

A-Engrossed
House Bill 2094

Ordered by the House May 10
Including House Amendments dated May 10

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Housing and Community Services Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Removes tax credit limit for donations to individual development account fiduciary organizations. Applies to tax years beginning on or after January 1, 2008.]

Allows persons 12 years of age or older to be individual development account holder. Repeals Individual Children's Development Account Program. Allows exclusion of vehicle from net worth calculation for potential account holder. Expands permissible purposes of individual development account.

Eliminates restriction on individual development account size. Limits annual and total amount for deposits of state-directed moneys to accounts.

Revises fiduciary organization qualifications. Specifies required content for personal development plans.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to development accounts for individuals; creating new provisions; amending ORS 458.670,
3 458.680, 458.685, 458.690 and 458.695; repealing ORS 417.900; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **NOTE:** Section 1 was deleted by amendment. Subsequent sections were not renumbered.

6 **SECTION 2.** ORS 458.670 is amended to read:

7 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
8 wise:

9 (1) "Account holder" means *[a member of a lower income household who is the named depositor*
10 *of an individual development account]* **a resident of this state who:**

11 **(a) Is 12 years of age or older;**

12 **(b) Is a member of a lower income household; and**

13 **(c) Has established an individual development account with a fiduciary organization.**

14 (2) "Fiduciary organization" means **an organization selected under ORS 458.695 to adminis-**
15 **ter state moneys directed to individual development accounts and that is:**

16 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
17 of the Internal Revenue Code as amended and in effect on *[January 1, 1999]* **December 31, 2006;** or

18 (b) A federally recognized *[Indian tribe or band]* **Oregon Indian tribe that is located, to a**
19 **significant degree, within the boundaries of this state.**

20 (3) "Financial institution" means:

21 (a) An organization regulated under ORS chapters 706 to 716, 722 or 723; or

22 (b) In the case of individual development accounts established for the purpose described in ORS

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 458.685 (1)(c), a financial institution as defined in ORS 348.841.

2 (4) "Individual development account" means a contract between an account holder and a
3 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and
4 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
5 the account holder to accumulate assets for use toward achieving a specific purpose approved by
6 the fiduciary organization.

7 (5) "Lower income household" means a household having an income equal to or less than 80
8 percent of the median household income for the area as determined by the Housing and Community
9 Services Department. In making the determination, the department shall give consideration to any
10 data on area household income published by the United States Department of Housing and Urban
11 Development.

12 (6) "**Resident of this state**" has the meaning given that term in ORS 316.027.

13 **SECTION 3.** ORS 458.680 is amended to read:

14 458.680. (1) A person who qualifies to become an account holder may enter into an agreement
15 with a fiduciary organization for the establishment of an individual development account.

16 (2) [A person qualifies to become an account holder if the person is] **To become an account**
17 **holder a person must, in addition to meeting any other qualifications, be** a member of a lower
18 income household that has a net worth of less than \$20,000. As used in this subsection, "net
19 worth" means the value of all assets owned in whole or part by household members, other than eq-
20 uity in a residence **and in one vehicle**, minus the total debts and obligations of household members,
21 all as measured at the time that the person applies to establish the account.

22 (3) [A person applying to establish an account must enroll in a personal development plan devel-
23 oped by the person and the fiduciary organization. The plan must provide the person with appropriate
24 financial counseling, career or business planning and other services] **Every account holder, with**
25 **support from the fiduciary organization, shall develop a personal development plan to ad-**
26 **advance account holder self-reliance. The personal development plan must include appropriate**
27 **coaching, mentorship, social support, financial adequacy training and asset-specific training**
28 designed to increase the independence of the person and the person's household through achieve-
29 ment of the account's approved purpose.

30 (4) Notwithstanding subsection (1) of this section, a fiduciary organization may refuse to allow
31 a qualified person to establish an account if establishment of the account would result in the mem-
32 bers of a lower income household having more than one account. Notwithstanding subsection (1) of
33 this section, a fiduciary organization shall refuse to allow a qualified person to establish an account
34 if establishment of the account would result in the members of a lower income household having
35 more than two accounts.

