

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 251
SENATE BILL 1349

AN ACT

AMENDING SECTIONS 15-1871 AND 15-1875, ARIZONA REVISED STATUTES; RELATING TO THE FAMILY COLLEGE SAVINGS PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The article heading of title 15, chapter 14, article 7, Arizona
4 Revised Statutes, is changed from "COLLEGE SAVINGS PLAN" to "FAMILY
5 COLLEGE SAVINGS PROGRAM".

6 Sec. 2. Section 15-1871, Arizona Revised Statutes, is amended to
7 read:

8 15-1871. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Account" means an individual trust account in the fund
11 established as prescribed in this article.

12 2. "Account owner" means the person who enters into a tuition
13 savings agreement pursuant to this article, who is an account owner within
14 the meaning of section 529 of the internal revenue code and who is
15 designated at the time an account is opened as having the right to
16 withdraw monies from the account before the account is disbursed to or for
17 the benefit of the designated beneficiary.

18 3. "Commission" means the commission for postsecondary education
19 established by section 15-1851.

20 4. "Committee" means the family college savings program oversight
21 committee.

22 5. "Designated beneficiary" means a person who qualifies as a
23 designated beneficiary under section 529 of the internal revenue code and,
24 except as provided in section 15-1875, subsections P and Q, with respect
25 to an account, who is designated at the time the account is opened as the
26 person whose **QUALIFIED** higher education expenses are expected to be paid
27 from the account or, if this designated beneficiary is replaced in
28 accordance with section 15-1875, subsections D, E and F, the replacement
29 beneficiary.

30 6. "Eligible educational institution" means an institution of
31 higher education that qualifies under section 529 of the internal revenue
32 code as an eligible educational institution.

33 7. "Financial institution" means any bank, commercial bank,
34 national bank, savings bank, savings and loan association, credit union,
35 insurance company, brokerage firm or other similar entity that is
36 authorized to do business in this state.

37 8. "Fund" means the family college savings program trust fund that
38 constitutes a public instrumentality of this state and that is established
39 by section 15-1873.

40 9. "Member of the family" means any of the following:

41 (a) A son or daughter of a person or a descendant of the son or
42 daughter of the person.

43 (b) A stepson or stepdaughter of a person.

(c) A brother, sister, stepbrother or stepsister of a person. For the purposes of this subdivision, "brother" and "sister" includes a brother or sister by the half-blood.

(d) The father or mother of a person or the ancestor of the father or mother of a person.

(e) A stepfather or stepmother of a person.

(f) A son or daughter of a person's brother or sister. For the purposes of this subdivision, "brother" and "sister" includes a brother or sister by the half-blood.

(g) A brother or sister of the person's father or mother. For the purposes of this subdivision, "brother" and "sister" includes a brother or sister by the half-blood.

(h) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law of a person.

(i) The spouse of a person or the spouse of any individual described in this paragraph.

(j) A first cousin of a person.

(k) Any individual who meets the criteria for family membership described in this paragraph as a result of legal adoption.

10. "Nonqualified withdrawal" means a withdrawal from an account other than one of the following:

(a) A qualified withdrawal.

(b) A withdrawal made as the result of the death or disability of the designated beneficiary of an account.

(c) A withdrawal that is made on the account of a scholarship, or the allowance or payment described in section 135(d)(1)(B) or (C) of the internal revenue code, and that is received by the designated beneficiary, but only to the extent of the amount of this scholarship, allowance or payment.

(d) A rollover or change of designated beneficiary.

11. "Person" means an individual, an individual's legal representative or any other legal entity authorized to establish a savings account under section 529 of the internal revenue code and the corresponding regulations.

12. "Program" means the family college savings program that is established under this article and that constitutes a qualified tuition program as defined in section 529 of the internal revenue code.

