligible Individuals

**06.65.010 Program authorized.** Creates the program in the department, puts department in charge of implementing the program as required by federal ABLE law

**06.65.020 Department authority.** Outlines what department may do to implement the program, there are 7 items on that list.

**06.65.030 Contracts with financial institutions.** Authorizes contracts with banks to set up ABLE program accounts.

**06.65.040 Procurement code.** Mandates that department follow Alaska procurement code when setting up contracts for the program.

**06.65.050 Procurement specifications.** Outlines criteria necessary from financial institutions who want to set up the program/contract with the department. State must consider financial stability, integrity of institution, safety/assurances of accounts, ability to keep accurate records, promotional plan for the program, any fees it will charge account owners, minimum contributions for deposit, and any other benefits they will offer state or program account holders.

**06.65.060 Financial contractor obligations.** Requires institution to provide accounts that comply with federal ABLE law, manage the program in compliance with federal law, compile information and provide statements to the department, give department access to records if needed to determine compliance, be audited annually by a CPA firm selected by the department and provide audit results to department, provide copies of all filings and reports to department, allow department to review results from periodic reviews of program by other agencies such as state, federal or banking institutions unless confidential under federal law, oversee the promotion of the program for consistency with its marketing plan for the program.

**06.65.070 Additional audits.** Authorizes department to conduct audit outside of annual audit if department has concern regarding institution's operations, financial position, record accuracy or program status.

**06.65.080 Contract termination or nonrenewal.** Gives department authority to terminate a contract. If so the department will take custody of account and transfer to another financial contractor/institution as soon as possible.

**06.65.090 Eligible individuals.** Outlines criteria for eligibility such as residency, federal designation of disability, or certification authorized by the secretary and federal authorizing law.

**06.65.100 Representative of eligible individual.** Outlines criteria for acting as a representative such as being a parent, guardian or conservator, trustee. Gives definition of those terms. Gives them authorization to manage the program account for eligible individual. Gives definition of "decision-making capacity" as well.

**06.65.110 Program account ownership.** Defines the owner as the designated beneficiary of the program account, not the representative.

**06.65.120 Number of program accounts.** Limits the number of program accounts a designated beneficiary may have to just one.

**06.65.130 Program account application.** The application form will be designed by the department and chapter outlines the information that they need to set up the program account.

**06.65.140 Program account establishment fee.** Allows a contractor/financial institution to charge a nonrefundable setup fee for the program account. The fee is determined by the department in the contract with the contractor.

**06.65.150 Program account contributions.** Contributions to open or add to an account must be made in cash. Contributions made after program account is opened are subject to limits set by federal law. The department or institution may reject or withdraw from an account a part of contribution that exceed limit or all of the contribution if the account has already met its federal law limit, or if the beneficiary is not eligible for that calendar year. Distributions must be reported by institution to the Internal Revenue Service and the account owner or representative.

**06.65.160 Limited investment direction.** A beneficiary or representative of, may not direct the investment of a program account, more than two times in a calendar year.

**06.65.170 Change of designated beneficiary.** Allows designated beneficiary or representative of, to withdraw or distribute money from program account to pay qualified expenses of designated beneficiary.

**06.65.180 Use of account.** Allows designated beneficiary or representative of, to change the account to another eligible individual who is a family member of previous designated beneficiary.

**06.65.190 Rollover distribution.** Allows that contributions can be rolled over into another beneficiary's account if the beneficiary is the same individual or another eligible individual in the family within a 60-day time period.

**06.65.200 Statements.** Financial institution must provide program account statements to the beneficiaries, the secretary, and the department at least 4 times per year and within 30 days after the end of the three-month period, outlines information that must be included in the statements.

**06.65.210 Preparation and filing.** A program depository must prepare and file statements and account information as mandated by state and federal law.

**06.65.220 Separate accounting.** Separate accounting for each program account is required by the financial institution.

**06.65.230 Annual fee.** Allows financial institution to charge an annual fee to maintain the program account.

**06.65.240 Use as security.** A program account may not be considered as security to obtain a loan. Any attempt to do so would be void.

**06.65.250 Exemption from creditor claims.** Ensures that money paid into or paid out of program account are exempt from claims from creditors.

**06.65.260 No state obligations.** States that there is no obligation of the state, department to guarantee a return of principal established into account, no guarantee of interest rate or return, the payment of interest on a program account. Every account application must include language that the state does not insure a program account or guarantee the above items.

**06.65.270 Confidentiality.** The department must keep all information regarding eligible individuals and their program accounts confidential.

**06.65.280 Exchange of information.** Information can be exchanged between departments to determine if applicant is eligible.

**06.65.290 Treatment under means test program.** Does not allow a state agency to use amount in an ABLÉ program account for determination of eligibility for other state assistance programs.

**06.65.300 Deposit from permanent fund dividend.** Allows the designated beneficiary or representative to make a deposit to the program account from the permanent fund dividend that designated beneficiary is eligible to receive. Authorizes and directs the Department of Revenue to prepare the permanent fund application to allow all or part of dividend into the program account.

**06.65.310 Program expense fund.** Establishes a separate fund within the general fund of the state, consisting of money appropriated to the fund to pay for the operational expense of the program, expenses to run the program are paid by the department from this fund, the department shall manage the fund and remaining money in the fund will not lapse and will rollover for expenditure in subsequent years.

**06.65.320 Medicaid claims.** Allows the state or another state to file a claim against an amount remaining in program account of a deceased designated beneficiary to recover medical assistance payments if payments were made for designated beneficiary after the establishment of the program account

**06.65.330 Governing law.** Federal governing law governs to the extent of a conflict between any provision of this chapter and the requirements of federal governing law for this program.

**06.65.340 Regulations.** The department shall adopt regulations to implement this chapter.

**06.65.350 Annual report.** Requires the department to evaluate program and provide an annual report to be issued to Senate Secretary and Chief House Clerk on or before the first day of regular session and notification to the bodies that the report is available.

**06.65.390 Definitions.** Gives definitions for the following terms:

- “department”
- “designated beneficiary”
- “eligible individual”
- “federal authorizing law”
- “financial contractor”
- “financial institution”
- “member of the family”
- “program”
- “program account”
- “qualified expense”
- “representative”
- “savings account”
- “secretary”

**Section 3.** amends AS09.38.015 (a) and adds the program account to the list of exemptions for an individual: a burial plot, health aids reasonably necessary to sustain work and/or health, benefits paid or payable for medical, surgical or hospital care, a reparations award from Violent Crimes Compensation Board, longevity bonus benefits, federal compensation or benefits, liquor licenses, tuition credit or savings accounts under a higher education savings account established under AS 14.40.809(a), and a permanent fund dividend.

**Section 4.** Amends AS 40.25.120(a) and adds program account financial information to be exempt from a public records’ search

**Section 5.** Amends AS 45.55.990(32) to indicate that the definition of a “security” does not include a program account established under this chapter.

**Section 6.** Transition language specifying the date of the first expected annual report to the Legislature.

**Section 7.** Gives authority to Department of Commerce, Community and Economic Development to promulgate regulations.

**Section 8.** Immediate effective date.