

1 SB201
2 189902-1
3 By Senator Pittman
4 RFD: Banking and Insurance
5 First Read: 23-JAN-18

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8 SYNOPSIS: This bill would create the Alabama
9 First-time Home Buyer Savings Account Act.

10 This bill would allow first-time home buyers
11 to establish a first-time home buyer savings
12 account to save funds for a down payment and
13 closing costs for the purchase of a home.

14 This bill would provide the holder of a
15 first-time home buyer savings account with a state
16 tax deduction of up to \$6,000 per year for funds
17 contributed to an individual first-time home buyer
18 savings account or up to \$12,000 per year for joint
19 account holders filing a joint tax return for a
20 period not to exceed five years. The bill also
21 provides that the earnings from the first time home
22 buyer account are excluded from taxable income.

23 This bill would provide a penalty for the
24 withdrawal of funds from a first-time home buyer
25 savings account for a purpose other than the
26 payment of down payment or allowable closing costs
27 for the purchase of a first home in Alabama.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
5

6 Relating to first-time home buyers; to establish a
7 first-time home buyer savings account; and to allow a tax
8 deduction for contributions made to the account and a tax
9 exclusion on earnings from the account to provide qualified
10 first-time home buyers with meaningful incentives to save
11 funds for the purchase of a first home in Alabama.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Short Title. This act shall be known and
14 may be cited as the "Alabama First-time Home Buyer Savings
15 Account Act."

16 Section 2. Legislative Declaration. The Legislature
17 recognizes that saving for the purchase of a first home is
18 very challenging in today's economy. The Legislature declares
19 that first-time home buyer savings accounts provide an
20 opportunity for Alabama residents to save funds for home
21 ownership. The first-time home buyer savings account program
22 is intended to enable first-time home buyers in Alabama to
23 plan for and utilize a tax incentive to save funds for a down
24 payment and closing costs for the purchase of a first home in
25 Alabama.

26 Section 3. Definitions. As used in this act, the
27 following terms shall have the following meanings:

1 (1) ACCOUNT HOLDER. A first-time home buyer who
2 establishes, individually or jointly with another first-time
3 home buyer, a first-time home buyer savings account.

4 (2) ALLOWABLE CLOSING COSTS. A disbursement listed
5 on a settlement statement for the purchase of a single-family
6 residence in Alabama by a first-time home buyer.

7 (3) DEPARTMENT. Alabama Department of Revenue.

8 (4) ELIGIBLE COSTS. The down payment and allowable
9 closing costs for the purchase of a single-family residence in
10 Alabama by a first-time home buyer. Eligible costs do not
11 include any costs incurred prior to the establishment of a
12 first-time home buyer savings account.

13 (5) FINANCIAL INSTITUTION. Any bank, trust company,
14 savings institution, industrial loan association, consumer
15 finance company, credit union, benefit association, insurance
16 company, safe deposit company, money market mutual fund, or
17 similar entity authorized to do business in Alabama.

18 (6) FIRST-TIME HOME BUYER. An individual who resides
19 in Alabama and has not owned or purchased, either individually
20 or jointly, a single-family residence during a period of three
21 years prior to the date of the purchase of a single-family
22 residence.

23 (7) FIRST-TIME HOME BUYER SAVINGS ACCOUNT or
24 ACCOUNT. An account with a financial institution created for
25 the purpose of payment or reimbursement of eligible costs for
26 the purchase of a single-family residence in Alabama by a
27 first-time home buyer and designated by the financial

1 institution upon its creation as a first-time home buyer
2 savings account.

3 (8) SETTLEMENT STATEMENT. The statement of receipts
4 and disbursements for a transaction related to real estate,
5 including a statement prescribed under the Real Estate
6 Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., as
7 amended, and regulations thereunder.

8 (9) SINGLE-FAMILY RESIDENCE. A single-family
9 residence owned and occupied by a first-time home buyer as the
10 first-time home buyer's principal residence, which may also
11 include a manufactured home, trailer, mobile home, condominium
12 unit, or cooperative.