13. "Qualified higher education expenses":

(a) Means :

(i) Tuition, fees, books, supplies, room and board and equipment required for ~~enrollment or attendance of~~ a designated beneficiary TO ENROLL at OR ATTEND an eligible educational institution. ~~and~~

(ii) Expenses for special needs services in the case of a special needs beneficiary that are incurred in connection with ~~enrollment~~ ENROLLING or ~~attendance~~ ATTENDING, if these expenses meet the definition

1 of qualified higher education expenses in section 529 of the internal
2 revenue code.

3 (iii) EXPENSES TO PURCHASE A COMPUTER, PERIPHERAL EQUIPMENT,
4 COMPUTER SOFTWARE OR INTERNET ACCESS AND RELATED SERVICES IF THE COMPUTER
5 EQUIPMENT, SOFTWARE OR SERVICES ARE TO BE USED PRIMARILY BY THE
6 BENEFICIARY DURING THE YEARS THE BENEFICIARY IS ENROLLED AT AN ELIGIBLE
7 EDUCATIONAL INSTITUTION AND IF THESE EXPENSES MEET THE DEFINITION OF
8 QUALIFIED HIGHER EDUCATION EXPENSES IN SECTION 529 OF THE INTERNAL REVENUE
9 CODE.

10 (b) INCLUDES TUITION TO ENROLL IN OR ATTEND AN ELEMENTARY OR
11 SECONDARY PUBLIC, PRIVATE OR RELIGIOUS SCHOOL PURSUANT TO SECTION 529 OF
12 THE INTERNAL REVENUE CODE.

13 14. "Qualified withdrawal" means a withdrawal from an account to pay
14 EITHER:

15 (a) The qualified higher education expenses of the designated
16 beneficiary of the account, but only if the withdrawal is made in
17 accordance with this article.

18 (b) TUITION OF LESS THAN \$10,000 TO ENROLL IN OR ATTEND AN
19 ELEMENTARY OR SECONDARY PUBLIC, PRIVATE OR RELIGIOUS SCHOOL PURSUANT TO
20 SECTION 529 OF THE INTERNAL REVENUE CODE OF THE DESIGNATED BENEFICIARY OF
21 THE ACCOUNT, BUT ONLY IF THE WITHDRAWAL IS MADE IN ACCORDANCE WITH THIS
22 ARTICLE.

23 15. "Section 529 of the internal revenue code" means section 529 of
24 the internal revenue code of 1986, as amended, and the final regulations
25 issued pursuant to that section.

26 16. "Trust interest" means an account owner's interest in the fund
27 created by a tuition savings agreement for the benefit of a designated
28 beneficiary.

29 17. "Tuition savings agreement" means an agreement between the
30 commission, as trustee of the fund, and an account owner that creates an
31 interest in the fund and that provides for participation in the program.

32 Sec. 3. Section 15-1875, Arizona Revised Statutes, is amended to
33 read:

34 **15-1875. Program requirements**

35 A. The program shall be operated through the use of accounts in the
36 fund established by account owners. Payments to the fund for
37 participation in the program shall be made by account owners pursuant to
38 tuition savings agreements. An account may be opened by any person who
39 desires to invest in the fund and to save to pay qualified higher
40 education expenses by satisfying each of the following requirements:

41 1. Completing an application in the form prescribed by the
42 commission. The application shall include the following information:

43 (a) The name, address and social security number or employer
44 identification number of the contributor.

(b) The name, address and social security number of the account owner if the account owner is not the contributor.

(c) The name, address and social security number of the designated beneficiary.

(d) The certification relating to no excess contributions required by subsection L OF THIS SECTION.

(e) Any other information that the commission may require.

2. Paying the ~~one-time~~ ONETIME application fee established by the commission.

3. Making the minimum contribution required by the commission or by opening an account.

4. Designating the type of account to be opened if more than one type of account is offered.

B. Any person may make contributions to an account after the account is opened.

C. Contributions to accounts may be made only in cash.

D. An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the former designated beneficiary in accordance with procedures established by the commission.

