

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 128 Session of 2019

INTRODUCED BY BROWN, BIZZARRO, A. DAVIS, HILL-EVANS, QUINN, FLYNN, BARRAR, READSHAW, MACKENZIE, OBERLANDER, EMRICK, SCHLOSSBERG, LONGIETTI, FREEMAN, KINSEY, BERNSTINE, MULLINS, McNEILL, T. DAVIS, RADER, DAVIDSON, OWLETT, HELM, ZIMMERMAN, STRUZZI, IRVIN, GOODMAN, KAUFER, POLINCHOCK, SAINATO, RAVENSTAHL, DEASY, CIRESI, SIMMONS, KORTZ, NEILSON, TOOHL, WARREN, CALTAGIRONE, SCHMITT, BULLOCK, WILLIAMS, MENTZER, DALEY, KRUEGER, SANCHEZ, ULLMAN, OTTEN, MALAGARI, DONATUCCI, HANBIDGE, SHUSTERMAN, O'MARA AND SCHLEGEL CULVER, JANUARY 28, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, FEBRUARY 20, 2019

AN ACT

1 Providing for the establishment of first-time home buyer savings
2 accounts for first-time home buyers in this Commonwealth.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Pennsylvania
7 First-Time Home Buyer Savings Account Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Account holder." An individual who establishes,
13 individually or jointly, a first-time home buyer savings

1 account.

2 "Allowable closing costs." A disbursement listed on a
3 settlement statement for the purchase of a single-family
4 residence in this Commonwealth by a qualified beneficiary.

5 "Department." The Department of Revenue of the Commonwealth.

6 "Eligible costs." The down payment and allowable closing
7 costs for the purchase of a single-family residence in this
8 Commonwealth by a qualified beneficiary. Eligible costs shall
9 not include costs incurred prior to the establishment of a
10 first-time home buyer savings account.

11 "Financial institution." A bank, trust company, savings
12 institution, credit union, broker-dealer, insurance company and
13 mutual fund or similar entity authorized to do business in this
14 Commonwealth.

15 "First-time home buyer." An individual who resides in this
16 Commonwealth and has not owned or purchased directly or through
17 a trust, limited liability company, partnership or other legal
18 entity, either individually or jointly, a single-family
19 residence during the three-year period prior to the purchase
20 date of a single-family residence.

21 "First-time home buyer savings account." An account
22 established under section 3.

23 "INELIGIBLE USE." THE SALE OR LEASE OF A SINGLE-FAMILY <--
24 RESIDENCE WITHIN THREE YEARS OF THE SETTLEMENT DATE.

25 "Qualified beneficiary." A first-time home buyer who is
26 designated as a qualified beneficiary by the account holder of
27 the first-time home buyer savings account.

28 "SETTLEMENT DATE." THE DATE ON WHICH THE SELLER IN A REAL <--
29 ESTATE TRANSACTION EXECUTES A DEED OR SIGNS A SETTLEMENT
30 STATEMENT, WHICHEVER OCCURS LATER, TO CONVEY TITLE TO THE

1 PURCHASER.

2 "Settlement statement." A statement of receipts and
3 disbursements from a real estate transaction, including a
4 statement prescribed under the Real Estate Settlement Procedures
5 Act of 1974 (Public Law 93-533, 88 Stat. 1724).

6 "Single-family residence." A single-family residence owned
7 and occupied by a qualified beneficiary as the qualified
8 beneficiary's principal residence, which may include a
9 manufactured home, trailer, mobile home or unit in a
10 condominium, cooperative or planned community-, AND PROVIDED <--
11 THAT THE QUALIFIED BENEFICIARY DOES NOT PERMIT AN INELIGIBLE USE
12 OF THE RESIDENCE.

13 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
14 No.2), known as the Tax Reform Code of 1971.
15 Section 3. Establishment of first-time home buyer savings
16 account.

17 (a) Designation of first-time home buyer savings account.--
18 Beginning six months after the effective date of this section,
19 an individual may open a first-time home buyer savings account
20 with a financial institution.

