# 94-457 FINANCE AUTHORITY OF MAINE

Chapter 315: FAMILY DEVELOPMENT ACCOUNT PROGRAM

Summary: This rule establishes the procedures and standards applicable to community development organizations which may administer family development accounts.

1. Definitions

The following terms, some of which are defined in the Finance Authority of Maine Act, 10 M.R.S.A. §961 *et seq*. (the "Act"), shall have the following meanings in this rule:

A. "Account holder" means a person (or, in the case of joint account holders, persons) whose family income is below 200% of the nonfarm income official poverty line as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, subsection 2 codified at 42 U.S.C. § 9902(2), § 673(2) of the Omnibus Budget Reconciliation Act of 1981, as annually amended, who owns a family development account and who, after opening the account, meets the criteria of Section 8.

B. "Applicant" means a community development organization which has submitted an application to administer family development accounts.

C. "Authority" means the Finance Authority of Maine.

D. "Chief Executive Officer" means the Authority's Chief Executive Officer or any person acting under the delegated authority and supervision of the Chief Executive Officer.

E. "Committee" means the advisory committee on family development accounts.

F. "Community development organization" or "CDO" means a charitable organization, a community action agency or a nonprofit organization under the Internal Revenue Code, Section 501(c)(3) approved by the Authority to administer a family development account program.

G. "Contract" means a contract between the Authority and any applicant setting forth the terms of the applicant's participation as an administrator of family development accounts.

H. "Eligible uses" means a use permitted under Section 9 of this rule.

I. "Family development account" or "account" means a financial instrument established pursuant to this rule.

J. "Family development account reserve fund" means the fund created by an approved community development organization for the purpose of funding the administrative costs of the program and providing matching funds for deposit in family development accounts.

K. "Financial Institution" means a credit union or financial institution authorized to do business in the State of Maine under Title 9-B and that meets standards established by the Authority.

L. "Members" means the members of the Board of Directors of the Finance Authority of Maine.

M. "Program" means the Family Development Account Program as described in and governed by the Act and this rule.

N. "State" means the State of Maine.

2. Program Implementation

The administration of the program is delegated to the Chief Executive Officer.

3. Advisory Committee on Family Development Accounts

A. The committee shall meet at least two times annually.

B. The committee shall elect a chair and a vice chair from among its members. The chair shall be responsible for the conduct of each meeting. The vice chair shall be responsible for the conduct of a meeting in the absence of the chair.

C. A quorum of at least half of the incumbent committee members must be present to conduct the business of the committee.

D. The committee shall provide an evaluation of the use of and success of family development accounts and shall provide recommendations with respect to changes in law, rule or policy to enhance the ability of account holders to improve their economic security.

E. The committee will provide a report to the joint standing committee of the Legislature having jurisdiction over business and economic development matters by March 1st of each year, beginning in 1999.

4. Application Procedure and Content

A. Within two months of the adoption of this Rule, the Authority shall solicit applications from community development organizations seeking authorization to administer family development accounts. The Authority shall specify a time within which applicants seeking consideration must have submitted a complete application. The Authority shall solicit a second series of applications from community development organizations within six months after the completion of the initial solicitation. Thereafter, the Authority may accept applications without undertaking a solicitation.

B. Each applicant shall submit an application to the Chief Executive Officer on such forms and with such attachments as the Chief Executive Officer may require consistent with the purposes of the program and this rule.

C. The Chief Executive Officer will review each application for completeness and eligibility. Applications which are not substantially complete may be deemed not received until completed. The Chief Executive Officer shall determine when an application is received, which determination shall be final.

D. The application shall contain the following:

(1) a description of the applicant, including its funding sources, the region and population it intends to serve and a summary of all of its programs benefiting individuals eligible to become account holders;

(2) an estimate of the costs projected for the administration of the program;

(3) methods by which the applicant will obtain funds from other sources for matching investments;

(4) a plan to provide cash management training, including debt management and budgeting to account holders;

(5) a plan to publicize the availability of family development accounts;

(6) a description of the applicant's staff by organizational chart and résumé of key staff administering the program;

(7) the applicant's organizational audits and program audits for the most recent fiscal year;

(8) a description of the ability of the applicant to provide auxiliary services such as counseling on the effect of being an account holder on the receipt of State and federal financial and medical benefits, including a description of the nature and scope of such services available to account holders;

(9) a plan to screen potential account holders for eligibility;

(10) a description of the specific populations the applicant plans to identify for participation in the program;

(11) a description of the process the applicant will use to include account holders in the investment of funds in the accounts;

(12) assurances satisfactory to the Authority that deposits into accounts will be accepted from account holders with or without matching contributions from community development organizations;

(13) if the applicant proposes to undertake any aspect of its proposal with the assistance of or in conjunction with a partner, the application must also include relevant information regarding any such partner;

(14) a description of the CDO's approach to allowing a withdrawal from an account, including a description of any

(a) counseling prior to withdrawal;

(b) policies and procedures they intend to implement with respect to withdrawals, including specific standards for principal residences purchased with funds withdrawn from an account; and

(c) standards for determining the eligibility of the withdrawal.