13 Section 4. Establishment and Use of First-time Home
14 Buyer Savings Account.

15 (a) Beginning January 1, 2019, a first-time home
16 buyer may open an account with a financial institution
17 designated in its entirety by the financial institution as a
18 first-time home buyer savings account.

19 (b) Funds from a first-time home buyer savings
20 account may be used only to pay a first-time home buyer's
21 eligible costs for the purchase of a single-family residence
22 in Alabama.

23 (c) A first-time home buyer may jointly own a
24 first-time home buyer savings account with another first-time
25 home buyer if the joint account holders file a joint income
26 tax return.

1 (d) Only cash and marketable securities may be
2 contributed to a first-time home buyer savings account.
3 Subject to the limitations of Section 7, persons other than
4 the account holder may contribute funds to a first-time home
5 buyer savings account. There is no limitation on the amount of
6 contributions that may be made to or retained in a first-time
7 home buyer savings account.

8 Section 5. Account Holder Responsibilities.

9 The account holder shall do all of the following:

10 (1) Not use funds held in a first-time home buyer
11 savings account to pay expenses of administering the account,
12 except that a service fee may be deducted from the account by
13 the financial institution in which the account is held.

14 (2) Submit the following to the Department of
15 Revenue with the account holder's Alabama income tax return:

16 a. Detailed information, in a form prescribed by the
17 Department of Revenue, regarding the first-time home buyer
18 savings account, including a list of transactions for the
19 account during the tax year.

20 b. Form 1099 issued by the financial institution for
21 the account.

22 (3) Submit to the department, upon a withdrawal of
23 funds from a first-time home buyer savings account, a detailed
24 account of the eligible costs toward which the account funds
25 were applied and a statement of the amount of funds remaining
26 in the account, if any. If upon withdrawal of funds from the
27 first-time home buyer savings account, the account holder

1 fails to provide the department with the detailed account of
2 the eligible costs towards which the account funds were
3 applied, the entire account's funds, including the interest
4 and other income on principal, shall be subject to the
5 penalties listed under Section 8.

6 Section 6. Responsibilities of financial
7 institutions.

8 (a) A financial institution shall be required to do
9 the following:

10 (1) Create a new account for the first-time home
11 buyer and designate the account as a "first-time home buyer's
12 savings account" on records and transactional statements
13 related to the account. Only the funds deposited into this
14 account shall be eligible for the first-time home buyer
15 savings account deduction under this act.

16 (2) Provide the account holder with a detailed
17 account statement relating to the first-time home buyer's
18 savings account on a yearly basis.

19 (b) A financial institution shall not be required to
20 do any of the following:

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

23 (2) Allocate funds in a first-time home buyer
24 savings account between joint account holders.

25 (3) Report any information not otherwise required by
26 law to the Department of Revenue or any other governmental
27 agency.

1 (c) A financial institution is not responsible or
2 liable for the following:

3 (1) Determining or ensuring that an account
4 satisfies the requirements to be a first-time home buyer
5 savings account.

6 (2) Determining or ensuring that funds in a
7 first-time home buyer savings account are used for eligible
8 costs.

9 (3) Reporting or remitting taxes or penalties
10 related to the use of a first-time home buyer savings account.

11 (c) Upon being furnished proof of the death of the
12 account holder and any other information required by the
13 contract governing the first-time home buyer savings account,
14 a financial institution shall distribute the principal and
15 accumulated interest or other income in the account in
16 accordance with the terms of the contract governing the
17 account.

18 Section 7. Deduction of Contributions, Exclusion of
19 Earnings, and Limitations.

20 (a) Except as otherwise provided in this act and
21 subject to the limitations under this section, a first-time
22 home buyer savings account holder shall be entitled to a state
23 tax deduction, subject to the limitations of this section, not
24 to exceed six thousand dollars (\$6,000) for an account holder
25 who files an individual tax return or twelve thousand dollars
26 (\$12,000) for joint account holders who file a joint tax
27 return, for contributions made by the account holder to a

1 first-time home buyer savings account during the tax year in
2 which the deduction is claimed.

