

2025 -- H 5316

LC000904

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO TAXATION -- HOUSING FLEXIBLE SPENDING ACCOUNT ACT OF 2025

Introduced By: Representatives Finkelman, Solomon, Shanley, Morales, Dawson, Noret,
Phillips, Batista, Caldwell, and Voas

Date Introduced: February 05, 2025

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 72

4 HOUSING FLEXIBLE SPENDING ACCOUNT ACT OF 2025

5 **44-72-1. Title and purpose.**

6 This chapter shall be known and may be cited as the "Housing Flexible Spending Account
7 Act of 2025." Its purpose is to establish a state-administered program that enables Rhode Island
8 employers to contribute to a housing flexible spending account (H-FSA), to be used for qualified
9 housing expenses while maintaining fiscal responsibility for the state.

10 **44-72-2. Definitions.**

11 As used in this chapter:

12 (1) "Administrator" means the department of revenue or another state-designated entity
13 responsible for program oversight and administration.

14 (2) "Employer" means any entity, business, or organization operating within the state that
15 offers payroll-based benefits to employees and has fewer than fifty (50) employees.

16 (3) "Housing flexible spending account (H-FSA)" means an employer-funded account
17 established for eligible individuals to use for qualified housing expenses.

18 (4) "Qualified housing expenses" means and includes, but is not limited to:

19 (i) Monthly rent or mortgage payments;

- 1 (ii) Down payments for first-time homebuyers;
- 2 (iii) Utilities, including electricity, water, and heating costs; and
- 3 (iv) Property taxes.

4 **44-72-3. Program structure and requirements.**

- 5 (a) The department of revenue shall establish and administer the H-FSA program to
- 6 encourage employer contributions towards employee housing assistance.
- 7 (b) Participation in the H-FSA program shall be voluntary for employers.
- 8 (c) Employers who participate in the program shall contribute a minimum of five thousand
- 9 dollars (\$5,000) per year in total for all eligible employees in order to qualify for program benefits.
- 10 (d) Employer contributions shall be treated as a pre-tax benefit for employees and shall not
- 11 be subject to Rhode Island state income tax.
- 12 (e) Employee contributions to the H-FSA program shall not be permitted, as the program
- 13 shall be entirely employer-funded.
- 14 (f) Only employees earning an annual salary of one hundred twenty-five thousand dollars
- 15 (\$125,000) or less, shall be eligible to receive employer contributions under this program.
- 16 (g) The department of revenue shall establish a secure system for employers to deposit
- 17 contributions into H-FSA accounts for eligible employees, ensuring transparency and compliance.
- 18 (h) Annual employer contribution limits shall be determined by the department of revenue
- 19 in consultation with the general assembly and shall be indexed for inflation.
- 20 (i) Employers shall be required to certify their contributions annually to remain eligible for
- 21 program benefits as set forth in this section.

22 **44-72-4. Unemployment insurance (UI) taxable wages base adjustments for H-FSA**

23 **program participation.**

- 24 (a) Effective July 1, 2026, businesses that participate in the H-FSA program shall be
- 25 eligible for a reduced UI taxable wage base, as follows:
- 26 (1) Employers not participating in the H-FSA program shall have a UI taxable wage base
- 27 of thirty-five thousand dollars (\$35,000) per employee.
- 28 (2) Employers contributing at least five thousand dollars (\$5,000) per year, in total across
- 29 all eligible employees shall have a UI taxable wage base of twenty-five thousand dollars (\$25,000)
- 30 per employee.
- 31 (b) Employers contributing to an H-FSA account shall be treated as a pre-tax benefit for
- 32 employees and shall be exempt from state income tax.
- 33 (c) The Rhode Island department of labor and training ("DLT") shall establish verification
- 34 procedures to ensure compliance with contribution requirements. Businesses found to have reduced

1 employee wages to offset H-FSA contributions shall be subject to penalties and repayment of any
2 UI tax benefits received.

3 **44-72-5. Implementation and administration.**

4 (a) The department of revenue shall:

5 (1) Develop rules and regulations for the administration and implementation of the
6 program;

7 (2) Create a secure online portal for account management and employer participation;

8 (3) Provide public education on the benefits and usage of the program; and

9 (4) Establish reporting requirements to ensure compliance and prevent fraud.

10 (b) Participating financial institutions shall manage the accounts, ensuring secure
11 transactions and proper allocation of funds.

12 (c) Withdrawals for non-qualified expenses shall be subject to a penalty to discourage
13 misuse of funds.

14 **44-72-6. Compliance and enforcement.**

15 (a) Wage parity requirements. Employers participating in the H-FSA program shall not
16 reduce an employee's base salary, hourly wage, or other forms of direct compensation as a
17 condition for making H-FSA contributions. Any such reduction shall render the employer ineligible
18 for state tax benefits under this program.

19 (b) Lookback period. Employers shall certify that any contributions to an employee's H-
20 FSA account do not correspond with a reduction in base wages or salary within the preceding
21 twelve (12) months. Any employer found in violation of this provision shall be subject to penalties,
22 including ineligibility for tax deductions and repayment of previously claimed tax benefits.

23 (c) Annual reporting requirement. Employers shall submit annual payroll reports to the
24 Rhode Island department of labor and training ("DLT") showing that base wages are maintained in
25 addition to H-FSA contributions. The DLT shall cross-check employer tax filings against payroll
26 records and trigger audits for discrepancies.

27 (d) Penalties for non-compliance:

28 (1) Employers found to be in violation of the wage parity requirement shall be required to
29 repay all tax benefits received under this program.

30 (2) Noncompliant employers may be subject to fines not exceeding five thousand dollars
31 (\$5,000) per affected employee.

32 (3) Affected employees shall be entitled to back pay plus interest in cases where wages
33 were improperly reduced.

34 (4) The department of revenue shall publish an annual compliance report listing employers

1 found in violation of this section.

2 (e) Whistleblower protections. Employees who believe their wages have been improperly
3 reduced in connection with H-FSA contributions may file a complaint with the department of labor
4 and training. Employers are prohibited from retaliating against employees who report violations.
5 Violations of this section shall be subject to enforcement actions, including back pay compensation
6 and additional fines.

7 **44-72-7. Pilot program and review.**

8 (a) The program shall commence with a two (2) year pilot phase, during which data will
9 be collected on participation rates, economic impact, and effectiveness.

10 (b) The department of revenue shall submit an annual report to the general assembly
11 detailing the program's performance, fiscal impact, and recommendations for adjustments.

12 (c) At the conclusion of the pilot period, the general assembly shall review the program
13 and determine whether to extend, modify, or terminate it.

14 SECTION 2. This act shall take effect on January 1, 2026.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO TAXATION -- HOUSING FLEXIBLE SPENDING ACCOUNT ACT OF 2025

1 This act would establish the Housing Flexible Spending Account Act of 2025 allowing
2 Rhode Island employers to contribute pre-tax income into a housing flexible spending account (H-
3 FSA), for employees to be used for qualified housing expenses.

4 This act would take effect on January 1, 2026.

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