(15) the applicant's proposed policy for determining the distribution of matching funds, including when the amount of the match will be determined; how long or by what date funds must be in the account to be eligible for a matching contribution; if the applicant will accept matching contributions with restrictions attached;

(16) the CDO's proposed confidentiality policy; and

(17) such other information as the Authority may require.

5. Applicant Eligibility and Assessment

In order to approve an application, the Chief Executive Officer must determine that the applicant:

A. Is a community development organization.

B. Is able to administer a family development account program prudently and effectively.

C. Is able to coordinate with other employment training, educational and social assistance programs.

D. Has an effective marketing plan.

E. Has enough expert assistance available to it to provide financial management education to all account holders.

F. Has the capacity to provide or raise funds from other sources to provide matching funds.

G. Evidences the ability to provide adequate security, which may be in the form of a bond.

6. Participating Financial Institutions

A. The Authority will enter into contracts with each financial institution which agrees to:

(1) Maintain accounts for and in the name of the account holder(s) ;

(2) Permit deposits to be made into accounts by the community development organization on behalf of the account holder;

(3) Credit interest to the account at a rate equal to or higher than the rate applicable to comparable accounts within the financial institution;

(4) Permit the account holder to withdraw money from an account for an eligible purpose identified in section 9; and

(5) Require the account holder to allow the financial institution to provide all account information to the community development organization.

B. All financial institutions in the State are eligible to participate in the program.

C. The Authority may terminate the participation of any financial institution which does not comply with the contract.

7. Contracts; Fees and Expenses

The Authority will enter into a contract with each participating community development organization. The contract will provide:

A. Each participating community development organization will provide a report every six months identifying:

(1) The number of account holders it assists;

(2) The aggregate dollar amount in accounts supervised by the CDO, identifying amounts contributed by account holders and amounts contributed through matching funds;

(3) The sources of matching funds received and the amount received from each source. A source may choose to maintain anonymity.

(4) The amount of matching funds provided to account holders;

(5) The amount available in the CDO's family development account reserve fund;

(6) Amounts withdrawn from accounts and the use of the funds;

(7) Activities undertaken by the CDO to recruit account holders;

(8) Activities undertaken by the CDO to recruit matching funds;

(9) Services provided to account holders;

(10) A listing of each financial institution where family development accounts are deposited, including the number of accounts at each and the aggregate dollar amount at each; and

(11) Such other information as the Authority may require.

B. Each community development organization must agree to put measures in place to assure that the matching contributions do not exceed $2000 per year and to prevent the deposit of matching funds in any account with a balance exceeding $10,000. Matching funds may be provided up to an amount which will bring an account balance to $10,000. The deposit of matching contributions into an account must be approved in writing by the community development organization administering the account.

C. Each community development organization must agree to notify the financial institution holding the account of any changes in the status of the account, including the death of the account holder.

D. Each participating community development organization must agree that it will spend no more than 15% of its family development account reserve fund(s) for administrative costs. The contract with the Authority may require that the participating community development organization pay an annual fee of up to 5% of the community development organization's family development account reserve fund(s) for the Authority's costs of administering the program. The amount paid to the Authority will be a portion of the 15% of the family development account reserve fund(s) which may be allocated for administrative costs of the community development organization.

E. If the Authority determines that an applicant has failed to comply fully with the requirements of the statute and this rule and its contract with the Authority, the Authority may take such action as it deems appropriate, including: establishing a deadline for complete compliance, temporary termination from participation in the program, permanent termination of the applicant's participation in the program.

F. Such other terms and conditions as the Authority deems appropriate.

8. Continuing Account Holder Eligibility

A. An individual remains an eligible account holder as long as they meet the criteria established in Section 1.A.

B. The eligibility of each account holder will be evaluated no less than annually.

9. Eligible Uses of Family Development Accounts

A. The account holder must obtain approval of the community development organization administering the account for each withdrawal.

B. Account holders may make withdrawals from accounts without penalty for each of the following:

(1) Expenses for education or job training or to attend an accredited or approved postsecondary education or training institution;

(2) The purchase of a home which is or will be used as the account holder's principal residence and which home is in compliance with standards set by the CDO approving the withdrawal;

(3) The repair of the account holder's principal residence;

(4) The purchase or repair of a vehicle used for transportation to work or to attend an education or training program;

(5) Expenses for an emergency that may cause the loss of shelter, employment or other basic necessities;

(6) Capital to start a small business for any family member who is 18 years of age or older; or

(7) Health care costs exceeding $500 not covered by public or private insurance.

