

HOUSE BILL No. 5965

March 18, 2010, Introduced by Reps. Tyler, Haines, DeShazor, Elsenheimer, Kowall, Stamas, Walsh, Marleau, Horn, Rick Jones and Crawford and referred to the Committee on Tax Policy.

A bill to create the Michigan home ownership savings program; to provide for home ownership savings accounts; to prescribe the powers and duties of certain state agencies, boards, and departments; to allow certain tax credits or deductions; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan home ownership savings program act".

3 Sec. 2. As used in this act:

4 (a) "Account" or "home ownership savings account" means an
5 account established under this act.

6 (b) "Account owner" means an individual who enters into a
7 Michigan home ownership savings program agreement and establishes a
8 home ownership savings account.

1 (c) "Department" means the department of treasury.

2 (d) "Eligible home" means residential real property located in
3 this state that is intended to serve as the account owner's
4 principal residence.

5 (e) "Management contract" means the contract executed between
6 the treasurer and a program manager.

7 (f) "Michigan home ownership savings program agreement" means
8 the agreement between the program and an account owner that
9 establishes a home ownership savings account.

10 (g) "Principal residence" means that term as defined under
11 section 7dd of the general property tax act, 1893 PA 206, MCL
12 211.7dd, and exempt from taxation under section 7cc of the general
13 property tax act, 1893 PA 206, MCL 211.7cc.

14 (h) "Program" means the Michigan home ownership savings
15 program established pursuant to this act.

16 (i) "Program manager" means an entity selected by the
17 treasurer to act as a manager of 1 or more of the savings plans
18 offered under the program.

19 (j) "Qualified home ownership expenses" means any of the
20 following:

21 (i) Closing costs, mortgage fees, brokerage fees, real estate
22 commissions, inspection fees, and any other similar fees or charges
23 incurred during the purchase of the eligible home.

24 (ii) Home improvement, remodeling, upgrades, and repair costs
25 incurred after the purchase of an eligible home.

26 (k) "Qualified withdrawal" means a distribution that is not
27 subject to a penalty or an excise tax under a penalty under this

1 act or taxation under the income tax act of 1967, 1967 PA 281, MCL
2 206.1 to 206.532, and that meets any of the following:

3 (i) A withdrawal from an account to pay qualified home
4 ownership expenses incurred after the account is established.

5 (ii) A withdrawal made as the result of the death or disability
6 of the account owner.

7 (iii) A transfer of funds due to the termination of the
8 management contract as provided in section 5.

9 (iv) A transfer of funds as provided in section 8.

10 (l) "Savings plan" or "plans" means a plan that provides
11 different investment strategies and allows account distributions
12 for qualified home ownership expenses.

13 (m) "Treasurer" means the state treasurer.

14 Sec. 3. (1) The Michigan home ownership savings program is
15 established in the department of treasury. The program may consist
16 of 1 or more savings plans.

17 (2) The treasurer shall solicit proposals from entities to be
18 a program manager to provide the services described in subsection
19 (5).

20 (3) The purposes, powers, and duties of the Michigan home
21 ownership savings program are vested in and shall be exercised by
22 the treasurer or the designee of the treasurer.

23 (4) The state treasurer shall administer the Michigan home
24 ownership savings program and shall be the trustee for the funds of
25 the Michigan home ownership savings program.

26 (5) The treasurer may employ or contract with personnel and
27 contract for services necessary for the administration of each

1 savings plan under the program and the investment of the assets of
2 each savings plan under the program, including, but not limited to,
3 managerial, professional, legal, clerical, technical, and
4 administrative personnel or services.

5 (6) When selecting a program manager, the treasurer shall give
6 preference to proposals from single entities that propose to
7 provide all of the functions described in subsection (5) and that
8 demonstrate the most advantageous combination, to both potential
9 participants and this state, of the following factors and the
10 management contract shall address these factors:

11 (a) Financial stability.

12 (b) The safety of the investment instruments being offered.

13 (c) The ability of the entity to satisfy the record-keeping
14 and reporting requirements of this act.

15 (d) The entity's plan for marketing the savings plan and the
16 investment it is willing to make to promote the savings plan.

17 (e) The entity's plan for utilizing financial organizations in
18 this state as account depositories and financial managers.

19 (f) The fees, if any, proposed to be charged to persons for
20 opening or maintaining an account.

21 (g) The minimum initial deposit and minimum contributions that
22 the entity will require which, for the first year of the savings
23 plan, shall not be greater than \$25.00 for a cash contribution or
24 \$15.00 per pay period for payroll deduction plans.

25 (h) The ability of the entity to accept electronic
26 withdrawals, including payroll deduction plans.

