

Document: Miss. Code Ann. § 37-155-101

Miss. Code Ann. § 37-155-101

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Mississippi Code 1972 Annotated Title 37. Education (Chs. 1 – 187) Chapter 155. College Savings Plans of Mississippi (Arts. 1 – 3) Article 3. Mississippi Affordable College Savings (MACS) Program. (§§ 37-155-101 – 37-155-125)

§ 37-155-101. Short title.

This article shall be known and may be cited as the "Mississippi Affordable College Savings Program."

History

Laws, 2000, ch. 473, § 1, eff from and after July 1, 2000.

Mississippi Code 1972 Annotated

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Mississippi Code 1972 Annotated Title 37. Education (Chs. 1 – 187) Chapter 155. College Savings Plans of Mississippi (Arts. 1 – 3) Article 3. Mississippi Affordable College Savings (MACS) Program. (§§ 37-155-101 – 37-155-125)

§ 37-155-103. Declaration of purpose.

The following are the purposes of this article:

- (a) To provide a program of savings trust agreements to apply distributions toward qualified higher education expenses at eligible educational institutions, as defined in Section 529 of the Internal Revenue Code, as amended, or other applicable federal law.
- (b) To provide for the creation of a trust fund, as an instrumentality of the State of Mississippi, to assist qualified students in financing costs of attending institutions of higher education.
- (c) To encourage timely financial planning for higher education by the creation of savings trust accounts.
- (d) To provide a choice of programs to persons who determine that the overall educational needs of their families are best suited to a prepaid tuition contract under the Mississippi Prepaid Affordable College Tuition (MPACT) Program, a savings trust agreement under this article, or both.
- (e) To provide a savings program for those persons who wish to save to meet post secondary educational needs beyond the traditional baccalaureate curriculum.

History

Laws, 2000, ch. 473, § 2, eff from and after July 1, 2000.

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Mississippi Code 1972 Annotated Title 37. Education (Chs. 1 — 187) Chapter 155. College Savings Plans of Mississippi (Arts. 1 — 3) Article 3. Mississippi Affordable College Savings (MACS) Program. (§§ 37-155-101 — 37-155-125)

§ 37-155-105. Definitions.

As used in this article, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

- (a)** "MACS Program" means the Mississippi Affordable College Savings Program established under this article.
- (b)** "MACS Trust Fund" means a special fund in the State Treasury established under Section 37-155-111, and administered by the Treasury Department.
- (c)** "Account owner" means a resident or nonresident person, corporation, trust, charitable organization or other entity which contributes to or invests money in a savings trust account under the MACS Program on behalf of a beneficiary and which is listed as the owner of the savings trust account.
- (d)** "Beneficiary" means a resident or nonresident beneficiary of a savings trust agreement who meets the requirements of Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law, and any regulations established by the board.
- (e)** "Institution of higher education" means an eligible educational institution as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or any other applicable federal law.
- (f)** "Tuition" means the quarter, semester or term charges and all required fees imposed by an institution of higher education as a condition of enrollment by all students.
- (g)** "Board" means the Board of Directors of the College Savings Plans of Mississippi Trust Funds established under Section 37-155-7.

(h) "Payor" means a person, corporation, trust, charitable organization or other such entity which contributes money or makes a payment to either a savings trust account established pursuant to this article or a prepaid tuition account established under Sections 37-155-1 through 37-155-27 on behalf of a beneficiary.

(i) "Savings trust account" means an account established by an account owner pursuant to this article on behalf of a beneficiary in order to apply distributions from the account toward qualified higher education expenses at eligible educational institutions, as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

(j) "Savings trust agreement" means the agreement entered into between the board and the account owner establishing a savings trust account.

(k) "Qualified higher education expense" means any higher education expense, as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

(l) "Qualified withdrawal" means a withdrawal by an account owner or beneficiary for qualified higher education expenses or as otherwise permitted under Section 529 of the Internal Revenue Code of 1986, as amended, without a penalty required under the Internal Revenue Code.

History

Laws, 2000, ch. 473, § 3, eff from and after July 1, 2000.