C. Money withdrawn from any account by an account holder without obtaining the cosignature of the administrator of the community development organization or money withdrawn for an ineligible purpose, is subject to a penalty of 15%. When a penalty is assessed the account holder must be paid the funds that the account holder deposited less the penalty, plus interest on that amount. All matching contribution deposits and the interest on them are forfeited. All penalties and forfeited funds must be paid into the family development account reserve fund of the community development organization.

10. Termination of Accounts

A. Upon the death of an account holder the account must be transferred to the ownership of the designated beneficiary, if any. If there is no designated beneficiary, the account must be transferred to the estate of the deceased. No matching funds or interest earned on matching funds will be transferred to the beneficiary or the estate.

B. If an individual becomes ineligible to be an account holder, the individual is no longer eligible to make contributions to the family development account or to receive matching funds. The individual may retain the account and make withdrawals for eligible purposes with the certification of the community development organization administering the account.

11. Tax Consequences

Account balances and withdrawals are exempt from taxation pursuant to 36 M.R.S.A. §803.

12. Tax Credit Certificates

A. To obtain a tax credit for a contribution to a Family Development Account Reserve Fund a taxpayer must submit to the Authority:

(1) A fully completed application.

(2) A certification from a CDO which has entered into a contract with the Authority, including:

(a) the date the CDO received the contribution;

(b) the amount of the contribution; and

(c) the name of the contributor.

(3) A certification from the contributor that the contributor will not claim an itemized charitable deduction for the amount of the contribution that qualified for the credit.

B. The Chief Executive Officer shall issue tax credit certificates to eligible tax payers in an amount equal to the lower of:

(1) Twenty-five thousand dollars ($25,000); or

(2) Fifty percent (50%) of the amount contributed by the taxpayer;

C. Applications will be processed in the order the completed application is received until such time as certificates are issued aggregating the maximum amount authorized by applicable law.

D. The Authority may not issue certificates in excess of $200,000 in each state fiscal year.

13. Appeal

A. In the event that a community development organization's application is rejected by the Chief Executive Officer, the applicant shall have the right to appeal the decision of the Chief Executive Officer to the members. Notice of the appeal, together with a statement of the reasons why the Chief Executive Officer's decision should be reversed or modified, shall be given to the Chief Executive Officer, in writing within 20 days after the date the Chief Executive Officer mails the notice of rejection to the applicant. The appeal shall be heard at a meeting of the members. The applicant must be present to support the appeal. The appeal shall be based on the record before the Chief Executive Officer on the date of the rejection. The decision of the Chief Executive Officer shall be final unless the members determine that the rejection by the Chief Executive Officer was arbitrary, capricious or an abuse of discretion, in which event the members may overturn or modify the decision of the Chief Executive Officer and may direct the Chief Executive Officer to take further action with respect to the application.

B. In the event that there is a dispute between an account holder and the community development organization, it may be appealed to the Chief Executive Officer of the Authority. The Chief Executive Officer's determination shall be final. Notice of the appeal, together with a statement of the reasons why the decision should be reversed or modified, shall be given to the Chief Executive Officer, in writing within 30 days after the date of the decision. The adversary shall have 30 days to respond. The Chief Executive Officer may make a decision based on the materials presented or may set a hearing time and date. If the Chief Executive Officer determines to hold a hearing the appellant must be present to support the appeal. The appeal shall be based on the record before the Chief Executive Officer. The decision of the Chief Executive Officer shall be final agency action appealable to the Superior Court.

14. Waiver of Rule

The Chief Executive Officer may waive any requirement of this rule, except to the extent that the requirement is mandated by the Act, in cases where the deviation from the rule is insubstantial and is not contrary to the purposes of the program.

15. Conflict of Interest

No member of the Committee may vote on any matter in which the member or any organization the member works for has a conflict of interest or which may be perceived as a conflict of interest.

STATUTORY AUTHORITY: 10 M.R.S.A., §961 *et seq*., and particularly 10 M.R.S.A. §1075, *et seq*., and P.L. 1997, Ch. 518 ("An Act to Establish Family Development Accounts")

EFFECTIVE DATE:

July 6, 1998

AMENDED:

February 2, 2000 - modifying sections 6.A(1) and 6.A(4), adding a new section 12 and renumbering sections 12 and 13 as 13 and 14.

January 19, 2002 - modifying sections 6.A(4), 6.A(5), and 7.B.

NON-SUBSTANTIVE CORRECTIONS:

March 18, 2004 - eliminated a space before a comma on page 4

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 17, 2025