36 **SECTION 4.** ORS 458.685 is amended to read:

37 458.685. (1) A person may establish an individual development account only for a purpose ap-
38 proved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

39 (a) The acquisition of post-secondary education or job training.

40 (b) If the account holder has established the account for the benefit of a household member who
41 is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare
42 the member for post-secondary education or job training.

43 (c) If the account holder has established a college savings network account under ORS 348.841
44 to 348.873 on behalf of a designated beneficiary, the establishment of an additional college savings
45 network account on behalf of the same designated beneficiary.

1 (d) The purchase of a primary residence. In addition to payment on the purchase price of the
2 residence, account moneys may be used to pay any usual or reasonable settlement, financing or
3 other closing costs. The account holder must not have owned or held any interest in a residence
4 during the three years prior to making the purchase. However, this three-year period shall not apply
5 to displaced homemakers or other individuals who have lost home ownership as a result of divorce.

6 (e) The capitalization of a small business. Account moneys may be used for capital, plant,
7 equipment and inventory expenses or for working capital pursuant to a business plan. The business
8 plan must have been developed by a financial institution, nonprofit microenterprise program or other
9 qualified agent demonstrating business expertise and have been approved by the fiduciary organ-
10 ization. The business plan must include a description of the services or goods to be sold, a marketing
11 plan and projected financial statements.

12 **(f) Improvements, repairs or modifications necessary to make or keep the account hold-**
13 **er's primary dwelling habitable, accessible or visitable for the account holder or a household**
14 **member. This paragraph does not apply to improvements, repairs or modifications made to**
15 **a rented primary dwelling to achieve or maintain a habitable condition for which ORS 90.320**
16 **(1) places responsibility on the landlord. As used in this paragraph, "accessible" and**
17 **"visitable" have the meanings given those terms in ORS 456.508.**

18 **(g) The purchase of equipment, technology or specialized training required to become**
19 **competitive in obtaining or maintaining employment or to start or maintain a business, as**
20 **specified in the account holder's personal development plan for increasing the independence**
21 **of the person.**

22 (2)(a) If an emergency occurs, an account holder may withdraw all or part of the account hold-
23 er's deposits to an individual development account for a purpose not described in subsection (1) of
24 this section. As used in this paragraph, an emergency includes making payments for necessary
25 medical expenses, to avoid eviction of the account holder from the account holder's residence and
26 for necessary living expenses following a loss of employment.

27 (b) The account holder must reimburse the account for the amount withdrawn under this sub-
28 section within 12 months after the date of the withdrawal. Failure of an account holder to make a
29 timely reimbursement to the account is grounds for removing the account holder from the individual
30 development account program. Until the reimbursement has been made in full, an account holder
31 may not withdraw any matching deposits or accrued interest on matching deposits from the account.

32 (3) If an account holder withdraws moneys from an individual development account for other
33 than an approved purpose, the fiduciary organization may remove the account holder from the pro-
34 gram.

35 (4) If an account holder moves from the area where the program is conducted or is otherwise
36 unable to continue in the program, the fiduciary organization may remove the account holder from
37 the program.

38 (5) If an account holder is removed from the program under subsection (2), (3) or (4) of this
39 section, all matching deposits in the account and all interest earned on matching deposits shall re-
40 vert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a
41 source of matching deposits for other accounts.

42 **SECTION 5.** ORS 458.690 is amended to read:

43 458.690. (1) Notwithstanding ORS 315.271, a fiduciary organization selected under ORS 458.695
44 may qualify as the recipient of account contributions that qualify the contributor for a tax credit
45 under ORS 315.271 only if the fiduciary organization structures the accounts to have the following

1 features:

2 (a) The fiduciary organization matches amounts deposited by the account holder according to a
3 formula established by the fiduciary organization. The fiduciary organization shall **maintain on de-**
4 **posit in the account** not less than \$1 nor more than \$5 [*into the account*] for each \$1 deposited by
5 the account holder.