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Mississippi Code 1972 Annotated Title 37. Education (Chs. 1 – 187) Chapter 155. College Savings Plans of Mississippi (Arts. 1 – 3) Article 3. Mississippi Affordable College Savings (MACS) Program. (§§ 37-155-101 – 37-155-125)

§ 37-155-107. Powers of the board of directors.

In addition to those powers granted to the board by Sections 37-155-1 through 37-155-27 and any other provisions of this article, the board shall have the powers necessary or convenient to carry out the purposes and provisions of this article, the purposes and objectives of the trust fund, and the powers delegated by any other law or executive order of this state, including, but not limited to, the following express powers:

- (a) To adopt such rules and regulations as are necessary to implement this article, subject to applicable federal laws and regulations, including rules regarding transfers of funds between accounts established under prepaid tuition contracts and savings trust agreements;
- (b) To impose reasonable requirements for residency for beneficiaries or account owners at the time of purchase of the savings trust agreement;
- (c) To contract for necessary goods and services, to employ necessary personnel, and to engage the services of consultants and other qualified persons and entities for administrative and technical assistance in carrying out the responsibilities of the trust funds under terms and conditions that the board deems reasonable, including contract terms for periods up to ten (10) years at which time a contract may be terminated, extended or renewed for a term determined by the board, not to exceed a term of ten (10) years at any one time;
- (d) To solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition grants, loans and other aids from any personal source or to participate in any other way in any federal, state or local governmental programs in carrying out the purposes of this article;

- (e)** To define the terms and conditions under which payments may be withdrawn or refunded from the trust fund established under this article to impose reasonable charges for a withdrawal or refund;
- (f)** To impose reasonable time limits on the use of savings trust account distributions provided by the MACS Program;
- (g)** To regulate the receipt of contributions or payments to the MACS Trust Fund;
- (h)** To segregate contributions and payments to the MACS Trust Fund into various accounts and funds;
- (i)** To require and collect administrative fees and charges in connection with any transaction and to impose reasonable penalties for withdrawal of funds for nonqualified higher educational expenses or for entering into a savings trust agreement on a fraudulent basis;
- (j)** To procure insurance against any loss in connection with the property, assets and activities of the MACS Trust Fund or the board;
- (k)** To require that account owners of savings trust agreements or purchasers of Mississippi Prepaid Affordable College Tuition (MPACT) contracts under Sections 37-155-1 through 37-155-27 verify, under oath, any requests for contract conversions, substitutions, transfers, cancellations, refund requests or contract changes of any nature;
- (l)** To solicit proposals and to contract for the marketing of the MACS Program, provided that: (i) any materials produced by a marketing contractor for the purpose of marketing the program must be approved by the board before being made available to the public; and (ii) neither the state nor the board shall be liable for misrepresentation of the program by a marketing contractor;
- (m)** To delegate responsibility for administration of the comprehensive investment plan to a contractor or contractors or a consultant or consultants that the board determines is qualified;
- (n)** To make all necessary and appropriate arrangements with colleges and universities or other entities in order to fulfill its obligations under savings trust agreements;
- (o)** To establish other policies, procedures and criteria necessary to implement and administer this article; and
- (p)** To authorize the Treasury Department or the State Treasurer, or both, to carry out any or all of the powers and duties enumerated in this section for efficient and effective administration of the MACS Program and MACS Trust Fund.

History

Laws, 2000, ch. 473, § 4, eff from and after July 1, 2000.

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Mississippi Code 1972 Annotated Title 37. Education (Chs. 1 — 187) Chapter 155. College Savings Plans of Mississippi (Arts. 1 — 3) Article 3. Mississippi Affordable College Savings (MACS) Program. (§§ 37-155-101 — 37-155-125)

§ 37-155-109. Savings trust agreements.

(1) The board shall make savings trust agreements available to the public, under which account owners or other payors may make contributions on behalf of qualified beneficiaries. Contributions and investment earnings on the contributions may be used for any qualified higher educational expenses of a designated beneficiary. The state does not guarantee that such contributions, together with the investment return on such contributions, if any, will be adequate to pay for qualified education expenses in full.