E. On the direction of an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account.

F. Changes in designated beneficiaries and rollovers under this section are not permitted if the changes or rollovers would violate either of the following:

1. Subsection L OF THIS SECTION, relating to excess contributions.

2. Subsection I OF THIS SECTION, relating to investment choice.

G. Each account shall be maintained separately from each other account under the program.

H. Separate records and accounting shall be maintained for each account for each designated beneficiary.

I. **NOT** A contributor to, account owner of or designated beneficiary of any account may **NOT** direct the investment, within the meaning of section 529 of the internal revenue code, of any contributions to an account or the earnings from the account.

J. If the commission terminates the authority of a financial institution to hold accounts and accounts must be moved from that financial institution to another financial institution, the commission shall select the financial institution and type of investment to which the balance of the account is moved unless the internal revenue service provides guidance stating that allowing the account owner to select among several financial institutions that are then contractors would not cause a plan to cease to be a qualified tuition plan.

1 K. Neither an account owner nor a designated beneficiary may use an
2 interest in an account as security for a loan. Any pledge of an interest
3 in an account is of no force and effect.

4 L. On the recommendation of the committee, the commission shall
5 adopt rules to prevent contributions on behalf of a designated beneficiary
6 in excess of those necessary to pay the qualified higher education
7 expenses of the designated beneficiaries. The rules shall address the
8 following:

9 1. Procedures for aggregating the total balances of multiple
10 accounts established for a designated beneficiary.

11 2. The establishment of a maximum total balance for the purpose of
12 prohibiting contributions to accounts established for a designated
13 beneficiary if the contributions would cause the maximum total balance to
14 be exceeded.

15 3. The commission shall review the quarterly reports received from
16 participating financial institutions and certify that the balance in all
17 qualified tuition programs, as defined in section 529 of the internal
18 revenue code, of which that person is the designated beneficiary does not
19 exceed the lesser of:

20 (a) A maximum college savings amount established by the commission
21 from time to time.

22 (b) The cost in current dollars of qualified higher education
23 expenses that the contributor reasonably anticipates the designated
24 beneficiary will incur.

25 4. Requirements that any excess contributions with respect to a
26 designated beneficiary be promptly withdrawn in a nonqualified withdrawal
27 or rolled over to another account in accordance with this section.

28 M. If there is any distribution from an account to any person or
29 for the benefit of any person during a calendar year, the distribution
30 shall be reported to the internal revenue service and the account owner or
31 the designated beneficiary to the extent required by federal law.

32 N. The financial institution shall provide statements to each
33 account owner at least once each year within thirty-one days after the
34 ~~twelve-month~~ TWELVE-MONTH period to which they relate. The statement
35 shall identify the contributions made during a preceding ~~twelve-month~~
36 TWELVE-MONTH period, the total contributions made through the end of the
37 period, the value of the account as of the end of this period,
38 distributions made during this period and any other matters that the
39 commission requires be reported to the account owner.

40 O. Statements and information returns relating to accounts shall be
41 prepared and filed to the extent required by federal or state tax law.

42 P. A state or local government or organizations described in
43 section 501(c)(3) of the internal revenue code may open and become the
44 account owner of an account to fund scholarships for persons whose
45 identity will be determined after an account is opened.

1 Q. In the case of any account described in subsection P OF THIS
2 SECTION, the requirement that a designated beneficiary be designated when
3 an account is opened does not apply and each person who receives an
4 interest in the account as a scholarship shall be treated as a designated
5 beneficiary with respect to the interest.

6 R. Any social security numbers, addresses or telephone numbers of
7 individual account holders and designated beneficiaries that come into the
8 possession of the commission are confidential, are not public records and
9 shall not be released by the commission.

10 S. An account owner may transfer ownership rights to another
11 eligible account owner.

12 T. An account owner may designate successor account owners.

13 U. THROUGH DECEMBER 31, 2025, ON DIRECTION OF AN ACCOUNT OWNER, UP
14 TO \$15,000 OF AN ACCOUNT MAY ROLL OVER TO AN ACHIEVING A BETTER LIFE
15 EXPERIENCE ACT ACCOUNT ESTABLISHED PURSUANT TO 26 UNITED STATES CODE
16 SECTION 529A.

APPROVED BY THE GOVERNOR MAY 22, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2019.