

Regular Session, 2013

SENATE BILL NO. 12

BY SENATOR MURRAY

TAX/INCOME/PERSONAL. Grants a refundable individual income tax credit for up to \$600 of deposits made in a tax year to Wind and Hail Deductible Savings Accounts which provide reimbursement to the account holder for damages or losses not covered because of a deductible. (gov sig)

1 AN ACT

2 To enact R.S. 47:297.13, relative to individual income tax; to grant a credit for deposits
3 made to certain savings accounts for the purpose of paying certain damages or losses
4 incurred from certain weather events; to provide for policies and procedures for
5 administering such account; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:297.13 is hereby enacted to read as follows:

8 **§297.13. Tax credit; Wind and Hail Deductible Savings Account**

9 **A.(1) There shall be allowed a limited, refundable individual income tax**
10 **credit for up to six hundred dollars of deposits made in a tax year by an account**
11 **holder to Wind and Hail Deductible Savings Accounts which a taxpayer has**
12 **contracted for with an account administrator as provided for in this Section**
13 **until the balance in the accounts, including any earnings on the accounts**
14 **deposited to the credit of the accounts, reach the limit provided for in**
15 **Paragraph (3) of this Subsection.**

16 **(2) Such an account may be established by any taxpayer for his qualified**
17 **residence or the qualified residence of an eligible family member. However, only**

1 one Wind and Hail Deductible Savings Account may be created for any
2 qualified residence.

3 (3) The credit for deposits to such an account shall not exceed an amount
4 equal to the Wind and Hail Deductible in the insurance policy covering the
5 qualified residence for which the account is opened. However, if the account
6 balance falls below such amount by reason of distributions for the payment of
7 eligible unreimbursed damages, further credit for deposits is allowed until the
8 account balance equals the amount provided for in this Paragraph.

9 B. For purposes of this Section, the following words and phrases shall
10 have the respective meanings ascribed to them in this Subsection:

11 (1)(a) "Account administrator" shall mean a state or national bank,
12 savings and loan association, credit union as those terms are defined in R.S. 6:2,
13 or a savings bank chartered pursuant to the Louisiana Savings Bank Act of
14 1990 (26 U.S.C.A. §21), which are approved by the department for the purposes
15 of establishing and maintaining Wind and Hail Deductible Savings Accounts.

16 (b) Account administrator shall also mean a person or entity determined
17 by the secretary of the Department of Revenue to be qualified to be an
18 administrator of the accounts provided for in this Section.

19 (2) "Department" means the Department of Revenue.

20 (3) "Eligible family member" means any person in the following
21 relationship to an account holder:

22 (a) A child or a descendant of such child.

23 (b) A brother, sister, stepbrother, or stepsister.

24 (c) A father, mother, or an ancestor of either.

25 (d) A stepfather or stepmother.

26 (e) A son or daughter of a brother or sister of an account holder.

27 (f) A brother or sister of an account holder.

28 (g) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-
29 in-law, or sister-in-law.

1 **(4) "Eligible unreimbursed damages" shall mean documented,**
2 **unreimbursed expenses paid to repair damages or losses to a qualified residence**
3 **for which a Wind and Hail Deductible Savings Account has been created which**
4 **are incurred as a result of a hurricane, a named storm, or otherwise by wind**
5 **and hail, which damages or losses are not covered because of a Wind and Hail**
6 **Deductible.**

7 **(5) "Qualified residence" means a residence or dwelling in the state**
8 **which is covered by an insurance policy which covers the residence or dwelling**
9 **from damages and loss up to a wind and hail deductible amount, or a policy**
10 **specifically designed to cover the residence or dwelling from damages and loss**
11 **from a hurricane, named storm, or from wind and hail up to a wind and hail**
12 **deductible amount.**

13 **(6) "Wind and Hail Deductible" means a separate hurricane, named**
14 **storm, or wind and hail deductible in an insurance policy insuring a qualified**
15 **residence expressed as a percentage of the insured value of the property or as**
16 **a specific dollar amount.**

17 **(7) "Wind and Hail Deductible Savings Account" or "account" means**
18 **an account established pursuant to this Section for a particular qualified**
19 **residence.**