(2) Each savings trust agreement made pursuant to this article shall include the following terms and provisions:

(a) The maximum and minimum contribution allowed on behalf of each beneficiary for the payment of qualified higher education expenses at eligible institutions, both as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

(b) Provisions for withdrawals, refunds, transfers and any penalties;

(c) The name, address and date of birth of the beneficiary on whose behalf the savings trust account is opened;

(d) Terms and conditions for a substitution of the beneficiary originally named;

(e) Terms and conditions for termination of the account, including any refunds, withdrawals or transfers, and applicable penalties, and the name of the person or persons entitled to terminate the account;

(f) The time period during which the beneficiary must use benefits from the savings trust account;

(g) All other rights and obligations of the account owner and the MACS Trust Fund; and

(h) Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law or regulations.

History

Laws, 2000, ch. 473, § 5, eff from and after July 1, 2000.

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Mississippi Code 1972 Annotated Title 37. Education (Chs. 1 – 187) Chapter 155. College Savings Plans of Mississippi (Arts. 1 – 3) Article 3. Mississippi Affordable College Savings (MACS) Program. (§§ 37-155-101 – 37-155-125)

§ 37-155-111. Mississippi Affordable College Savings Trust Fund.

(1) There is created a Mississippi Affordable College Savings Trust Fund as an instrumentality of the state to be administered by the Treasury Department. The MACS Trust Fund shall consist of state appropriations, monies acquired from other governmental or private sources and money remitted in accordance with savings trust agreements and shall receive and hold all payments, contributions and deposits intended for it as well as gifts, bequests, endowments or federal, state or local grants and any other public or private source of funds and all earnings on the fund until disbursed as provided under this section. The amounts on deposit in the trust fund shall not constitute property of the state. Amounts on deposit in the trust fund may not be commingled with state funds, and the state may have no claim to or interest in such funds. Savings trust agreements or any other contract entered into by or on behalf of the trust do not constitute a debt or obligation of the state, and no account owner is entitled to any amounts except for those amounts on deposit in or accrued to their account.

The MACS Trust Fund shall continue in existence as long as it holds any funds belonging to an account owner or otherwise has any obligations to any person or entity until its existence is terminated by the Legislature and remaining assets on deposit in the fund are returned to account owners or transferred to the state in accordance with unclaimed property laws.

(2) There are created the following three (3) separate accounts within the MACS Trust Fund: (a) the administrative account; (b) the endowment account; and (c) the program account. The administrative account shall accept, deposit and disburse funds for the purpose of administering and marketing the program. The endowment account shall receive and deposit accounts received in connection with the

sales of interests in the MACS Trust Fund other than amounts for the administrative account and other than amounts received pursuant to a savings trust agreement. Amounts on deposit in the endowment account may be applied as specified by the board for any purpose related to the program or to otherwise assist Mississippi residents to attain a postsecondary education. The program account shall receive, invest and disburse amounts pursuant to savings trust agreements.

(3) The official location of the trust fund shall be the State of Mississippi Treasury Department, and the facilities of the Treasury Department shall be used and employed in the administration of the fund, including, but without limitation to, the keeping of records, the management of bank accounts and other investments, the transfer of funds and the safekeeping of securities evidencing investments. These functions may be administered pursuant to a management agreement with a qualified entity or entities.

(4) Payments received by the board on behalf of beneficiaries from account owners, other payors or from any other source, public or private, shall be placed in the trust fund, and the board shall cause there to be maintained separate records and accounts for individual beneficiaries, as may be required under Section 529 of the Internal Revenue Code of 1986, as amended, and any other applicable federal law.

(5) Account owners and any other payors or contributors shall be permitted only to contribute cash or any other form of payment or contribution as is permitted under Section 529 of the Internal Revenue Code of 1986, as amended, and approved by the board. The board shall cause the program to maintain adequate safeguards against contributions in excess of what may be required for qualified higher education expenses. The MACS Trust Fund, through the Treasurer, may receive and deposit into the trust fund any gift of any nature, real or personal property, made by an individual by testamentary disposition, including, without limitation, any specific gift or bequeath made by will, trust or other disposition to the extent permitted under Section 529 of the Internal Revenue Code of 1986, as amended. The MACS Trust Fund may receive amounts transferred from an UGMA, UTMA or other account established for the benefit of a minor if the trust beneficiary of such an account is identified as the legal owner of the MACS Trust Fund account upon attaining majority age.

