

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 714**

By Senator Rucker

[Introduced March 6, 2025; referred  
to the Committee on Banking and Insurance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §31A-9-1, §31A-9-2, and §31A-9-3, relating to the creation of the Voluntary Portable Benefit Account Act; providing for a short title; creating definitions; and providing for enactment of the article for the creation of voluntary portable benefit accounts.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 9. VOLUNTARY PORTABLE BENEFIT ACCOUNT ACT.**

**§31A-9-1. Short title.**

This article shall be known and may be cited as the "Voluntary Portable Benefit Account Act".

**§31A-9-2. Definitions.**

As used in this article:

(1) "Bank" means:

(A) A state bank or a national bank or an out of state, state-chartered bank that has received a certificate of authority; or

(B) Any foreign bank organized under the laws of a territory of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, or the United States Virgin Islands, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(2) "Hiring party" means a person who hires or enters into a contract with an independent contractor.

(3) "Voluntary portable benefit account" means an account that is:

(A) Opened by an independent contractor to fund the purchase of one or more benefit plans;

(B) Administered by a voluntary portable benefit account provider; and

(C) Assigned to a beneficiary of one or more benefit plans rather than to an employer or hiring party.

(4) "Voluntary portable benefit plan" includes without limitation:

(A) Health insurance;

(B) Income replacement insurance;

(C) Life insurance; and

(D) Retirement benefits.

(5) "Voluntary portable benefit account provider" means the administrator of a voluntary portable benefit account and includes:

(A) A bank;

(B) An investment management firm;

(C) A technology provider or program manager that offers services through a bank or investment management firm; or

(D) Any other person who demonstrates to the satisfaction of the Bank Commissioner that the manner in which the bank or person will administer the voluntary portable benefit account will be consistent with the voluntary portable benefit account requirements under this article.

**§31A-9-3. Voluntary portable benefit account.**

(a) A person or entity, including an independent contractor or an internet-based or application-based company, may voluntarily contribute funds to a voluntary portable benefit account for an independent contractor.

(b) Employment status as an independent contractor shall be determined by the employment status factors set out in this code.

(c) A contribution to a voluntary portable benefit account shall not be used as a criterion for determining a worker's employment classification.

(d) A contribution to a voluntary portable benefit account may be made using the funds of the hiring party or a percentage of funds withheld from compensation owed to an independent contractor if:

(1) The withholding of compensation is expressly agreed to in writing;

(2) The written agreement is clear, unambiguous, and prominently displayed either in a

- 13 work contract or a separate notice;
- 14 (3) The withholdings are voluntary and require an independent contractor to opt in; and
- 15 (4) An independent contractor may choose to opt out of the agreement in this article at any
- 16 time.

NOTE: The purpose of this bill is to create the Voluntary Portable Benefit Account Act. The bill provides for a short title. The bill creates definitions. Finally, the bill provides for the enactment of the article for the creation of voluntary portable benefit accounts.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.