

2021 Kansas Statutes

75-655. **Same; establishment of accounts; contributions and distributions; statements and information relating to accounts.** (a) Any ABLE savings accounts established pursuant to the provisions of this act shall be opened by a designated beneficiary or a conservator or guardian of a designated beneficiary who lacks capacity to enter into a contract and each beneficiary may have only one account. The treasurer may establish a nonrefundable application fee. An application for such account shall be in the form prescribed by the treasurer and contain the:

- (1) Name, address and social security number of the account owner;
- (2) name, address and social security number of the designated beneficiary, if the account owner is the beneficiary's conservator or guardian;
- (3) certification relating to no excess contributions; and
- (4) additional information as the treasurer may require.

(b) Any person may make contributions to an ABLE savings account after the account is opened, subject to the limitations imposed by section 529A of the federal internal revenue code of 1986, as amended, or any rules and regulations promulgated by the secretary pursuant to this act.

(c) Contributions to ABLE savings accounts only may be made in cash. The treasurer or program manager shall reject or promptly withdraw contributions:

- (1) In excess of the limits established pursuant to subsection (b); or
- (2) the total contributions if the:
 - (A) Value of the account is equal to or greater than the account maximum established by the treasurer. Such account maximum must be equal to the account maximum for postsecondary education savings accounts established pursuant to K.S.A. 75-640 et seq., and amendments thereto; or
 - (B) designated beneficiary is not an eligible individual in the current calendar year.

(d) (1) An account owner may:

- (A) Change the designated beneficiary of an account to an individual who is a member of the family of the prior designated beneficiary in accordance with procedures established by the treasurer; and
- (B) transfer all or a portion of an account to another ABLE savings account, the designated beneficiary of which is a member of the family as defined in section 529A of the federal internal revenue code of 1986, as amended.

(2) No account owner may use an interest in an account as security for a loan. Any pledge of an interest in an account shall be of no force and effect.

(e) (1) If there is any distribution from an account to any individual or for the benefit of any individual during a calendar year, such distribution shall be reported to the federal internal revenue service and each account owner, the designated beneficiary or the distributee to the extent required by state or federal law.

(2) Statements shall be provided to each account owner at least four times each year within 30 days after the end of the three-month period to which a statement relates. The statement shall identify the contributions made during the preceding three-month period, the total contributions made to the account through the end of the period, the value of the account at the end of such period, distributions made during such period and any other information that the treasurer shall require to be reported to the account owner.

(3) Statements and information relating to accounts shall be prepared and filed to the extent required by this act and any other state or federal law.

(f) (1) The program shall provide separate accounting for each designated beneficiary. An

annual fee may be imposed upon the account owner for the maintenance of an account.

(2) Moneys in an ABLE savings account shall be exempt from attachment, execution or garnishment as provided by K.S.A. 60-2308, and amendments thereto.

(g) Except as otherwise provided by federal law, the proceeds from an account may be transferred upon the death of a designated beneficiary to: (1) The estate of a designated beneficiary; or (2) an account for another eligible individual specified by the designated beneficiary or the estate of the designated beneficiary. The state of Kansas, or any agency or instrumentality thereof, shall not seek payment under section 529A of the internal revenue code of 1986, as amended, from the account, or its proceeds, for benefits provided to a designated beneficiary, unless otherwise required by section 1917(b) of the federal social security act, 42 U.S.C. § 1396p(b).

History: L. 2015, ch. 33, § 13; L. 2018, ch. 114, § 1; July 1.