27 (7) The treasurer shall enter into a contract with each

1 program manager, which shall address the respective authority and
2 responsibility of the treasurer and the program manager to do all
3 of the following:

4 (a) Develop and implement the savings plan or plans offered
5 under the program.

6 (b) Invest the money received from account owners in 1 or more
7 investment instruments.

8 (c) Engage the services of consultants on a contractual basis
9 to provide professional and technical assistance and advice.

10 (d) Determine the use of financial organizations in this state
11 as account depositories and financial managers.

12 (e) Charge, impose, and collect annual administrative fees and
13 service in connection with any agreements, contracts, and
14 transactions relating to individual accounts, exclusive of initial
15 sales charges, which shall not exceed 2.0% of the average daily net
16 assets of the account.

17 (f) Develop marketing plans and promotional material.

18 (g) Establish the methods by which funds are allocated to pay
19 for administrative costs.

20 (h) Provide criteria for terminating and not renewing the
21 management contract.

22 (i) Address the ability of the program manager to take any
23 action required to keep the savings plan or plans offered under the
24 program in compliance with requirements of this act and its
25 management contract.

26 (j) Keep adequate records of each account and provide the
27 treasurer with information that the treasurer requires related to

1 those records.

2 (k) Compile the information contained in statements required
3 to be prepared under this act and provide that compilation to the
4 treasurer in a timely manner.

5 (l) Hold all accounts for the benefit of the account owner.

6 (m) Provide for audits at least annually by a firm of
7 certified public accountants.

8 (n) Provide the treasurer with copies of all regulatory
9 filings and reports related to the savings plan or plans offered
10 under the program made during the term of the management contract
11 or while the program manager is holding any accounts, other than
12 confidential filings or reports except to the extent those filings
13 or reports are related to or are a part of the savings plan or
14 plans offered under the program. It is the responsibility of the
15 program manager to make available for review by the treasurer the
16 results of any periodic examination of the program manager by any
17 state or federal banking, insurance, or securities commission,
18 except to the extent that the report or reports are not required to
19 be disclosed under state or federal law.

20 (o) Ensure that any description of the savings plan or plans
21 offered under the program, whether in writing or through the use of
22 any media, is consistent with the marketing plan developed by the
23 program manager.

24 (p) Take any other necessary and proper activities to carry
25 out the purposes of this act.

26 Sec. 4. The treasurer shall be responsible for the ongoing
27 supervision of each management contract in consultation with the

1 program manager.

2 Sec. 5. (1) A management contract shall be for a term of years
3 specified in the management contract.

4 (2) The treasurer may terminate a management contract based on
5 the criteria specified in the management contract.

6 Sec. 6. The treasurer may enter into contracts that it
7 considers necessary and proper for the implementation of this
8 program.

9 Sec. 7. (1) Beginning on and after the effective date of this
10 act, home ownership savings accounts may be established under this
11 act.

12 (2) Any individual described in section 2(b) may open a home
13 ownership savings account to save money to pay qualified home
14 ownership expenses.

15 (3) To open a home ownership savings account, the individual
16 described in section 2(b) shall enter into a Michigan home
17 ownership savings program agreement with the program. The Michigan
18 home ownership savings program agreement shall be in the form
19 prescribed by a program manager and approved by the treasurer and
20 shall contain the name, address, and social security number or
21 employer identification number of the account owner and any other
22 information that the treasurer or program manager considers
23 necessary.

24 (4) Any individual described in section 2(b) may make
25 contributions to an account.

26 (5) Contributions to accounts shall only be made in cash, by
27 check, by money order, by credit card, or by any similar method as

1 approved by the state treasurer but shall not be property.

2 (6) An account owner may withdraw all or part of the balance
3 from an account on 30 days' notice, or a shorter period as
4 authorized in the Michigan home ownership savings program
5 agreement.

6 (7) Distributions from an account shall be requested on a form
7 approved by the state treasurer. A program manager may retain from
8 the distribution the amount necessary to comply with federal and
9 state tax laws. Distributions may be made in the following manner:

10 (a) Directly to an eligible financial institution.

11 (b) In the form of a check payable to both the account holder
12 and the eligible financial institution.

13 (c) In the form of a check payable to the account holder.

14 (8) If the distribution is not a qualified withdrawal, a
15 program manager shall withhold an amount of up to 10% of the
16 distribution amount as a penalty and pay that amount to the
17 department for deposit into the general fund.

18 Sec. 8. (1) An account owner may designate another individual
19 as a successor owner of the account in the event of the death of
20 the account owner.

21 (2) An account owner may transfer ownership of all or a
22 portion of an account to an individual that is eligible to be an
23 account owner under this act.