20 **C.(1) In order to be eligible for the tax credit provided for in this Section,**
21 **the Wind and Hail Deductible Savings Account shall be established by an**
22 **account administrator who shall be approved by the Department of Revenue,**
23 **and the contract for which shall limit access to such account to the account**
24 **administrator who shall administer such account in accord with the provisions**
25 **of this Section and any rules and regulations promulgated pursuant to**
26 **Subsection E of this Section.**

27 **(2) The account administrator shall obtain such information from the**
28 **account holder as reasonably required by rules and regulations of the**
29 **department to determine that the residence covered by the account is and**

1 remains a qualified residence for the tax year and that the balance in the
2 account does not exceed the limit provided for in Paragraph (A)(3) of this
3 Section.

4 (3)(a) An account administrator shall use the funds held in a Wind and
5 Hail Deductible Savings Account solely for the purpose of investing such funds
6 and for reimbursing the account holder for the payment of eligible
7 unreimbursed damages or for other distributions from the account as provided
8 in Subsection D of this Section.

9 D.(1) After the deduction of reasonable charges by the account
10 administrator for management of the account, net earnings on investment of the
11 funds in a Wind and Hail Deductible Savings Account shall be distributed by
12 the account administrator as follows:

13 (a) They shall be deposited into the account until the balance in the
14 account reaches the limit provided for in Paragraph (A)(3) of this Section.

15 (b)(i) After the account reaches such limit, the net earnings shall be
16 distributed to another Wind and Hail Deductible Savings Account established
17 by the account holder. Such deposit shall not be considered taxable income of
18 the account holder and shall not be eligible for the credit provided for in this
19 Section.

20 (ii) If there is no other such account, the net earnings shall be distributed
21 to the department in an amount which equals the proportion of the balance of
22 money in the account consisting of deposits for which a credit under this Section
23 was claimed bears to the total. The remainder of the net earnings, if any, shall
24 be distributed to the account holder and shall be considered taxable income of
25 the account holder.

26 (2) Funds deposited in the Wind and Hail Deductible Savings Account
27 may be distributed by the account administrator solely as follows:

28 (a)(i) To reimburse the account holder for the payment of eligible
29 unreimbursed damages, according to documentation of such eligible

1 unreimbursed damages paid by the account holder during a tax year.

2 (ii) Such reimbursement distributions shall not be considered taxable
3 income of the account holder.

4 (b)(i) To distribute to the Department of Revenue the amount of funds
5 in the account which are derived from deposits for which a tax credit was
6 claimed as provided in this Section, and the remainder of such funds, if any, to
7 the account holder, or to the heirs and assigns of the account holder, when the
8 account holder is deceased or when the account is terminated. The account may
9 be terminated by the account holder or the account administrator, and shall be
10 terminated upon the loss of qualification for the credit of the residence or
11 dwelling for which the account was established.

12 (ii) None of the money distributed as provided for in Item (i) of this
13 Subparagraph shall be considered as taxable income of the account holder or
14 the heirs and assigns of the account holder.

15 E. Any excess of the credit allowed in a taxable period over the
16 individual income tax liability for that taxable period against which the credit
17 can be applied shall constitute an overpayment, as defined in R.S. 47:1621(A),
18 and the secretary shall make a refund of such overpayment from the current
19 collections of the taxes imposed by Chapter 1 of Subtitle II of this Title, as
20 amended. The right to a refund of any such overpayment shall not be subject
21 to the requirements of R.S. 47:1621(B).

22 F. The commissioner of insurance and the secretary of the Department
23 of Revenue shall issue joint rules for the purpose of implementing the provisions
24 of this Section in accordance with the Administrative Procedure Act, but
25 oversight of such rules shall be with the Senate Committee on Revenue and
26 Fiscal Affairs and the House Committee on Ways and Means.

27 Section 2. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Proposed law grants a refundable individual income tax credit for up to \$600 of deposits made in a tax year by an account holder to a Wind and Hail Deductible Savings Account until the balance in the account, including any earnings on the account deposited to the credit of the account, reaches an amount equal to the "Wind and Hail Deductible" in the insurance policy covering the "qualified residence" for which the account is opened. The money in the account is to be used for reimbursing the account holder for the payment of "eligible unreimbursed damages" to a "qualified residence".

