

Senate Bill 849

Sponsored by Senator HASS, Representatives MEEK, JOHNSON, Senator OLSEN; Senator DEVLIN, Representatives BUEHLER, DOHERTY, ESQUIVEL, GOMBERG, KENY-GUYER, NOBLE, NOSSE, STARK (at the request of Oregon Association of Realtors)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Designates Act as Oregon First-Time Home Buyer Savings Account Act.

Permits individual to create first-time home buyer savings account with financial institution to pay or reimburse qualified beneficiary's eligible costs for first-time purchase of single family residence.

Requires account holder to submit to Department of Revenue information on designated forms and detailed account of first-time home buyer savings account activity. Directs department to prepare forms and distribute informational materials.

Allows subtraction from account holder's federal taxable income amounts contributed to first-time home buyer savings account during each tax year. Exempts from taxation amount of interest and other income earned on account. Disallows subtraction or exemption from taxable income for person other than account holder who contributes funds to account. Provides that withdrawals for other than approved purposes are taxable income to account holder. Establishes amount and time limitations on subtractions and exemptions from taxable income.

Applies to tax years beginning on or after January 1, 2018, and before January 1, 2024.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to first-time home buyer savings accounts; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 11 of this 2017 Act shall be known and may be cited as the Oregon First-Time Home Buyer Savings Account Act.

SECTION 2. The Legislative Assembly finds that saving for a down payment and closing costs for the purchase of a first home is challenging in the present economy. The first-time home buyer savings account program will provide opportunities for Oregon residents to save and grow funds for first-time homeownership and will provide Oregonians with meaningful incentives to save for the purchase of a first home.

SECTION 3. As used in sections 2 to 11 of this 2017 Act:

(1) "Account holder" means an individual who establishes, individually or jointly with one or more other individuals, a first-time home buyer savings account.

(2) "Allowable closing costs" means disbursements listed in a settlement statement for the purchase of a single family residence by a qualified beneficiary.

(3) "Eligible costs" means the down payment and allowable closing costs for the purchase of a single family residence by a qualified beneficiary.

(4) "Financial institution" means a bank, trust company, a commercial bank, a national bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a mutual fund, an investment firm or other similar entity authorized to do business in this state.

(5) "First-time home buyer" means an individual who is a resident of this state and has

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

not owned or purchased, either individually or jointly, a single family residence during a period of three years prior to the date of the purchase of a single family residence.

(6) “First-time home buyer savings account” or “account” means an account with a financial institution that an account holder designates as a first-time home buyer savings account on the account holder’s Oregon income tax return for the purpose of paying or reimbursing eligible costs for the purchase of a single family residence in this state by a qualified beneficiary.

(7) “Qualified beneficiary” means a first-time home buyer who is designated as the qualified beneficiary of an account designated by the account holder as a first-time home buyer savings account.

(8) “Resident of this state” has the meaning given that term in ORS 316.027.

(9) “Settlement statement” means the statement of receipts and disbursements for a transaction related to real estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., and regulations thereunder.

(10) “Single family residence” means a residence intended for occupation by a single family unit that is owned and occupied by a qualified beneficiary as the qualified beneficiary’s principal residence. “Single family residence” includes a manufactured home, residential trailer, mobile home or condominium unit.

(11) “Taxable income” has the meaning given that term in ORS 316.022.

SECTION 4. (1) An individual may create an account with a financial institution and designate the account as a first-time home buyer savings account to be used to pay or reimburse a qualified beneficiary’s eligible costs for the purchase of a single family residence.

(2) An account holder must designate, no later than April 15 of the year following the tax year during which the account is established, a first-time home buyer as the qualified beneficiary of the first-time home buyer savings account. The account holder may designate the account holder as the qualified beneficiary and may change the designated qualified beneficiary at any time. An account may not have more than one qualified beneficiary at any one time.

(3) An individual may jointly own a first-time home buyer savings account with another person if the joint account holders file a joint income tax return.

(4) An individual may be the account holder of more than one first-time home buyer savings account. An account holder may not hold multiple accounts that designate the same qualified beneficiary.

(5) An individual may be designated as the qualified beneficiary of more than one first-time home buyer savings account.

(6) Only cash and marketable securities may be contributed to a first-time home buyer savings account. Subject to the limitations of section 7 (4) of this 2017 Act, persons other than the account holder may contribute funds to a first-time home buyer savings account. There is no limitation on the amount of contributions that may be made to or retained in a first-time home buyer savings account.

SECTION 5. (1) The account holder may not use funds held in a first-time home buyer savings account or pay expenses of administering the account except that a service fee may be deducted from the account by a financial institution in which the account is held.

(2) The account holder shall:

(a) Submit to the Department of Revenue with the account holder’s Oregon income tax

1 return:

2 (A) On forms prepared by the Department of Revenue under section 9 of this 2017 Act,
3 detailed information regarding the first-time home buyer savings account, including a list
4 of transactions for the account during the tax year; and

5 (B) The form 1099 issued by the financial institution for the account; and

6 (b) Submit to the Department of Revenue, upon a withdrawal of funds from a first-time
7 home buyer savings account, a detailed account of the eligible costs toward which the ac-
8 count funds were applied and a statement of the amount of funds remaining in the account,
9 if any.

