

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

**House Bill 4009**

**FISCAL  
NOTE**

By Delegates Kyle, Funkhouser, Green, Burkhammer,  
Jeffries, Akers, Riley, Hornby, Hott, Heckert, and  
Drennan

[Introduced January 15, 2026; referred to the  
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §31A-10-1, §31A-10-2, and §31A-10-3, relating to the creation of the Portable  
3 Benefit Account Act; providing for a short title; creating definitions; and providing for  
4 enactment of the article for the creation of portable benefit accounts.

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

**ARTICLE 10. PORTABLE BENEFIT ACCOUNT ACT.**

**§31A-10-1.** **Short title.**

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

**§31A-10-2.** **Definitions.**

1 As used in this article:

2 (1) "Bank" means:

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

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

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

10 (3) "Portable benefit account" means an account that is:

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

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

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

16 (4) "Portable benefit plan" includes without limitation:

17 (A) Retirement benefits;

(B) Health insurance;

(C) Life insurance; and

(D) Income replacement insurance.

(5) "Portable benefit account provider" means the administrator of a portable benefit account.

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 portable benefit account will be

consistent with the portable benefit account requirements under this article.

**§31A-10-3. Voluntary portable benefit account.**

(a) A person or entity, including an independent contractor or an internet-based or  
ation-based company, may voluntarily contribute funds to a portable benefit account for an  
ndent 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 portable benefit account shall not be used as a criterion for determining a worker's employment classification.

(d) A contribution to a portable benefit account may be made using the funds of the hiring  
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 contract or a separate notice;

(3) The withholdings are voluntary and require an independent contractor to opt in; and

14                   (4) An independent contractor may choose to opt out of the agreement in this article at any  
15                   time.

NOTE: The purpose of this bill is to create the Portable Benefit Account Act.

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