6 (b) The matching deposits by the fiduciary organization to the individual development account
7 are placed in:

8 (A) A savings account jointly held by the account holder and the fiduciary organization and
9 requiring the signatures of both for withdrawals;

10 (B) A savings account that is controlled by the fiduciary organization and is separate from the
11 savings account of the account holder; or

12 (C) In the case of an account established for the purpose described in ORS 458.685 (1)(c), a col-
13 lege savings network account under ORS 348.841 to 348.873, in which the fiduciary organization is
14 the account owner as defined in ORS 348.841.

15 [(2) *Deposits by a fiduciary organization to an account may not exceed \$2,000 in any 12-month*
16 *period. A fiduciary organization may designate a lower amount as a limit on annual matching deposits*
17 *to an account.*]

18 (2) **Account holders may not accrue more than \$3,000 of matching funds under subsection**
19 **(1) of this section from state-directed moneys in any 12-month period. A fiduciary organiza-**
20 **tion may designate a lower amount as a limit on annual matching funds. A fiduciary organ-**
21 **ization shall maintain on deposit sufficient funds to cover the matching deposit agreements**
22 **for all individual development accounts managed by the organization.**

23 (3) [*The total amount paid into an individual development account during its existence, including*
24 *amounts from deposits, matching deposits and interest or investment earnings, may not exceed*
25 *\$20,000.*] **The Housing and Community Services Department shall adopt rules to establish a**
26 **maximum total amount of state-directed moneys that may be deposited as matching funds**
27 **into an individual development account.**

28 **SECTION 6.** ORS 458.695 is amended to read:

29 458.695. The Housing and Community Services Department may select fiduciary organizations
30 to administer moneys directed by the state to individual development account purposes. In making
31 the selections, the department shall consider factors including, but not limited to:

32 (1) The ability of the fiduciary organization to implement and administer the individual devel-
33 opment account program, including the ability to verify account holder eligibility, certify that
34 matching deposits are used only for approved purposes and exercise general fiscal accountability;

35 (2) The capacity of the fiduciary organization to provide or raise matching funds for the deposits
36 of account holders;

37 (3) The capacity of the fiduciary organization to provide [*financial counseling and other related*
38 *services to account holders*] **appropriate support services and general assistance to advance ac-**
39 **count holder self-reliance**; and

40 (4) The links that the fiduciary organization has to other activities and programs designed to
41 increase the independence of this state's lower income households through education and training,
42 home ownership and small business development.

43 **SECTION 7. ORS 417.900 is repealed.**

44 **SECTION 8. The amendments to ORS 458.680 (3) by section 3 of this 2007 Act apply to**
45 **holders of accounts established on or after the effective date of this 2007 Act.**

1 **SECTION 9. This 2007 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
3 **on its passage.**

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0005 (2007)

813-300-0005 General Purpose

OAR chapter 813, division 300, is promulgated to accomplish the general purposes of *ORS 315.271* and *458.670* through *458.700*, as they pertain to the Housing and Community Services Department and its supervision of individual development accounts ("IDAs"). These statutes, among other things, authorize the creation of IDAs between lower income account holders and authorized fiduciary organizations. Through these IDAs, account holders may deposit funds into cooperating financial institutions so as to accumulate assets that may be used by them in a manner consistent with personal development plans developed in conjunction with their participating fiduciary organization. The fiduciary organizations, in turn, deposit matching funds through the corresponding IDAs into financial institutions so as to augment account holder assets. The fiduciary organizations also provide their expertise in coordination of the personal development plans. Fiduciary organizations largely obtain their matching funds from contributors. Contributions to fiduciary organizations for use as IDA matching deposits may qualify the contributor for a tax credit under *ORS 315.271*.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*
Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0010 (2007)

813-300-0010 Definitions

As used in these rules, unless the context indicates otherwise:

(1) "Account holder" means a member of a lower income household that has a net worth of less than \$ 20,000 who is the named depositor of an individual development account.

(2) "Contributor" means a person or entity contributing funds to the Department or to a fiduciary organization for the purpose of matching IDA deposits by an account holder or for funding program plan operations.

(3) "Department" means the Housing and Community Services Department established in *ORS 456.555* and, where applicable, its designee.

(4) "Designated beneficiary" means a minor-age member of the account holder's household who is the beneficiary of an IDA used to pay the member's extracurricular non-tuition expenses designed to prepare the member for post-secondary education or job training.