24 (3) An account owner may transfer all or a portion of an
25 account to another home ownership savings account that is owned by
26 another member of the family.

27 (4) Transfers under this section are not permitted to the

1 extent that the transfer would constitute excess contributions or
2 unauthorized investment choices.

3 Sec. 9. (1) Except as otherwise provided in this section, an
4 account owner shall not direct the investment of any contributions
5 to an account or the earnings on an account.

6 (2) An account owner may select among different investment
7 strategies designed by a program manager in all of the following
8 circumstances:

9 (a) At the time any contribution is made to an account with
10 respect to the amount of that contribution.

11 (b) Once each calendar year with respect to the accumulated
12 account balance.

13 (3) The program may allow employees of the program, or the
14 employees of a contractor hired by the program to perform
15 administrative services, to make contributions to an account.

16 Sec. 10. (1) The maximum account balance limit for a home
17 ownership savings account is \$100,000.00.

18 (2) The program shall reject a contribution to any account if,
19 at the time of the contribution, the total balance of the account
20 has reached the maximum account balance limit under subsection (1).
21 An account may continue to accrue earnings if the total balance of
22 the account has reached the maximum account balance limit and shall
23 not be considered to have exceeded the maximum account balance
24 limit under subsection (1).

25 Sec. 11. (1) Each program manager shall report distributions
26 from an account during a tax year to the internal revenue service
27 and the account owner or, to the extent required by federal law or

1 regulation, to the distributee.

2 (2) Each program manager shall provide statements that
3 identify the individual contributions made during the tax year, the
4 total contributions made to the account for the tax year, the value
5 of the account at the end of the tax year, distributions made
6 during the tax year, and any other information that the treasurer
7 requires to each account owner on or before the January 31
8 following the end of each calendar year.

9 Sec. 12. Each program manager shall disclose the following
10 information in writing to each account owner of a home ownership
11 savings account and any other person who requests information about
12 a home ownership savings account:

13 (a) The terms and conditions for establishing a home ownership
14 savings account.

15 (b) Restrictions on the substitutions of designated
16 beneficiaries and transfer of account funds.

17 (c) The person or entity entitled to terminate a Michigan home
18 ownership savings program agreement.

19 (d) The period of time during which an account owner may
20 receive benefits under the Michigan home ownership savings program
21 agreement.

22 (e) The terms and conditions under which money may be wholly
23 or partially withdrawn from an account or the program, including,
24 but not limited to, any reasonable charges and fees and penalties
25 that may be imposed for withdrawal.

26 (f) The potential tax consequences associated with
27 contributions to and distributions and withdrawals from accounts.

1 (g) Investment history and potential growth of account funds
2 and a projection of the impact of the growth of the account funds
3 on the maximum amount allowable in an account.

4 (h) All other rights and obligations under Michigan home
5 ownership savings program agreements and any other terms,
6 conditions, and provisions of a contract or an agreement entered
7 into under this act.

8 Sec. 14. (1) This act does not create and shall not be
9 construed to create any obligation upon this state or any agency or
10 instrumentality of this state to guarantee for the benefit of an
11 account owner any of the following:

12 (a) The rate of interest or other return on an account.

13 (b) The payment of interest or other return on an account.

14 (2) The contracts, applications, deposit slips, and other
15 similar documents used in connection with a contribution to an
16 account shall clearly indicate that the account is not insured by
17 this state and that the money deposited into and investment return
18 earned on an account are not guaranteed by this state.

19 Sec. 15. Each program manager shall file an annual report with
20 the treasurer that includes all of the following:

21 (a) The names and identification numbers of account owners.

22 The information reported pursuant to this subdivision is not
23 subject to the freedom of information act, 1976 PA 442, MCL 15.231
24 to 15.246.

25 (b) The total amount contributed to all accounts during the
26 year.

27 (c) All distributions from all accounts and whether or not

1 each distribution was a qualified withdrawal.

2 (d) Any information that the program manager or treasurer may
3 require regarding the taxation of amounts contributed to or
4 withdrawn from accounts.

5 Sec. 16. (1) Contributions to and interest earned on a home
6 ownership savings account are exempt from taxation as provided in
7 sections 30 and 30f of the income tax act of 1967, 1967 PA 281, MCL
8 206.30 and 206.30f.

9 (2) Withdrawals made from home ownership savings accounts are
10 taxable as provided in section 30 of the income tax act of 1967,
11 1967 PA 281, MCL 206.30.

12 Enacting section 1. This act does not take effect unless
13 Senate Bill No. ____ or House Bill No. 5966 (request no. 05320'09) of
14 the 95th Legislature is enacted into law.