3 (b) Except as otherwise provided in this act and
4 subject to the limitations under this section, earnings from
5 the first-time home buyer savings account, including interest
6 and other income on the principal, shall be excluded from
7 taxable income of an account holder for Alabama income tax
8 purposes during the tax year.

9 (c) An account holder may claim the deduction and
10 exclusion under this section as follows:

11 (1) For a period not to exceed five years.

12 (2) For an aggregate total amount of principal and
13 earnings not to exceed thirty thousand dollars (\$30,000) for
14 individual accounts and sixty thousand dollars for joint
15 accounts during the five-year period.

16 (3) Only if the principal and earnings of the
17 account remain in the account until a withdrawal is made for
18 eligible costs related to the purchase of a single-family
19 residence by a first-time home buyer.

20 (d) A person other than the account holder who
21 deposits funds in a first-time home buyer savings account
22 shall not be entitled to the deduction and exclusion provided
23 under this act.

24 (e) Any funds in a first-time home buyer savings
25 account not expended on eligible costs by December 31 of the
26 last year of the five-year period beginning with January 1 of
27 the tax year in which a deduction was first claimed under

1 subsection (a) shall thereafter be included in the account
2 holder's taxable income.

3 (f) The deduction and exclusion from taxable income
4 provided by this act shall apply to any alternative basis for
5 calculating taxable income for Alabama income tax purposes.

6 (g) The funds in the first-time home buyer savings
7 account shall not be used to purchase a single-family
8 residence outside of this state.

9 Section 8. Penalty for Withdrawal for Purpose Other
10 Than Eligible Costs. Except as otherwise provided in this
11 section, if the account holder withdraws any funds from a
12 first-time home buyer savings account for a purpose other than
13 eligible costs for the purchase of a single-family residence
14 in this state, the following shall apply:

15 (1) The entire balance of the fund, including
16 interest and other income on principal, shall be included in
17 the account holder's taxable income for the tax year in which
18 the withdrawal was made.

19 (2) The account holder shall pay a penalty to the
20 Department of Revenue equal to 10 percent of the amount
21 withdrawn. The penalty shall not apply to funds withdrawn from
22 an account which were:

23 a. Withdrawn by reason of the account holder's death
24 or disability.

25 b. A disbursement of assets of the account pursuant
26 to a filing for protection under the United States Bankruptcy
27 Code, 11 U.S.C. § 101 et seq.

1 (3) Subdivisions (1) and (2) do not apply to funds
2 withdrawn or distributed from a first-time home buyer savings
3 account that within sixty days of their withdrawal or
4 distribution are deposited in full into another first-time
5 home buyer savings account. This subdivision shall apply both
6 to transfers between any qualifying first-time home buyer
7 savings accounts whether such transfers are to or from
8 qualifying individual or joint accounts. The timely transfer
9 of funds from a first-time home buyer savings account to
10 another first-time home buyer savings account in accordance
11 with this subdivision shall not alter the time limitations set
12 forth in subsection (e) of Section 7.

13 Section 9. Department of Revenue; Forms. The
14 Department of Revenue shall adopt forms for the following:

15 (1) The designation of an account with a financial
16 institution to serve as a first-time home buyer savings
17 account.

18 (2) An account holder to annually submit to the
19 Department of Revenue detailed information regarding the
20 first-time home buyer savings account, including, but not
21 limited to, a list of transactions for the account during the
22 tax year and identifying any supporting documentation required
23 to be maintained by the account holder.

24 Section 10. The department shall report to the
25 Fiscal Division of the Legislative Services Agency on an
26 annual basis the total annual number of deductions claimed and
27 total amount of deposits deducted pursuant to this act, and

1 the number of taxpayers who claimed a first-time home buyer
2 deduction that did not expend the funds pursuant to subsection
3 (e) of Section 7, or were subjected to the penalty provisions
4 of Section 8.

5 Section 11. This act shall become effective
6 immediately upon its passage and approval by the Governor, or
7 its otherwise becoming law.