(5) "Fiduciary organization" means a non-profit, fund raising organization that is exempt from taxation under *section 501(c)(3) of the Internal Revenue Code* as amended and in effect on January 1, 1999, or a federally recognized Indian tribe or band, as selected by the department under these rules.

(6) "Fiduciary organization program plan" or "program plan" means a mission statement by a fiduciary organization and the corresponding detailed plan by it for the solicitation of contributions (tax credit or otherwise) and prospective account holders, the management of IDA's and their associated personal development plans, and the operation of the fiduciary organization itself -- all as approved by the Department and with such modifications as the Department may require. A prospective program plan must accompany any application to the Department for its approval of a fiduciary organization.

(7) "Financial institution" means an organization regulated under *ORS Chapters 706 to 716, 722 or 723*, or in the case of an account established for the purpose described in *ORS 458.685(1)(c)* related to college savings plans, a financial institution as defined in *ORS 348.841*.

(8) "Individual development account (IDA)" or "account" means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into a financial institution by the fiduciary organization, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(9) "Lower income household" means a household having an income equal to or less than 80 percent of the median household income for the area as determined by the Department, giving consideration to area household data published by the United States Department of Housing and Urban Development.

(10) "Net worth" means the value of all assets owned in whole or part by household members other than equity in a residence, minus the total debts and obligations of household members, all as measured at the time the prospective account holder applies to establish the IDA.

(11) "Oregon individual development account tax credit" or "tax credit" means a credit against taxes otherwise due under ORS Chapter 316, 317, or 318, as allowed in return for contributions to a fiduciary organization for eventual distribution to individual development accounts established under *ORS 458.685*.

(12) "Personal development plan" means a written plan developed jointly by the fiduciary organization and the prospective account holder for an IDA that is designed to provide the account holder with appropriate financial and asset training, counseling, career or business planning and other services that will increase the independence of the account holder and his/her household through achievement of the IDA's approved purposes. The personal development plan must be in conformance with *ORS 458.680*, these rules and other requirements of the Department.

(13) "Related funds" means contributions to fiduciary organizations for IDA program purposes that do not qualify for tax credits and supplemental funding from the Department for IDA program purposes.

(14) "Reverted funds" means matching IDA deposits that devolve to a fiduciary organization because of the termination or revocation of a person as an account holder or unused tax credit contributions or supplemental funds upon termination or revocation of a fiduciary organization or at the expiration of its program plan.

(15) "Supplemental funding" means funds provided by the Department to fiduciary organizations for program plan purposes.

(16) "Tax credit contributor" means a contributor who receives a corresponding tax credit as allowed in *ORS 315.271*.

(17) "Tax credit contributions" means funds obtained from tax credit contributors who, in return, earn a tax credit

(18) "Trust Land" means all lands held in trust by the United States on behalf of an Indian Tribe or individual Indian.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700*.

Statutes Implemented: *ORS 315.271, ORS 458.670-ORS 458.700*.

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 9-2003, f. & cert. ef. 12-19-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0110 (2007)

813-300-0110 Account Holder and Beneficiary Responsibilities

(1) To be an account holder, eligible persons must apply to a fiduciary organization authorized by the Department and in a manner established by the fiduciary organization as approved by the Department.

(2) Persons selected to be account holders must execute an IDA with their fiduciary organization and, as necessary, with a financial institution, in form and content satisfactory to the Department before they may act as account holders.

(3) Account holders and beneficiaries at all times must comply with applicable law, these rules, applicable orders and directives of the Department and their fiduciary organization, the provisions of their IDA, and their personal development plan.

(4) Account holders at all times must be residents of the State of Oregon. When the account is opened, the applicant to become an account holder must be a member of a lower income household.

(5) Account holders, upon request by the Department or their fiduciary organization, and as otherwise required by the terms of their IDA, must provide evidence satisfactory to the Department and to their fiduciary organization that they and any beneficiaries qualify by residence, income, and age (if applicable) to be account holders or beneficiaries.

