

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 ENGROSSED SENATE
5 BILL NO. 961

By: Smalley of the Senate

and

West (Tammy) of the House

8 **[savings accounts - creating the Oklahoma Home Buyer**

9 **Savings Account Act - effective date]**

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

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 311 of Title 46, unless there is
15 created a duplication in numbering, reads as follows:

16 This act shall be known and may be cited as the "Oklahoma First-
17 Time Home Buyer Savings Account Act".

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 312 of Title 46, unless there is
20 created a duplication in numbering, reads as follows:

21 As used in this act:

22 1. "Account holder" means an individual who establishes,
23 individually or jointly with one or more other individuals, a home
24 buyer savings account as defined in this act;

1 2. "Allowable closing costs" means a disbursement listed on a
2 settlement statement for the purchase of a single-family residence
3 in Oklahoma by a qualified beneficiary;

4 3. "Eligible costs" means the down payment and allowable
5 closing costs for the purchase of a single-family residence in this
6 state by a qualified beneficiary;

7 4. "Financial institution" means any bank, trust company,
8 savings institution, industrial loan association, consumer finance
9 company, credit union, or any benefit association, insurance
10 company, safe deposit company, money market mutual fund, or similar
11 entity authorized to do business in this state;

12 5. "Home buyer" means an individual who resides in this state
13 and has never purchased, either individually or jointly, a single-
14 family residence in the State of Oklahoma;

15 6. "Home buyer savings account" or "account" means an account
16 with a financial institution that an account holder designates as a
17 home buyer savings account on the account holder's Oklahoma income
18 tax return for tax year 2020 or any tax year thereafter, pursuant to
19 this act for the purpose of paying or reimbursing eligible costs for
20 the purchase of a single-family residence in this state by a
21 qualified beneficiary;

22 7. "Qualified beneficiary" means a home buyer who is designated
23 as the qualified beneficiary of an account designated by the account
24 holder as a home buyer savings account;

1 8. "Settlement statement" means the statement of receipts and
2 disbursements for a transaction related to real estate, including a
3 statement prescribed under the Real Estate Settlement Procedures Act
4 of 1974, 12 U.S.C. 2601 et seq., as amended, and regulations
5 thereunder; and

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

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 313 of Title 46, unless there is
12 created a duplication in numbering, reads as follows:

13 A. After the effective date of this act, any individual may
14 open an account with a financial institution and designate the
15 account, in its entirety, as a home buyer savings account to be used
16 to pay or reimburse a qualified beneficiary's eligible costs for the
17 purchase of a single-family residence in this state.

18 B. An account holder shall designate, no later than April 15 of
19 the year following the tax year during which the account is
20 established, a home buyer as the qualified beneficiary of the home
21 buyer savings account. The account holder may designate himself or
22 herself as the qualified beneficiary and may change the designated
23 qualified beneficiary at any time; provided, however, there shall
24 not be more than one qualified beneficiary at any one time.

1 C. An individual may jointly own a home buyer savings account
2 with another person if the joint account holders file a joint income
3 tax return.

4 D. An individual may be the account holder of more than one
5 home buyer savings account. However, an account holder cannot have
6 multiple accounts that designate the same qualified beneficiary.

7 E. An individual may be designated as the qualified beneficiary
8 on more than one home buyer savings account.

9 F. Only cash and marketable securities may be contributed to a
10 home buyer savings account. Subject to the limitations of
11 subsection B of Section 6 of this act, persons other than the
12 account holder may contribute funds to a home buyer savings account.
13 There is no limitation on the amount of contributions that may be
14 made to or retained in a home buyer savings account.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 314 of Title 46, unless there is
17 created a duplication in numbering, reads as follows:

18 A. The account holder of a home buyer savings account:

19 1. Shall not use funds held in a home buyer savings account to
20 pay expenses of administering the account, except that a service fee
21 may be deducted from the account by a financial institution in which
22 the account is held;

23 2. Shall submit to the Oklahoma Tax Commission, with the
24 account holder's Oklahoma income tax return:

1 a. on forms prepared by the Oklahoma Tax Commission,
2 detailed information regarding the home buyer savings
3 account, including a list of transactions for the
4 account during the tax year, and

5 b. The Form 1099 issued by the financial institution for
6 such account; and

7 3. Shall submit to the Oklahoma Tax Commission, upon a
8 withdrawal of funds from a home buyer savings account, a detailed
9 account of the eligible costs toward which the account funds were
10 applied and a statement of the amount of funds remaining in the
11 account, if any.