21 (b) Designation of qualified beneficiary.--An account holder
22 shall designate no more than one first-time home buyer as the
23 qualified beneficiary of a first-time home buyer savings
24 account. The account holder may designate himself as the
25 qualified beneficiary and may change the designated qualified
26 beneficiary at any time. The account holder shall declare the
27 qualified beneficiary on the annual personal income tax return
28 required under the Tax Reform Code of 1971 for the tax year in
29 which the first-time home buyer savings account is established
30 and for any year in which the qualified beneficiary is changed.

1 (c) Use of first-time home buyer savings account.--Money
2 from a first-time home buyer savings account may only be used to
3 pay or reimburse a qualified beneficiary's eligible costs for
4 the purchase of a single-family residence in this Commonwealth.

5 (d) Expenses.--The account holder may not use money held in
6 a first-time home buyer savings account to pay expenses of
7 administering the account, except that a service fee may be
8 deducted from the account by a financial institution in which
9 the first-time home buyer savings account is held.

10 (e) Joint account holders.--An account holder may jointly
11 own a first-time home buyer savings account with another person
12 if the joint account holders file a joint personal income tax
13 return under Article III of the Tax Reform Code of 1971.

14 (f) Qualified beneficiary of more than one account.--An
15 individual may be designated as the qualified beneficiary on
16 more than one first-time buyer savings account.

17 (g) Contributions to account.--

18 (1) Subject to the limitations under section 4(d), an
19 individual other than the account holder may contribute to a
20 first-time home buyer savings account.

21 (2) The maximum amount of all contributions to a first-
22 time home buyer savings account is \$150,000.

23 (h) Transfer of money.--An account holder may withdraw money
24 from a first-time home buyer savings account and deposit the
25 money in a new first-time home buyer savings account held by the
26 same or a different financial institution.

27 Section 4. Deduction and exclusion from taxable income.

28 (a) Deduction of contributions.--Except as otherwise
29 provided under subsection (c), the amount contributed by an
30 account holder to a first-time home buyer savings account during

1 each tax year:

2 (1) may not exceed \$5,000 for an account holder who
3 files an individual personal income tax return or \$10,000 for
4 joint account holders who file a joint personal income tax
5 return; and

6 (2) shall be deductible, up to the contribution limits
7 under paragraph (1), from the taxable income of the account
8 holder under Article III of the Tax Reform Code of 1971
9 during the tax year the contribution was made.

10 (b) Exclusion of earnings.--Except as otherwise provided
11 under subsection (c), the amount of earnings on a first-time
12 home buyer savings account during the tax year may be excluded
13 from the taxable income of an account holder under Article III
14 of the Tax Reform Code of 1971.

15 (c) Limitations on deductions and exclusions.--An account
16 holder may claim a deduction and exclusion under this section:

17 (1) for a period of no more than 10 years;

18 (2) for an aggregate amount of principal and earnings
19 not to exceed \$50,000 within 10 years; and

20 (3) except as otherwise provided in section 3(h), only
21 if the principal and earnings of a first-time home buyer
22 savings account remain in the account until a withdrawal is
23 made for the eligible costs relating to the purchase of a
24 single-family residence by a qualified beneficiary.

25 (d) Nonaccount holders.--An individual other than the
26 account holder who deposits money in a first-time home buyer
27 savings account under section 3(g) is not entitled to the
28 deduction and exclusion provided for under this section.

29 (e) Remaining money.--Money in a first-time home buyer
30 savings account not expended on eligible costs before expiration

1 of the 10-year period under subsection (c)(1) shall be included
2 in the account holder's taxable income under Article III of the
3 Tax Reform Code of 1971.

4 (f) Application to alternative basis taxation.--The
5 deduction and exclusion from taxable income shall apply to any
6 alternative basis for calculating taxable income under Article
7 III of the Tax Reform Code of 1971.

8 Section 5. Reporting.

9 The account holder shall submit to the department all of the
10 following:

11 (1) Upon a withdrawal of money from a first-time home
12 buyer savings account, a detailed record of the eligible
13 costs toward which the money was applied and a statement of
14 the amount of money remaining in the account.