(6) Account holders, upon request by the Department or their fiduciary organization, and as otherwise required by the terms of their IDA, must provide evidence satisfactory to the Department and to their fiduciary organization that they and any beneficiaries are complying with the terms of their IDA and its associated personal development plan.

(7) Account holders and their beneficiaries must cooperate fully with the Department and their own fiduciary organization in any review or audit of the IDA, of their personal development plan, or of their eligibility.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
 DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0120 (2007)

813-300-0120 Account Holder Use of Funds

(1) Account holders only may withdraw and use IDA deposits in a manner consistent with their IDA, the relevant personal development plan, these rules and any relevant directives of the Department.

(2) Account holders only may withdraw and use IDA deposits for the following purposes as approved by their fiduciary organization:

(a) For the acquisition of post-secondary education or job training;

(b) If the account holder has established the account for the benefit of a designated beneficiary, for the payment of extracurricular nontuition expenses designed to prepare the designated beneficiary for post-secondary education or job training;

(c) To capitalize a small business;

(d) For the purchase of a primary residence;

(e) With respect to account holder deposits only, for an emergency as set forth in *ORS 458.685(2)(a)*; and

(f) If the account holder has established a qualified tuition savings program account under *ORS 348.841* to *348.873* on behalf of a designated beneficiary, the establishment of an additional qualified tuition savings program account on behalf of the same designated beneficiary.

(3) IDA deposits, including the interest earned thereon, withdrawn by the account holder for an emergency as set forth in *ORS 458.685* and *OAR 813-300-0120(2)(e)* above, must be repaid by the account holder within 12 months.

(4) In addition to payment on the purchase price of a residence pursuant to *OAR 813-300-0120(2)(d)* above, appropriate account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs with respect to such residence.

(5) Account holders may not use IDA deposits to purchase a primary residence if they have owned or held any interest in a residence during the three years prior to making the purchase for which they intend to use IDA deposits. This three year restriction shall not apply in the following:

(a) For displaced homemakers or other individuals who have lost homeownership as a result of divorce.

(b) For a tribal member who has an interest in trust land and still has rights to an allotment under the Dawes Act Public Law 280 and amended in 1891, the 1906 Burke Act and the 1910 Omnibus Act Statutes at Large 24, 388-91, NADP Document A1887, but the tribal member faces multiple ownership of his or her land status and cannot successfully achieve sole ownership in order to receive any equity or collateral from that allotment. If the tribal member solely owns a residence on land known as an allotment and has successfully received sole ownership including the receipt of title status report (TSR) through the Bureau of Indian Affairs, they may not use IDA deposits to purchase a primary residence. If the person can receive more than \$ 2500 in equity or collateral of their allotment, the value over \$ 2500 shall be included in their asset limit.

(6) In capitalizing a small business pursuant to *OAR 813-300-0120(2)(c)* above, IDA deposits may be used for capital, plant, equipment and inventory expenses or for working capital pursuant to a business plan approved by the fiduciary organization. To qualify for fiduciary organization approval, the business plan must have been developed by a financial institution, a nonprofit microenterprise program or other qualified agent demonstrating business expertise. The business plan also must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

(7) Account holders must repay moneys improperly taken from IDA deposits including the interest earned thereon, when required by their fiduciary organization or by the Department.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 458.670-458.700*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 9-2003, f. & cert. ef. 12-19-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0160 (2007)

813-300-0160 Department Regulation and Enforcement

(1) The Department may limit, suspend, revoke or terminate its authorization of a fiduciary organization. In addition to, or in lieu of, such action, the Department may require the fiduciary organization to take appropriate remedial action including, without limitation, to complete any or all IDA's current at the time of revocation or termination, to return supplemental funds to the Department, to transfer contributions as required by the Department, and to meet such other requirements and submit to such audits and reviews as the Department deems appropriate.

(2) The Department may refuse to approve any proposed fiduciary organization action requiring such approval. The Department also may condition its approval of any proposed fiduciary organization action requiring such approval.

(3) The Department may require fiduciary organizations to terminate or revise contracts or other engagements with any financial institution, third-party contractor or other program plan partner.