12 B. An account holder may withdraw funds, in whole or in part,
13 from a home buyer savings account and deposit the funds in a new
14 home buyer savings account held by a different financial institution
15 or the same financial institution.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 315 of Title 46, unless there is
18 created a duplication in numbering, reads as follows:

19 A. A financial institution shall not be required to:

20 1. Designate an account as a home buyer savings account, or
21 designate the qualified beneficiaries of an account, in the
22 financial institution's account contracts or systems or in any other
23 way;
24

1 2. Track the use of money withdrawn from a home buyer savings
2 account;

3 3. Allocate funds in a home buyer savings account among joint
4 account holders or multiple qualified beneficiaries; or

5 4. Report any information to the Oklahoma Tax Commission or any
6 other governmental agency that is not otherwise required by law.

7 B. A financial institution is not responsible or liable for:

8 1. Determining or ensuring that an account satisfies the
9 requirements to be a home buyer savings account;

10 2. Determining or ensuring that funds in a home buyer savings
11 account are used for eligible costs; or

12 3. Reporting or remitting taxes or penalties related to the use
13 of a home buyer savings account.

14 C. Upon being furnished proof of the death of the account
15 holder and such other information required by the contract governing
16 the home buyer savings account, a financial institution shall
17 distribute the principal and accumulated interest or other income in
18 the account in accordance with the terms of the contract governing
19 the account.

20 SECTION 6. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 316 of Title 46, unless there is
22 created a duplication in numbering, reads as follows:

23 A. 1. Except as otherwise provided in and subject to the
24 limitations under this act, there shall be deducted from taxable

1 income of an account holder for Oklahoma income tax purposes the
2 amount contributed to a home buyer savings account during each tax
3 year, subject to the limitations of subsection B of this section,
4 not to exceed Five Thousand Dollars (\$5,000.00) for an account
5 holder who files an individual tax return or Ten Thousand Dollars
6 (\$10,000.00) for joint account holders who file a joint tax return.

7 2. Except as otherwise provided in this act and subject to the
8 limitations under this section, there shall be excluded from taxable
9 income of an account holder for Oklahoma income tax purposes the
10 amount of earnings, including interest and other income on the
11 principal, from the home buyer savings account during the tax year.

12 3. An account holder may claim the deduction and exclusion
13 under this subsection:

14 a. for an aggregate total amount of principal and
15 earnings, not to exceed Fifty Thousand Dollars
16 (\$50,000.00), and

17 b. only if the principal and earnings of the account
18 remain in the account until a withdrawal is made for
19 eligible costs related to the purchase of a single-
20 family residence by a qualified beneficiary, except as
21 otherwise provided in subsection B of Section 4 of
22 this act.
23
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1 B. A person other than the account holder who deposits funds in
2 a home buyer savings account shall not be entitled to the deduction
3 and exclusion provided for under subsection A of this section.

4 C. The deduction and exclusion from taxable income provided
5 for by this act shall apply to any alternative bases for calculating
6 taxable income for Oklahoma income tax purposes.

7 D. Any funds in a home buyer savings account not expended on
8 eligible costs by December 31 of the last year of a fifteen-year
9 period shall thereafter be included in the account holder's taxable
10 income.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 317 of Title 46, unless there is
13 created a duplication in numbering, reads as follows:

14 Except as otherwise authorized by subsection B of Section 4 of
15 this act, if the account holder withdraws any funds from a home
16 buyer savings account for a purpose other than eligible costs for
17 the purchase of a single-family residence, such funds shall be
18 included in the account holder's taxable income and the account
19 holder shall pay a penalty to the Oklahoma Tax Commission equal to
20 ten percent (10%) of the amount withdrawn. Such penalty shall not
21 apply to funds withdrawn from an account that were:

22 1. Withdrawn by reason of the account holder's death or
23 disability;
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1 2. A disbursement of assets of the account pursuant to a filing
2 for protection under the United States Bankruptcy Code, 11 U.S.C. §
3 101 et seq.; or

4 3. Transferred from an account established under this act into
5 another account established under this act in accordance with
6 subsection B of Section 4 of this act.

7 SECTION 8. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 318 of Title 46, unless there is
9 created a duplication in numbering, reads as follows:

10 The Oklahoma Tax Commission shall prepare forms for:

11 1. The designation of an account with a financial institution
12 to serve as a home buyer savings account;

13 2. The designation of a qualified beneficiary of a home buyer
14 savings account; and

15 3. An account holder to annually submit to the Oklahoma Tax
16 Commission detailed information regarding the home buyer savings
17 account, including but not limited to a list of transactions for the
18 account during the tax year, and identifying any supporting
19 documentation that is required to be maintained by the account
20 holder.

21 SECTION 9. This act shall become effective January 1, 2020.

22
23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
24 04/11/2019 - DO PASS, As Amended.