

By: Gonzales

H.B. No. 2542

A BILL TO BE ENTITLED

AN ACT

relating to the establishment and administration of the qualified  
ABLE program; granting authority to impose a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 11, Human Resources Code, is amended by  
adding Chapter 162 to read as follows:

CHAPTER 162. QUALIFIED ABLE PROGRAM

Sec. 162.001. DEFINITIONS. In this chapter:

(1) "ABLE account" means an achieving a better life  
experience (ABLE) account established under the qualified ABLE  
program for the purpose of funding qualified disability expenses of  
a designated beneficiary.

(2) "Designated beneficiary" means an individual with  
a disability whose qualified disability expenses are expected to be  
paid from an ABLE account.

(3) "Financial institution" means a bank, trust  
company, savings and loan association, credit union,  
broker-dealer, mutual fund, insurance company, or other similar  
financial institution authorized to transact business in this  
state.

(4) "Qualified ABLE program" and "qualified  
disability expenses" have the meanings assigned to those terms by  
Section 529A, Internal Revenue Code of 1986.

Sec. 162.002. QUALIFIED ABLE PROGRAM; POWERS AND DUTIES OF

1 COMPTROLLER. (a) The comptroller shall establish and administer  
2 the qualified ABLE program in accordance with this chapter. The  
3 comptroller shall take all actions required to keep the plan in  
4 compliance with this chapter and to ensure that the plan qualifies  
5 as a qualified ABLE program under Section 529A, Internal Revenue  
6 Code of 1986.

7 (b) The comptroller has the powers necessary or proper to  
8 carry out this chapter. The comptroller may:

9 (1) adopt rules to implement this chapter;

10 (2) enter into contracts and other necessary  
11 instruments;

12 (3) solicit and accept gifts, grants, loans, and other  
13 aid from any source or participate in any other way in any  
14 government program to carry out this chapter;

15 (4) impose administrative fees and charge fees and  
16 expenses to the ABLE accounts held under the program or to persons  
17 who establish or own ABLE accounts;

18 (5) make reports; and

19 (6) retain financial institutions to serve as plan  
20 managers, employees, experts, and consultants.

21 Sec. 162.003. OPERATION OF PROGRAM; ACCOUNTS HELD IN TRUST.

22 (a) The comptroller shall administer the qualified ABLE program to  
23 enable individuals to save private funds for the purpose of  
24 supporting an individual with a disability by establishing an ABLE  
25 account in the program.

26 (b) Money contributed to an ABLE account and earnings on the  
27 account are held in trust by the comptroller for the sole benefit of

1 the account owner and designated beneficiary.

2 Sec. 162.004. SELECTION OF FINANCIAL INSTITUTION AS PLAN  
3 MANAGER. The comptroller may contract with one or more financial  
4 institutions to serve as plan manager and to invest the money in  
5 ABLE accounts in the same manner as provided under Subchapter G,  
6 Chapter 54, Education Code.

7 Sec. 162.005. ADMINISTRATION OF ACCOUNTS. (a) The  
8 comptroller or plan manager shall provide separate accounting for  
9 each ABLE account.

10 (b) A savings trust account may not be:

11 (1) assigned for the benefit of creditors;

12 (2) used as security or collateral for any loan; or

13 (3) otherwise subject to alienation, sale, transfer,  
14 assignment, pledge, encumbrance, or charge.

15 Sec. 162.006. ABLE ACCOUNT. (a) A person may establish an  
16 ABLE account under this chapter and make contributions to the  
17 account for the purpose of supporting a designated beneficiary.

18 (b) Except as provided by Subsection (c) or as otherwise  
19 permitted by Section 529A, Internal Revenue Code of 1986, the  
20 designated beneficiary of an ABLE account is the owner of the  
21 account.

22 (c) If the designated beneficiary of an ABLE account is  
23 younger than 18 years of age or a ward with respect to whom a  
24 guardian of the estate has been appointed, the parent or guardian of  
25 the designated beneficiary is the owner of the account.

26 (d) The designated beneficiary of an ABLE account must be a  
27 resident of this state. The comptroller shall determine the

1 residence of the designated beneficiary.

2 Sec. 162.007. CONTRIBUTIONS. Any person may make  
3 contributions to the ABLE account to meet the qualified disability  
4 expenses of the designated beneficiary of the account, in  
5 accordance with this chapter and Section 529A, Internal Revenue  
6 Code of 1986.

7 SECTION 2. As soon as practicable after the effective date  
8 of this Act, the comptroller shall adopt the rules necessary to  
9 implement the change in law made by this Act.

10 SECTION 3. If before implementing any provision of this Act  
11 a state agency determines that a waiver or authorization from a  
12 federal agency is necessary for implementation of that provision,  
13 the agency affected by the provision shall request the waiver or  
14 authorization and may delay implementing that provision until the  
15 waiver or authorization is granted.

16 SECTION 4. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2015.