(4) The Department may limit, suspend, revoke or terminate its authorization of a fiduciary organization. In addition to, or in lieu of, such action, the Department may require the fiduciary organization to take appropriate remedial action including, without limitation, to complete any or all IDA's current at the time of revocation or termination, to return supplemental funds to the Department, to transfer contributions as required by the Department, and to meet such other requirements and submit to such audits and reviews as the Department deems appropriate.

(5) The Department may refuse to approve any proposed fiduciary organization action requiring such approval. The Department also may condition its approval of any proposed fiduciary organization action requiring such approval.

(6) The Department may require fiduciary organizations to terminate or revise contracts or other engagements with any financial institution, third-party contractor or other program plan partner.

(7) The Department may require the termination of any individual development account. The Department may require the transfer of any individual development account, including related deposits, from one fiduciary organization to another or to such other fiduciary as the Department determines to be appropriate.

(8) The Department may audit any fiduciary organization, any third-party contractor, and any other program plan partner. The Department also may inspect and copy IDA program documents in the possession or under the control of such entities including, without limitation, any individual development account, any contract or other IDA program agreement, and any personal development plan.

(9) The Department may suspend, terminate or require modifications in personal development plans.

(10) The Department, on its own initiative or at the request of an aggrieved party, may review fiduciary organization decisions with respect to individual development accounts, including but not limited to decisions to withdraw matching funds from individual development accounts or to suspend or terminate matching deposits to deposits made by the account holder.

(11) The Department may suspend, overturn or modify fiduciary organization decisions with respect to individual development accounts including, but not limited to funding decisions.

(10) The Department, on its own initiative or at the request of any aggrieved party, may review other fiduciary organization decisions with respect to program plan matters including, without limitation, decisions made through third-party contractors and other program plan partners.

(11) The Department may suspend, overturn or modify fiduciary organization program plan decisions.

(12) The Department may limit the number of authorized fiduciary organizations eligible to collect tax credit contributions and may limit the amount of tax credit contributions that specific fiduciary organizations may receive in any particular time-period.

(13) The Department may take such other action to regulate and enforce compliance with the IDA program, including these rules, as the Department determines to be necessary or appropriate.

(14) Factors that the Department may consider in taking any regulatory or enforcement action under these rules may include, but are not limited to the following:

- (a) Those factors identified in these rules for the authorization of fiduciary organizations;
- (b) A person or entity's compliance with these rules and other relevant law;
- (c) The efficient and effective operation of the IDA program;
- (d) The integrity of account management; and
- (e) The best interests of account holders and designated beneficiaries.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0170 (2007)

813-300-0170 Administrative Review

(1) Account holders and designated beneficiaries aggrieved by any decision of a fiduciary organization to suspend or terminate the account holder's IDA, any decision by the fiduciary organization to suspend or terminate a personal development plan, any decision by the fiduciary organization to withdraw matching IDA deposits, or any decision by the fiduciary organization requiring the account holder to repay withdrawn IDA deposits, may request administrative review by the Department.

(2) The request for administrative review must be in writing, stating the nature of the decision, the reasons why the aggrieved party disagrees with the decision, and the nature of the requested relief.

(3) The request for administrative review must be delivered to the Department within thirty (30) days from the date that the aggrieved party receives written notice of the decision by the fiduciary organization. The aggrieved party simultaneously shall provide a copy of the request for administrative review to the fiduciary organization.

(4) Upon receipt of an appropriate request for administrative review, the Department will make such investigation of the matter as it determines to be appropriate. In making any such investigation, the Department may require and receive from the parties or other participants in the program plan any additional information or require such other proceedings as it deems appropriate.

(5) The Department will provide its written determination on the request for administrative review following the completion of its investigation. The Department also may issue such preliminary orders as it deems appropriate pending the issuance of its written determination.

(6) In its written determination, or in any preliminary order, the Department may reverse, revise, stay, or approve the decision at issue made by the fiduciary organization.

(7) The Department also may enforce its written determinations and preliminary orders by such action as it deems appropriate.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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*** IN THE JULY 1, 2007 OREGON BULLETIN ***

CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0180 (2007)

813-300-0180 Waiver

The Department may waive or modify any requirements of OAR 813, division 300, unless such waiver or modification would violate applicable federal or state law.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03