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

Section 1. Heading change

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

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

15-1871. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

9. "Member of the family" means any of the following:
   (a) A son or daughter of a person or a descendant of the son or daughter of the person.
   (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
of qualified higher education expenses in section 529 of the internal revenue code.

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

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

14. "Qualified withdrawal" means a withdrawal from an account to pay EITHER:
(a) The qualified higher education expenses of the designated beneficiary of the account, but only if the withdrawal is made in accordance with this article.
(b) TUITION OF LESS THAN $10,000 TO ENROLL IN OR ATTEND AN ELEMENTARY OR SECONDARY PUBLIC, PRIVATE OR RELIGIOUS SCHOOL PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE OF THE DESIGNATED BENEFICIARY OF THE ACCOUNT, BUT ONLY IF THE WITHDRAWAL IS MADE IN ACCORDANCE WITH THIS ARTICLE.

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

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

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

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

15-1875. Program requirements
A. The program shall be operated through the use of accounts in the fund established by account owners. Payments to the fund for participation in the program shall be made by account owners pursuant to tuition savings agreements. An account may be opened by any person who desires to invest in the fund and to save to pay qualified higher education expenses by satisfying each of the following requirements:
1. Completing an application in the form prescribed by the commission. The application shall include the following information:
   (a) The name, address and social security number or employer 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 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. No 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.
K. Neither an account owner nor a designated beneficiary may use an interest in an account as security for a loan. Any pledge of an interest in an account is of no force and effect.

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

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

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

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

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

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

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

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

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

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

P. A state or local government or organizations described in section 501(c)(3) of the Internal Revenue Code may open and become the account owner of an account to fund scholarships for persons whose identity will be determined after an account is opened.
Q. In the case of any account described in subsection P of this Section, the requirement that a designated beneficiary be designated when an account is opened does not apply and each person who receives an interest in the account as a scholarship shall be treated as a designated beneficiary with respect to the interest.

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

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

T. An account owner may designate successor account owners.

U. Through December 31, 2025, on direction of an account owner, up to $15,000 of an account may roll over to an Achieving a Better Life Experience Act account established pursuant to 26 United States Code Section 529A.

Approved by the Governor May 22, 2019.

Filed in the Office of the Secretary of State May 22, 2019.