

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3090

By: Cockroft

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6 AS INTRODUCED

7 An Act relating to property; creating the Oklahoma
8 Homebuyers Savings Account Act; stating legislative
9 intent; defining terms; establishing the Homebuyers
10 Savings Account Program; providing for accountholder
11 responsibilities; prohibiting certain actions by
12 financial institutions; providing for certain
13 deductions and exclusions; providing penalty for
14 certain withdrawal; requiring Oklahoma Tax Commission
15 to prepare forms and distribute material; providing
16 for codification; and providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1201 of Title 60, unless there
20 is created a duplication in numbering, reads as follows:

21 A. This act shall be known and may be cited as the "Oklahoma
22 Homebuyers Savings Account Act".

23 B. The Oklahoma Legislature recognizes that saving for a down
24 payment and closing costs for the purchase of a home is very
challenging in today's economy. The Oklahoma Legislature declares
that homebuyers savings accounts provide an opportunity for Oklahoma
residents to save and grow funds for homeownership. The purpose of

1 the Homebuyers Savings Account Program is to enable residents of
2 Oklahoma to benefit from the tax incentive provided for qualified
3 homebuyers and to provide residents with meaningful incentives to
4 save for the purchase of a home within the state.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1202 of Title 60, unless there
7 is created a duplication in numbering, reads as follows:

8 As used in the Oklahoma Homebuyers Savings Account Act:

9 1. "Accountholder" means an individual who establishes,
10 individually or jointly with one or more other individuals, a
11 homebuyer savings account;

12 2. "Allowable closing costs" means a disbursement listed on a
13 settlement statement for the purchase of a single-family residence
14 by a qualified beneficiary;

15 3. "Eligible costs" means the down payment and allowable
16 closing costs for the purchase of a single-family residence by a
17 qualified beneficiary;

18 4. "Financial institution" means any bank, trust company,
19 savings institution, credit union or any benefit association, money
20 market mutual fund or similar entity authorized to do business in
21 this state;

22 5. "Homebuyer" means an individual who resides in this state
23 and has not owned or purchased, either individually or jointly, a
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1 single-family residence during a period of five (5) years prior to
2 the date of the purchase of a single-family residence;

3 6. "Homebuyer savings account" or "account" means an account
4 with a financial institution that an accountholder designates as a
5 homebuyer savings account on the accountholder's state income tax
6 return for tax year 2020 or any tax year thereafter, pursuant to the
7 Oklahoma Homebuyers Savings Account Act for the purpose of paying or
8 reimbursing eligible costs for the purchase of a single-family
9 residence in Oklahoma by a qualified beneficiary;

10 7. "Qualified beneficiary" means a homebuyer who is designated
11 as the qualified beneficiary of an account designated by the
12 accountholder as a homebuyer savings account;

13 8. "Settlement statement" means the statement of receipts and
14 disbursements for a transaction related to real estate, including a
15 statement prescribed pursuant to the Real Estate Settlement
16 Procedures Act of 1974, 12 U.S.C., Section 2601 et seq., as amended,
17 and regulations thereunder; and

18 9. "Single-family residence" means a single-family residence
19 owned and occupied by a qualified beneficiary as the qualified
20 beneficiary's principal residence, which may include a manufactured
21 home, mobile home, condominium unit or cooperative.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1203 of Title 60, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Beginning January 1, 2020, any individual may open an
2 account with a financial institution and designate the account, in
3 its entirety, as a homebuyer savings account to be used to pay or
4 reimburse a qualified beneficiary's eligible costs for the purchase
5 of a single-family residence in Oklahoma.

6 B. An individual may jointly own a homebuyer savings account
7 with another person if the joint accountholders file a joint income
8 tax return.

9 C. Only cash and marketable securities may be contributed to a
10 homebuyer savings account. Subject to the limitations of subsection
11 D of Section 6 of this act, persons other than the accountholder may
12 contribute funds to a homebuyer savings account. The limitation on
13 the amount of contributions that may be made to or retained in a
14 homebuyer savings account is Twenty-five Thousand Dollars
15 (\$25,000.00).

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1204 of Title 60, unless there
18 is created a duplication in numbering, reads as follows:

19 A. The accountholder shall:

20 1. Not hold more than one homebuyer savings account
21 individually or jointly at one time;

22 2. Not use funds held in a homebuyer savings account to pay
23 expenses of administering the account, except that a service fee may
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1 be deducted from the account by a financial institution in which the
2 account is held;

3 3. Submit to the Oklahoma Tax Commission, with the
4 accountholder's state income tax return:

5 a. on forms prepared by the Oklahoma Tax Commission,
6 detailed information regarding the homebuyer savings
7 account, including a list of transactions for the
8 account during the tax year, and

9 b. the Form 1099 issued by the financial institution for
10 the account; and

11 4. Submit to the Oklahoma Tax Commission, upon a withdrawal of
12 funds from a homebuyer savings account, a detailed account of the
13 eligible costs toward which the account funds were applied and a
14 statement of the amount of funds remaining in the account, if any.

