

6397--A

Cal. No. 28

I N S E N A T E

January 8, 2016

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the mental hygiene law and the tax law, in relation to NY ABLE account ownership, contributions and distributions; and to repeal certain provisions of the tax law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivisions 2 and 3 of section 84.03 of the mental hygiene  
2 law, as added by a chapter of the laws of 2015 amending the mental  
3 hygiene law, the tax law, the social services law and the state finance  
4 law, relating to establishing the NY ABLE act, as proposed in legisla-  
5 tive bills numbers S.4472-D and A.776-B, are amended to read as follows:  
6 2. "Account" or "NY ABLE account" shall mean an individual savings  
7 account established in accordance with the provisions of [this article]  
8 SECTION 529A OF THE INTERNAL REVENUE CODE.  
9 3. "Account owner" shall mean a person who opens a savings account  
10 pursuant to the provisions of [this article] SECTION 529A OF THE INTER-  
11 NAL REVENUE CODE, AS AMENDED, OR ANY REGULATIONS PROMULGATED THEREUNDER.  
12 The account owner [may] MUST also be the designated beneficiary of the  
13 account.
- 14 S 2. Subdivisions 1 and 2 of section 84.05 of the mental hygiene law,  
15 as added by a chapter of the laws of 2015 amending the mental hygiene  
16 law, the tax law, the social services law and the state finance law,  
17 relating to establishing the NY ABLE act, as proposed in legislative  
18 bills numbers S.4472-D and A.776-B, are amended to read as follows:  
19 1. The comptroller shall establish a NY ABLE account plan for all  
20 eligible individuals [and families] for the purpose of supporting indi-  
21 viduals with disabilities to maintain health, independence, and quality  
22 of life. The comptroller is hereby authorized to promulgate any and all  
23 rules and regulations necessary for the implementation of this article  
24 in consultation with the commissioners of the office for people with

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 developmental disabilities, the office of mental health, the department  
2 of health, and the office of temporary and disability assistance.

3 2. The comptroller may implement the NY ABLE savings account program  
4 through use of third party vendors as administrators of such accounts,  
5 and financial organizations as account depositories and managers. Under  
6 the program, ELIGIBLE individuals may establish accounts directly with  
7 an account depository.

8 S 3. Subdivisions 2 and 8 of section 84.09 of the mental hygiene law,  
9 as added by a chapter of the laws of 2015 amending the mental hygiene  
10 law, the tax law, the social services law and the state finance law,  
11 relating to establishing the NY ABLE act, as proposed in legislative  
12 bills numbers S.4472-D and A.776-B, are amended to read as follows:

13 2. [A NY ABLE account may be opened by any person who desires to save  
14 money for the payment of the qualified living expenses of a designated  
15 beneficiary. Such person who opens a NY ABLE account shall be considered  
16 the account owner as set forth in this article.]

17 (a) An application for [such] A NY ABLE account shall be in the form  
18 prescribed by the program and contain the following:

19 (i) the name, address and social security number or employer identifi-  
20 cation number of the account owner;

21 (ii) the designation of a designated beneficiary;

22 (iii) the name, address and social security number of the designated  
23 beneficiary; and

24 (iv) such other information as the program may require.

25 (b) The comptroller may establish a nominal fee for such application.

26 8. An account owner may change the designated beneficiary of an  
27 account to another beneficiary [who is qualified under the provisions of  
28 this article] ONLY AS PERMITTED UNDER SECTION 529A OF THE INTERNAL  
29 REVENUE CODE.

30 S 4. Subsection (b) of section 612 of the tax law, as added by a chap-  
31 ter of the laws of 2015 amending the mental hygiene law, the tax law,  
32 the social services law and the state finance law, relating to estab-  
33 lishing the NY ABLE act, as proposed in legislative bills numbers  
34 S.4472-D and A.7767-B, is REPEALED.

35 S 5. Paragraphs 42 and 43 of subsection (c) of section 612 of the tax  
36 law, as added by a chapter of the laws of 2015 amending the mental  
37 hygiene law, the tax law, the social services law and the state finance  
38 law, relating to establishing the NY ABLE act, as proposed in legisla-  
39 tive bills numbers S.4472-D and A7767-B, are REPEALED.

40 S 6. This act shall take effect on the same date and in the same  
41 manner as a chapter of the laws of 2015 amending the mental hygiene law,  
42 the tax law, the social services law and the state finance law, relating  
43 to establishing the NY ABLE act, as proposed in legislative bills  
44 numbers S.4472-D and A.7767-B, takes effect.