

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 961

By: Smalley

AS INTRODUCED

An Act relating to savings accounts; creating the Oklahoma Home Buyer Savings Account Act; providing short title; defining terms; authorizing establishment of certain savings account for specified purpose; establishing requirements for contributions to and beneficiaries of certain accounts; establishing expense and reporting requirements for certain accounts; authorizing certain transfer of funds; clarifying duties of financial institutions; allowing certain deductions and exclusions from taxable income; providing limitations; establishing penalties for certain prohibited withdrawals; requiring Oklahoma Tax Commission to prepare certain forms; providing for codification; and providing an effective date.

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

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

This act shall be known and may be cited as the "Oklahoma Home Buyer Savings Account Act."

1           SECTION 2.           NEW LAW

2           A new section of law to be codified  
3 in the Oklahoma Statutes as Section 312 of Title 46, unless there is  
4 created a duplication in numbering, reads as follows:

5           As used in this act:

6           1. "Account holder" means an individual who establishes,  
7 individually or jointly with one or more other individuals, a home  
8 buyer savings account;

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

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

15           4. "Financial institution" means any bank, trust company,  
16 savings institution, industrial loan association, consumer finance  
17 company, credit union, or any benefit association, insurance  
18 entity authorized to do business in this state;

19           5. "Home buyer" means an individual who resides in this state  
20 and has not owned or purchased, either individually or jointly, a  
21 single-family residence during a period of three (3) years prior to  
22 the date of the purchase of a single-family residence;

23           6. "Home buyer savings account" or "account" means an account  
24 with a financial institution that an account holder designates as a  
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1 home buyer savings account on the account holder's Oklahoma income  
2 tax return for tax year 2020 or any tax year thereafter, pursuant to  
3 this act for the purpose of paying or reimbursing eligible costs for  
4 the purchase of a single-family residence in this state by a  
5 qualified beneficiary;

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

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

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

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

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

3 B. An account holder shall designate, no later than April 15 of  
4 the year following the tax year during which the account is  
5 established, a home buyer as the qualified beneficiary of the home  
6 buyer savings account. The account holder may designate himself or  
7 herself as the qualified beneficiary and may change the designated  
8 qualified beneficiary at any time; provided, however, there shall  
9 not be more than one qualified beneficiary at any one time.

10 C. An individual may jointly own a home buyer savings account  
11 with another person if the joint account holders file a joint income  
12 tax return.

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

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

18 F. Only cash and marketable securities may be contributed to a  
19 home buyer savings account. Subject to the limitations of  
20 subsection B of Section 6 of this act, persons other than the  
21 account holder may contribute funds to a home buyer savings account.  
22 There is no limitation on the amount of contributions that may be  
23 made to or retained in a home buyer savings account.  
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1           SECTION 4.           NEW LAW           A new section of law to be codified

2 in the Oklahoma Statutes as Section 314 of Title 46, unless there is  
3 created a duplication in numbering, reads as follows:

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

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

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

11               a.   on forms prepared by the Oklahoma Tax Commission,  
12                   detailed information regarding the home buyer savings  
13                   account, including a list of transactions for the  
14                   account during the tax year, and

15               b.   The Form 1099 issued by the financial institution for  
16                   such account; and

17           3.   Shall submit to the Oklahoma Tax Commission, upon a  
18 withdrawal of funds from a home buyer savings account, a detailed  
19 account of the eligible costs toward which the account funds were  
20 applied and a statement of the amount of funds remaining in the  
21 account, if any.

22           B.   An account holder may withdraw funds, in whole or in part,  
23 from a home buyer savings account and deposit the funds in a new  
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1 home buyer savings account held by a different financial institution  
2 or the same financial institution.

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

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

7 1. Designate an account as a home buyer savings account, or  
8 designate the qualified beneficiaries of an account, in the  
9 financial institution's account contracts or systems or in any other  
10 way;

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

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

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

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

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

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

22 3. Reporting or remitting taxes or penalties related to the use  
23 of a home buyer savings account.  
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1 C. Upon being furnished proof of the death of the account  
2 holder and such other information required by the contract governing  
3 the home buyer savings account, a financial institution shall  
4 distribute the principal and accumulated interest or other income in  
5 the account in accordance with the terms of the contract governing  
6 the account.

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

10 A. 1. Except as otherwise provided in and subject to the  
11 limitations under this act, there shall be deducted from taxable  
12 income of an account holder for Oklahoma income tax purposes the  
13 amount contributed to a home buyer savings account during each tax  
14 year, subject to the limitations of subsection B of this section,  
15 not to exceed Five Thousand Dollars (\$5,000.00) for an account  
16 holder who files an individual tax return or Ten Thousand Dollars  
17 (\$10,000.00) for joint account holders who file a joint tax return.

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

23 3. An account holder may claim the deduction and exclusion  
24 under this subsection:  
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- 1           a.    for an aggregate total amount of principal and  
2                   earnings, not to exceed Fifty Thousand Dollars  
3                   (\$50,000.00), and  
4           b.    only if the principal and earnings of the account  
5                   remain in the account until a withdrawal is made for  
6                   eligible costs related to the purchase of a single-  
7                   family residence by a qualified beneficiary, except as  
8                   otherwise provided in subsection B of Section 4 of  
9                   this act.

10           B.   A person other than the account holder who deposits funds in  
11 a home buyer savings account shall not be entitled to the deduction  
12 and exclusion provided for under subsection A of this section.

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

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

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

3 1. Withdrawn by reason of the account holder's death or  
4 disability;

5 2. A disbursement of assets of the account pursuant to a filing  
6 for protection under the United States Bankruptcy Code, 11 U.S.C. §  
7 101 et seq.; or

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

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

14 The Oklahoma Tax Commission shall prepare forms for:

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

17 2. The designation of a qualified beneficiary of a home buyer  
18 savings account; and

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

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

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