"Eligible unreimbursed damages" is defined as documented, unreimbursed expenses paid to repair damages or losses to a "qualified residence" for which a Wind and Hail Deductible Savings Account has been created which are incurred as a result of a hurricane, a named storm, or otherwise by wind and hail, which damages or losses are not covered because of a "Wind and Hail Deductible".

"Qualified residence" is defined as a residence or dwelling in the state which is covered by an insurance policy which covers the residence or dwelling from damages and loss up to a wind and hail deductible amount or a policy specifically designed to cover the residence or dwelling from damages and loss from a hurricane, named storm, or from wind and hail up to a wind and hail deductible amount.

"Wind and Hail Deductible" is defined as a separate hurricane, named storm, or wind and hail deductible in an insurance policy insuring a qualified residence expressed as a percentage of the insured value of the property or as a specific dollar amount.

An account may be established by any taxpayer for his qualified residence or the qualified residence of an "eligible family member". However, only one Wind and Hail Deductible Savings Account may be created for any qualified residence.

"Eligible family member" means any person in the following relationship to an account holder:

- (1) A child or a descendant of such child.
- (2) A brother, sister, stepbrother, or stepsister.
- (3) A father, mother, or an ancestor of either.
- (4) A stepfather or stepmother.
- (5) A son or daughter of a brother or sister of an account holder.
- (6) A brother or sister of an account holder.
- (7) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

Proposed law provides that, in order to be eligible for the tax credit, a Wind and Hail

Deductible Savings Account must be established by an "account administrator" who must be approved by the Department of Revenue [DOR].

"Account administrator" is defined as a state or national bank, savings and loan association, credit union as those terms are defined in R.S. 6:2, or a savings bank chartered pursuant to the Louisiana Savings Bank Act of 1990 (26 U.S.C.A. §21), which are approved by the DOR for the purposes of establishing and maintaining Wind and Hail Deductible Savings Accounts. "Account administrator" also means a person or entity determined by the secretary of DOR to be qualified to be an administrator of such accounts.

The contract for the account must limit access to the account to the account administrator who must administer it in accord with the proposed law and any rules and regulations promulgated pursuant to it. The account administrator must obtain such information from the account holder as is reasonably required by rules and regulations of the department to determine that the residence covered by the account is and remains a qualified residence for the tax year and that the balance in the account does not exceed the limit. An account administrator must use the funds held in an account solely for the purpose of investing such funds and for reimbursing the account holder for the payment of eligible unreimbursed damages or for other distributions from the account set out below.

Proposed law provides that, after the deduction of reasonable charges by the account administrator for management of the account, net earnings on investment of the funds in an Wind and Hail Deductible Savings Account are to be distributed by the account administrator as follows:

- (1) They must be deposited into the account until the balance in the account reaches the limit.
- (2) After the account reaches the limit, the net earnings are distributed to another account established by the account holder. The deposit is not considered taxable income of the account holder and is not eligible for the credit.
- (3) If there is no other such account, the net earnings must be distributed to the DOR in an amount which equals the proportion of money in the account consisting of deposits for which a credit was claimed bears to the total. The remainder of the net earnings, if any, must be distributed to the account holder and is considered taxable income of the account holder.

Proposed law funds deposited in the Wind and Hail Deductible Savings Account are authorized to be distributed by the account administrator solely as follows:

- (1) To reimburse the account holder for the payment of "eligible unreimbursed damages", according to documentation of such eligible unreimbursed damages paid by the account holder during a tax year. Such reimbursement distributions are not considered taxable income of the account holder.
- (2) To distribute to the DOR the amount of funds in the account which are derived from deposits for which a tax credit was claimed, and the remainder of such funds, if any, to the account holder, or to the heirs and assigns of the account holder, when the account holder is deceased or when the account is terminated. The account may be terminated by the account holder or the account administrator, and must be terminated upon the loss of qualification for the credit of the residence or dwelling for which the account was established. The money distributed is not considered to be taxable income of the account holder or the heirs and assigns of the account holder.

Proposed law provides that any excess of the credit over tax liability constitutes an overpayment and the secretary of DOR must make a refund of the overpayment from the

current collections of the income taxes.

Proposed law requires the commissioner of insurance and the secretary of DOR to issue joint rules in accordance with the APA, but oversight of such rules is with the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:297.13)