15 (2) With the account holder's personal income tax
16 return:

17 (i) information regarding the first-time home buyer
18 savings account, including a list of transactions for the
19 account during the tax year; and

20 (ii) the Form 1099 issued by the financial
21 institution holding the account.

22 (3) Any other information as required by the department.

23 Section 6. Financial institutions.

24 (a) Limitations on financial institutions.--A financial
25 institution may not be required or be held liable to do any of
26 the following:

27 (1) Designate an account as a first-time home buyer
28 savings account or designate a qualified beneficiary of an
29 account in a financial institution's account contracts or
30 systems.

1 (2) Track the use of money withdrawn from a first-time
2 home buyer savings account.

3 (3) Allocate money in a first-time home buyer savings
4 account among joint account holders or multiple qualified
5 beneficiaries.

6 (4) Report any information to the department or any
7 other governmental agency that is not otherwise required by
8 law.

9 (5) Determine if an account satisfies the requirements
10 to be a first-time home buyer savings account.

11 (6) Ensure that money in a first-time home buyer savings
12 account is used for eligible costs.

13 (7) Report or remit taxes or penalties related to the
14 use of a first-time home buyer savings account.

15 (b) Distribution of money.--Upon proof of the death of the
16 account holder, a financial institution shall distribute the
17 account in accordance with the contract terms governing the
18 first-time home buyer savings account.

19 ~~Section 7. Withdrawal for purpose other than eligible costs. <--~~

20 ~~Except as permitted under section 3(h), if an account holder~~

21 SECTION 7. EFFECT OF IMPROPER WITHDRAWALS AND INELIGIBLE USES. <--

22 (A) PURPOSES OTHER THAN ELIGIBLE COSTS.--EXCEPT AS PERMITTED
23 UNDER SECTION 3(H), IF AN ACCOUNT HOLDER or beneficiary
24 withdraws any amount from a first-time home buyer savings
25 account and uses the withdrawal for a purpose other than
26 eligible costs:

27 (1) The entire amount withdrawn shall be included in the
28 account holder's taxable income as interest income under
29 Article III of the Tax Reform Code of 1971 for the tax year
30 the withdrawal was made.

1 (2) The account holder or beneficiary shall pay to the
2 department a penalty equal to 10% of the amount
3 withdrawn. The penalty shall not apply to money withdrawn
4 from an account that was:

5 (i) withdrawn by reason of the account holder's or
6 the beneficiary's death or disability; or

7 (ii) a disbursement of assets of the account
8 pursuant to a filing for protection under the Bankruptcy
9 Code (11 U.S.C. § 101 et seq.).

10 (B) INELIGIBLE USES.--IF AN ACCOUNT HOLDER OR BENEFICIARY <--
11 WITHDRAWS ANY AMOUNT FROM A FIRST-TIME HOME BUYER SAVINGS
12 ACCOUNT AND AFTER THE WITHDRAWAL AN INELIGIBLE USE OCCURS:

13 (1) THE ENTIRE AMOUNT WITHDRAWN SHALL BE INCLUDED IN THE
14 ACCOUNT HOLDER'S TAXABLE INCOME AS INTEREST INCOME UNDER
15 ARTICLE III OF THE TAX REFORM CODE OF 1971 FOR THE TAX YEAR
16 THE WITHDRAWAL WAS MADE.

17 (2) THE ACCOUNT HOLDER OR BENEFICIARY SHALL PAY TO THE
18 DEPARTMENT A PENALTY EQUAL TO 10% OF THE AMOUNT WITHDRAWN.

19 Section 8. Department of Revenue.

20 (a) Duties.--The department shall prepare forms:

21 (1) to designate an account with a financial institution
22 to serve as a first-time home buyer savings account;

23 (2) to designate a qualified beneficiary of a first-time
24 home buyer savings account; and

25 (3) for an account holder to annually submit to the
26 department detailed information regarding the first-time home
27 buyer savings account, including, but not limited to, a list
28 of transactions for the account during the tax year and
29 identifying any supporting documentation that is required to
30 be maintained by the account holder.

1 (b) Rules and regulations.--The department may promulgate
2 rules and regulations necessary to administer and enforce this
3 act.

4 Section 9. Effective date.

5 This act shall take effect in 60 days.