10 (3) An account holder may withdraw all or part of the funds from a first-time home buyer
11 savings account and deposit the funds in a new first-time home buyer savings account held
12 by a different financial institution or the same financial institution.

13 **SECTION 6.** (1) A financial institution is not required to:

14 (a) Designate an account as a first-time home buyer savings account, or designate the
15 qualified beneficiaries of an account, in the financial institution's account contracts, sys-
16 tems, records or in any other way;

17 (b) Track the use of money withdrawn from a first-time home buyer savings account;

18 (c) Allocate funds in a first-time home buyer savings account among joint account hold-
19 ers or multiple qualified beneficiaries; or

20 (d) Report any information to the Department of Revenue, or any other governmental
21 agency, that is not otherwise required by law.

22 (2) A financial institution is not responsible or liable for:

23 (a) Determining or ensuring that an account satisfies the requirements to be a first-time
24 home buyer savings account;

25 (b) Determining or ensuring that funds in a first-time home buyer savings account are
26 used for eligible costs; or

27 (c) Reporting or remitting taxes or penalties related to the use of a first-time home buyer
28 savings account.

29 (3) Upon being furnished proof of the death of the account holder and such other infor-
30 mation required by the contract governing the first-time home buyer savings account, a fi-
31 nancial institution shall distribute the principal and accumulated interest or other income
32 in an account in accordance with the terms of the contract governing the account.

33 **SECTION 7.** (1) Except as provided in section 8 of this 2017 Act, and in addition to the
34 other modifications to federal taxable income contained in ORS chapter 316, there shall be
35 subtracted from federal taxable income the amount of funds contributed to an account
36 holder's first-time home buyer savings account established under sections 2 to 11 of this 2017
37 Act during the tax year, not to exceed \$5,000 for an account holder who files an individual
38 tax return or \$10,000 for joint account holders who file a joint tax return.

39 (2)(a) Except as otherwise provided in section 8 of this 2017 Act, funds contributed to a
40 first-time home buyer savings account, and earnings, including interest and other income
41 on the principal in the account, during the tax year are exempt from taxation until with-
42 drawn by the taxpayer, subject to subsection (3) of this section.

43 (b) Moneys withdrawn by the account holder from a first-time home buyer savings ac-
44 count for an approved purpose as set forth in section 8 of this 2017 Act, are exempt from
45 taxation under ORS chapter 316. A withdrawal by an account holder for a purpose other than

1 an approved purpose is taxable under ORS chapter 316.

2 (3) An account holder may claim the subtraction and exemption under subsections (1)
3 and (2) of this section:

4 (a) For a period not to exceed 10 years;

5 (b) For an aggregate total amount of principal and earnings not to exceed \$50,000 during
6 the 10-year period; and

7 (c) Only if the principal and interest of the account remain in the account until a with-
8 drawal is made for eligible costs related to the purchase of a single family residence by a
9 qualified beneficiary except as provided in section 5 (3) of this 2017 Act.

10 (4) A person other than the account holder who deposits funds in a first-time home buyer
11 savings account is not entitled to the exemption and subtraction provided for in this section.

12 (5) Any funds in a first-time home buyer savings account not expended on eligible costs
13 by December 31 of the last year of the 10-year period under subsection (3) of this section
14 shall thereafter be included in the account holder's taxable income.

15 (6) The subtraction and exemption from taxable income provided for by this section shall
16 apply to any alternative bases for calculating taxable income for Oregon income tax pur-
17 poses.

18 **SECTION 8.** Except as authorized by section 5 of this 2017 Act, if an account holder
19 withdraws funds from a first-time home buyer savings account for a purpose other than el-
20 igible costs for the purchase of a single family residence:

21 (1) The withdrawn funds must be included in the account holder's taxable income; and

22 (2) The account holder shall pay a penalty to the Department of Revenue equal to 10
23 percent of the amount withdrawn. The penalty does not apply to funds withdrawn from an
24 account that were:

25 (a) Withdrawn by reason of the account holder's death or disability;

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

28 (c) Transferred from an account established under sections 2 to 11 of this 2017 Act into
29 another account established in accordance with section 5 (3) of this 2017 Act.

30 **SECTION 9.** The Department of Revenue shall prepare forms for:

31 (1) The designation of an account with a financial institution to serve as a first-time
32 home buyer savings account;

33 (2) The designation of a qualified beneficiary of a first-time home buyer savings account;
34 and

35 (3) The annual submission by an account holder to the department of detailed informa-
36 tion regarding the first-time home buyer savings account, including but not limited to a list
37 of transactions for the account during the tax year in accordance with section 5 of this 2017
38 Act and any supporting documentation that has been identified by the financial institution
39 as being required to be maintained by the account holder.

40 **SECTION 10.** The Department of Revenue shall prepare and distribute informational
41 materials on the first-time home buyer savings account program to financial institutions and
42 potential home buyers to publicize the availability of the program.

43 **SECTION 11.** The Department of Revenue may adopt rules to implement and maintain
44 the Oregon First-Time Home Buyer Savings Account Act.

45 **SECTION 12.** Sections 1 to 11 of this 2017 Act apply to tax years beginning on or after

1 **January 1, 2018, and before January 1, 2024.**

2 **SECTION 13. This 2017 Act takes effect on the 91st day after the date on which the 2017**
3 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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