(6) The account owner retains ownership of all amounts on deposit in his or her account with the program up to the date of distribution on behalf of a designated beneficiary. Earnings derived from investment of the contributions shall be considered to be held in trust in the same manner as contributions, except as applied for purposes of the designated beneficiary and for purposes of maintaining and administering the program as provided in this article. Amounts on deposit in an account owner's account shall be available for expenses and penalties imposed by the board for the program as disclosed in the savings trust agreement.

(7) The MACS Trust Fund shall constitute a fund of an instrumentality of the state, and its property and income shall be exempt from all taxation by the state and by all of its political subdivisions.

(8) The assets of the MACS Trust Fund shall be preserved, invested and expended solely pursuant to and for the purposes of this article and shall not be loaned or otherwise transferred or used by the state for any other purpose.

History

Laws, 2000, ch. 473, § 6, eff from and after July 1, 2000.

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§ 37-155-113. Property in Trust Fund exempt from taxation; tax deduction for contributions to MACS accounts.

(1) All property and income of the MACS Trust Fund, as an instrumentality of the state, is exempt from all taxation by the state and by its political subdivisions.

(2) Any contributor or payor to a MACS Program account may deduct from their Mississippi taxable income any contributions or payments to an account or accounts in the MACS Trust Fund up to a maximum annual amount of Twenty Thousand Dollars (\$20,000.00) for joint filers and Ten Thousand Dollars (\$10,000.00) for single and other filers. Contributions or payments for such tax years may be made after such calendar years but before the deadline for making contributions to an individual retirement account under federal law for such years. The earnings portion of any withdrawals from an account that are not qualified withdrawals, as well as any amounts included in such nonqualified withdrawals previously deducted from taxable income under this section, shall be included in the gross income of the resident recipient of the withdrawal for purposes of the Mississippi Income Tax Law in the year of such withdrawal.

History

Laws, 2000, ch. 473, § 7, eff from and after July 1, 2000.

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Mississippi Code 1972 Annotated Title 37. Education (Chs. 1 – 187) Chapter 155. College Savings Plans of Mississippi (Arts. 1 – 3) Article 3. Mississippi Affordable College Savings (MACS) Program. (§§ 37-155-101 – 37-155-125)

§ 37-155-115. Authority of board to invest funds in Trust Fund.

(1) The board has authority to establish a comprehensive investment plan for the purposes of this article, to invest any funds of the MACS Trust Fund in any instrument, obligation, security or property that constitutes legal investments for public funds in the state, and to name and use depositories for its investments and holdings. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the funds. The board may authorize investments in any investment vehicle authorized for the Mississippi Prepaid Affordable College Tuition (MPACT) Program under Section 37-155-9. However, the restrictions in Section 37-155-9 as to percentages of the total fund that may be invested in any category of authorized investment shall not apply to the MACS Trust Fund. The program account, in its discretion, may invest in obligations of the state or any political subdivision of the state or in any business entity in the state.

Notwithstanding any state law to the contrary, the board shall invest or cause to be invested amounts on deposit in the MACS Trust Fund, including the program account, in a manner reasonable and appropriate to achieve the objectives of the program, exercising the discretion and care of a prudent investor in similar circumstances with similar objectives. The board shall give due consideration to the risk, expected rate of return, term or maturity, diversification of total investments, liquidity and anticipated investments in and withdrawals from the MACS Trust Fund.

(2) All investments shall be acquired by the board at prices not exceeding the prevailing market values for such securities.

(3) Any limitations set forth in this section shall be applicable only at the time of purchase and shall not require the liquidation of any investment at any time. All investments shall be marked clearly to indicate

ownership by the system and, to the extent possible, shall be registered in the name of the system.

(4) Subject to the terms, conditions, limitations and restrictions set forth in this section, the board may sell, assign, transfer and dispose of any of the securities and investments of the system if the sale, assignment or transfer has the majority approval of the entire board. The board may employ or contract with investment managers, evaluation services, or other such services as determined by the board to be necessary for the effective and efficient operation of the system.