15 B. An accountholder may withdraw funds, in whole or in part,
16 from a homebuyer savings account and deposit the funds in a new
17 homebuyer savings account held by a different financial institution
18 or the same financial institution.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1205 of Title 60, unless there
21 is created a duplication in numbering, reads as follows:

22 A. A financial institution shall not be required to:
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- 1 1. Designate an account as a homebuyer savings account or
2 designate the qualified beneficiaries of an account in the financial
3 institution's account contracts or systems or in any other way;
- 4 2. Track the use of money withdrawn from a homebuyer savings
5 account;
- 6 3. Allocate funds in a homebuyer savings account among joint
7 accountholders; or
- 8 4. Report any information to the Oklahoma Tax Commission or any
9 other governmental agency that is not otherwise required by law.
- 10 B. A financial institution is not responsible or liable for:
- 11 1. Determining or ensuring that an account satisfies the
12 requirements to be a homebuyer savings account;
- 13 2. Determining or ensuring that funds in a homebuyer savings
14 account are used for eligible costs; or
- 15 3. Reporting or remitting taxes or penalties related to the use
16 of a homebuyer savings account.
- 17 C. Upon being furnished proof of the death of the accountholder
18 and such other information required by the contract governing the
19 homebuyer savings account, a financial institution shall distribute
20 the principal and accumulated interest or other income in the
21 account in accordance with the terms of the contract governing the
22 account.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1206 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Except as otherwise provided in the Homebuyers Savings
5 Account Act and subject to the limitations pursuant to this section,
6 there shall be excluded from taxable income of an accountholder for
7 state income tax purposes the amount of earnings, including interest
8 and other income on the principal, from the homebuyer savings
9 account during the tax year.

10 B. An accountholder may claim the deduction and exclusion
11 pursuant to this section:

12 1. For a period not to exceed ten (10) years;

13 2. For an aggregate total amount of earnings not to exceed Five
14 Thousand Dollars (\$5,000.00) during that ten-year period; and

15 3. Only if the principal and earnings of the account remain in
16 the account until a withdrawal is made for eligible costs related to
17 the purchase of a single-family residence by a qualified
18 beneficiary, except as otherwise provided in subsection B of Section
19 4 of this act.

20 C. Any interest earned in a homebuyer savings account not
21 expended on eligible costs by December 31 of the last year of the
22 ten-year period pursuant to this section shall thereafter be
23 included in the accountholder's taxable income.

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1 D. The deduction and exclusion from taxable income provided for
2 by this act shall apply to any alternative basis for calculating
3 taxable income for state income tax purposes.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1207 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 Except as otherwise authorized by subsection B of Section 4 of
8 this act, if the accountholder withdraws any funds from a homebuyer
9 savings account for a purpose other than eligible costs for the
10 purchase of a single-family residence:

11 1. The accumulated interest earned from those funds shall be
12 included in the accountholder's taxable income for the year of the
13 withdrawal; and

14 2. The accountholder shall pay a penalty to the Oklahoma Tax
15 Commission equal to ten percent (10%) of the amount of the interest
16 earned on the funds withdrawn. The penalty shall not apply to the
17 interest earned of the funds withdrawn that were:

- 18 a. withdrawn by reason of the accountholder's death or
19 disability,
- 20 b. a disbursement of assets of the account pursuant to a
21 filing for protection pursuant to the United States
22 Bankruptcy Code, 11 U.S.C., Section 101 et seq., or
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1 c. transferred from an account established pursuant to this
2 act into another account established pursuant to this act in
3 accordance with subsection B of Section 4 of this act.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1208 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 The Oklahoma Tax Commission shall prepare forms:

8 1. For the designation of an account with a financial
9 institution to serve as a homebuyer savings account; and

10 2. For an accountholder to annually submit to the Oklahoma Tax
11 Commission detailed information regarding the homebuyer savings
12 account, including, but not limited to, a list of transactions for
13 the account during the tax year, and identifying any supporting
14 documentation that is required to be maintained by the
15 accountholder.

16 SECTION 9. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1209 of Title 60, unless there
18 is created a duplication in numbering, reads as follows:

19 The Oklahoma Tax Commission shall post information regarding the
20 Oklahoma Homebuyers Savings Account Program on its website to
21 publicize the availability of the program.

22 SECTION 10. This act shall become effective November 1, 2018.

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24 56-2-8909 JBH 01/07/18