

ALASKA STATE LEGISLATURE

Session:
State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-3783
Fax: (907) 465-2293
Toll Free: (877) 460-3783



Interim:
12641 Old Glenn Hwy., Ste. 201
Eagle River, AK 99577
Phone: (907) 622-3783
Fax: (907) 694-1015
Toll Free: (877) 460-3783

REPRESENTATIVE DAN SADDLER

CS for House Bill 188 ABLE Act Draft Version E Sectional Analysis

"An Act establishing a program for financial accounts for individual with disabilities; creating a property exemption for money in or paid from a financial account in the program for an individual with a disability; exempting the procurement of contracts for the program from the State Procurement Code; exempting certain information on the participants in the program from being subject to inspection as a public record; providing that an account under the program for an individual with a disability is not a security; allowing a state to file a claim against an individual's financial account under the program to recover Medicaid payments after the individual's death; and providing for an effective date."

Sec. 1: Cites this as the **Alaska ABLE Act Savings Program Act**

Sec. 2: Creates a new chapter 65. **Alaska Savings Program for Eligible Individuals**

Sec. 06.65.010: Program authorized. Authorizes Alaska ABLE savings program in the Department – which is the Alaska Department of Revenue. Allows it to implement and administer the program under the Federal ABLE Act.

Sec. 06.65.020: General department duties. Outlines the duties of the department in implementing and administering the program.

Sec. 06.65.030: Modification of program. Gives the Department authority to modify the program in accordance to any federal law changes

Sec. 06.65.040: Additional department powers. Allows department to set fees for program transactions and services and also develop marketing plan to promote the ABLE program

Sec. 06.65.050: Contracting authority; procurement exemption. Allows department to contract with a person to assist in implementing the program, provide services, join other states to obtain or provide services for implementation, join a cooperative effort with other states to provide services for the program that could include investment and record-keeping services. Allows state to join with other states to allow an Alaska resident to participate in a program in another state under federal authorizing law and for an outside state to participate in a program in this state. If contracting with another state, AS 36.30 (Procurement Code) will not apply.

Sec. 06.65.060: Investment oversight: Allows the department to oversee and approve selection of investment managers and advisors for the program, and to oversee all investment disclosures and regulatory filings related to program investments

Sec. 06.65.070: Financial contractor obligations: outlines duties/obligations of the selected financial contractor(s)

Sec. 06.65.080: Additional audits: Allows the department to order an audit of the contractor's financial operation and position in addition to annual audit if the department has reason to be concerned

Sec. 06.65.090: Contract termination; non-renewal. Gives department authority to not renew a financial contract. If so it would take custody of the program accounts and transfer them to another financial contractor that offers similar program accounts

Sec. 06.65.100: Eligible individuals. Describes who is eligible to participate in the program.

Sec. 06.65.110: Representative of eligible individuals. Describes who may act as a representative of the eligible individual who is a minor or lacks decision-making capacity

Sec. 06.65.120: Program account ownership. States that the owner of the program account is the designated beneficiary.

Sec. 06.65.130: Number of program accounts. Allows only one program account per designated beneficiary under federal authorizing law.

Sec. 06.65.140: Program account application: Outlines department procedures for program account applications and information to be collected in that process

Sec. 06.65.150: Program account establishment fee. Allows financial contractor to charge a non-refundable to establish program account. That fee to be determined in the contract with the financial contractor.

Sec. 06.65.160: Program account contributions. Outlines how a person can make a contribution, the limit authorized by federal law, allows department to reject or withdraw a contribution that exceeds that annual limit or maximum limit established by authorizing law or if designated beneficiary is not eligible, and that financial contractor must report contributions to the IRS.

Sec. 06.65.170: Limited investment direction. Limits to two the number of times a program account investment can be changed.

Sec. 06.65.180: Change of designated beneficiary. Allows a designated beneficiary or representative to change beneficiary of an account to another eligible individual in the family.

Sec. 06.65.190: Distribution for qualified expenses. States that withdrawals from the program accounts may only be used for qualified expenses for the designated beneficiary.

Sec. 06.65.200: Rollover distribution. Subject to federal law governing rollovers, a distribution from a program account can be made to the same designated beneficiary or another eligible individual in the family, and the timeframe for that to be done.

Sec. 06.65.210: Statements. Requires that statements re: program accounts be issued 4 times a year at times established by the department and that the program contractor provide related information at the department's request.

Sec. 06.65.220: Preparation and filing. In addition to other reports a financial contractor shall prepare and file statements required under state and federal law and other agencies.

Sec. 06.65.230: Separate accounting. Requires a financial contractor to provide separate accounting for each program account.

Sec. 06.65.240: Annual fee. Allows a financial contractor may charge an annual fee for maintenance of a program account.

Sec. 06.65.250: Use as security. Prohibits a program account from being used as security for a loan

Sec. 06.65.260: Exemption from creditor claims. States that a program account is exempt from a claim by a creditor

Sec. 06.65.270: No state obligation. Declares that the program does not create an obligation of the state, department, or any agency to guarantee the return of principal or pay interest on the principal in a program account

Sec. 06.65.280: Confidentiality. Specifies that program account information is confidential

Sec. 06.65.290: Exchange of information. Allows the Department to exchange information with the Department of Health and Social Services and other state agencies to determine whether an individual is eligible

Sec. 06.65.300: Treatment under means test programs. Specifies the program account amounts must be disregarded in determining eligibility for means-tested programs

Sec. 06.65.310: Deposit from permanent fund dividend. Allows deposits to program accounts from the permanent fund dividend

Sec. 06.65.320: Program expense fund. Establishes program expense fund and describes its purpose and operation

Sec. 06.65.330: Medicaid claims: Allows that the state may file a claim against the program account of a beneficiary who dies.

Sec. 06.65.340: Governing law. Establishes federal law as governing to the extent of any conflict with state law

Sec. 06.65.350: Regulations. Requires the department to adopt implementing regulations

Sec. 06.65.360: Annual report. Requires the department to evaluate the program each year and file an annual report on or before the start of each legislative session beginning in 2018

Sec. 06.65.390: Definitions.

Sec. 3:

AS 09.38.015(a): Creates an exemption for amounts in a program account

Sec. 4:

AS 36.30.850(b): Adds ABLE program account oversight as a responsibility of the Commissioner of Revenue

Sec 5:

AS 40.25.120(a) is amended to create an exception to public inspection for names, addresses, and other program account identifying information

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Rep.Dan.Saddler@akleg.gov

Sec. 6

AS 45.55.990(32): Excludes program accounts from the definition of “security”

Sec. 7:

AS 47.07.055: Allows the state to file a claim against the designated beneficiary’s program account after the individual dies

Sec. 8: Transition

Requires the Department to file its first report on the program on or before the first day of the Second Regular Session of Thirtieth Alaska State Legislature (2018)

Sec. 9: Transition

Allows the Department to adopt regulations, but not before the effective date of the provisions authorizing the Alaska ABLE savings program

Sec. 10: Effective Date

Section 9 takes effect immediately