(5) Except as otherwise provided in this section, no trustee or employee of the board may have any direct or indirect interest in the income, gains or profits of any investment made by the board, and such person may not receive any pay or emolument for his services in connection with any investment made by the board. No trustee or employee of the board may become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the system.

(6) Under the authority granted in Section 37-155-107, the board may establish criteria for investment managers, mutual funds or other such entities to act as contractors or consultants to the board. The board may contract, either directly or through such contractors or consultants, to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary or proper by the board, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting, and asset purchase, control and safekeeping.

(7) No account owner, contributor, payor or beneficiary may directly or indirectly direct the investment of any account except as may be permitted under Section 529 of the Internal Revenue Code of 1986, as amended.

(8) The board may approve different investment plans and options to be offered to participants to the extent permitted under Section 529 of the Internal Revenue Code of 1986, as amended, and consistent with the objectives of this article and may require the assistance of investment counseling before participation in different options.

(9) Interests or accounts in the MACS Trust Fund and transactions in such interests or accounts shall be exempt from Sections 75-71-113 and 75-71-401.

History

Laws, 2000, ch. 473, § 8; Laws, 2006, ch. 474, § 17, eff from and after July 1, 2006.

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§ 37-155-117. Board to provide annual accounting statements.

(1) The board shall furnish, without charge, to each account owner an annual statement of the following:

(a) The amount contributed by the account owner under the savings trust agreement;

(b) The annual earnings and accumulated earnings on the savings trust account; and

(c) Any other terms and conditions that the board deems by rule is necessary or appropriate, including those necessary to conform the savings trust account with the requirements of Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law or regulations.

(2) The board shall furnish an additional statement complying with subsection (1) to an account owner or beneficiary on written request. The board may charge a reasonable fee for each statement furnished under this subsection.

(3) The board shall prepare or cause to be prepared an annual report setting forth in appropriate detail an accounting of the funds and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and members of the Board of Trustees of State Institutions of Higher Learning, the Mississippi Community College Board and the State Board of Education. In addition, the board shall make the report available to account owners of savings trust agreements. The accounts of the fund shall be subject to annual audits by the State Auditor or his designee.

History

Laws, 2000, ch. 473, § 9; Laws, 2014, ch. 397, § 52, eff from and after July 1, 2014.

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§ 37-155-119. No promise or guarantee of beneficiary's admission.

This article is not a promise or guarantee that the beneficiary will be:

- (a) Admitted to any institution of higher education;
- (b) Admitted to a particular institution of higher education after admission;
- (c) Allowed to continue enrollment at an institution of higher education; or
- (d) Graduated from an institution of higher education.

History

Laws, 2000, ch. 473, § 10, eff from and after July 1, 2000.

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§ 37-155-121. No guarantee that higher education expenses will be covered in full.

Nothing in this article or in any savings trust agreement entered into pursuant to this article shall be construed as a promise or guarantee by the state or any agency or instrumentality of the state that either qualified higher education expenses in general or any specific qualified higher education expense shall be covered in full by contributions or earnings on any savings trust account. Savings trust accounts and agreements entered into pursuant to this article are not guaranteed by the full faith and credit of the State of Mississippi.

History

Laws, 2000, ch. 473, § 11, eff from and after July 1, 2000.

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§ 37-155-123. Monies in MACS or MPACT Programs not considered in determining eligibility for need-based financial aid.

Notwithstanding any state law to the contrary, no monies on deposit in either the MACS or MPACT Programs shall be considered an asset of the parent, guardian or student for purposes of determining an individual's eligibility for a need-based grant, need-based scholarship or need-based work opportunity offered or administered by any state agency except as may be required by the funding source of such financial aid.

History

Laws, 2000, ch. 473, § 12, eff from and after July 1, 2000.

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§ 37-155-125. Severability.

The provisions of this article are severable. If any part of this article is declared invalid or unconstitutional, such declaration shall not affect the parts of this article which remain.

History

Laws, 2000, ch. 473, § 13, eff from and after July 1, 2000.

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