

FIRST REGULAR SESSION

# SENATE BILL NO. 444

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROWDEN.

Read 1st time February 20, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1993S.011

## AN ACT

To amend chapters 143 and 443, RSMo, by adding thereto seven new sections relating to tax incentives for first-time home buyers.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapters 143 and 443, RSMo, are amended by adding thereto  
2 seven new sections, to be known as sections 143.1150, 443.1001, 443.1003,  
3 443.1004, 443.1005, 443.1006, and 443.1007, to read as follows:

**143.1150. 1. This section shall be known and may be cited as the  
2 "First-Time Home Buyer Tax Deduction".**

**3 2. As used in this section, the following terms mean:**

**4 (1) "Deduction", an amount subtracted from the taxpayer's  
5 Missouri adjusted gross income to determine Missouri taxable income  
6 for the tax year in which such deduction is claimed;**

**7 (2) "Eligible expenses", the same meaning as that term is defined  
8 under subdivision (3) of section 443.1003;**

**9 (3) "First-time home buyer savings account", the same meaning  
10 as that term is defined under subdivision (6) of section 443.1003;**

**11 (4) "First-time home buyer savings account act", sections 443.1001  
12 to 443.1007;**

**13 (5) "Taxpayer", any individual, firm, partner in a firm,  
14 corporation, partnership, shareholder in an S corporation, or member  
15 of a limited liability company subject to the income tax imposed under  
16 this chapter, excluding withholding tax imposed under sections 143.191  
17 to 143.265.**

**18 3. For all tax years beginning on or after January 1, 2018, a  
19 taxpayer shall be allowed a deduction equal to fifty percent of the  
20 taxpayer's contributions to a first-time home buyer savings account in**

21 the tax year of the contribution.

22 4. The amount of the deduction claimed shall not exceed the  
23 amount of the taxpayer's Missouri adjusted gross income for the tax  
24 year the deduction is claimed.

25 5. The assets of a first-time home buyer savings account and any  
26 income therefrom shall be exempt from all taxation by the state or any  
27 of its political subdivisions. Income earned or received as a result of  
28 assets in a first-time home buyer savings account shall not be subject  
29 to state income tax imposed pursuant to chapter 143. The exemption  
30 from taxation under this section shall apply only to assets and income  
31 maintained, accrued, or expended pursuant to the requirements of the  
32 first-time home buyer savings account act, and no exemption shall  
33 apply to assets and income expended for any other purposes. Annual  
34 contributions made to the savings program up to and including eight  
35 thousand dollars per participating taxpayer and up to sixteen thousand  
36 dollars for married individuals filing a joint tax return shall be  
37 subtracted in determining Missouri adjusted gross income under  
38 section 143.121.

39 6. If any deductible contributions to or earnings from any such  
40 program referred to in this section are distributed and not used to pay  
41 for eligible expenses or are not held for the minimum length of time  
42 under subsection 2 of section 443.1005, the amount so distributed shall  
43 be added to the Missouri adjusted gross income of the participant or,  
44 if the participant is not living, the beneficiary.

45 7. The department of revenue shall promulgate rules to  
46 implement the provisions of this section. Any rule or portion of a rule,  
47 as that term is defined in section 536.010, that is created under the  
48 authority delegated in this section shall become effective only if it  
49 complies with and is subject to all of the provisions of chapter 536 and,  
50 if applicable, section 536.028. This section and chapter 536 are  
51 nonseverable and if any of the powers vested with the general assembly  
52 pursuant to chapter 536 to review, to delay the effective date, or to  
53 disapprove and annul a rule are subsequently held unconstitutional,  
54 then the grant of rulemaking authority and any rule proposed or  
55 adopted after August 28, 2017, shall be invalid and void.

56 8. Under section 23.253 of the Missouri sunset act:

57 (1) The provisions of the new program authorized under this

58 section shall automatically sunset on December thirty-first six years  
59 after August 28, 2017, unless reauthorized by an act of the general  
60 assembly;

61 (2) If such program is reauthorized, the program authorized  
62 under this section shall automatically sunset on December thirty-first  
63 twelve years after the effective date of the reauthorization of this  
64 section; and

65 (3) This section shall terminate on September first of the  
66 calendar year immediately following the calendar year in which the  
67 program authorized under this section is sunset.

443.1001. Sections 443.1001 to 443.1007 shall be known and may  
2 be cited as the "First-Time Home Buyer Savings Account Act".

443.1003. As used in sections 443.1001 to 443.1007 the following  
2 terms mean:

3 (1) "Account holder", an individual who establishes an account  
4 with a financial institution that is designated as a first-time home  
5 buyer savings account in accordance with section 443.1004;

6 (2) "Department", the department of revenue;

7 (3) "Eligible expenses", a down payment and any closing costs  
8 included on a real estate settlement statement including, but not  
9 limited to, appraisal fees, mortgage origination fees, and inspection  
10 fees;

11 (4) "Financial institution", any state bank, state trust company,  
12 savings and loan association, federally chartered credit union doing  
13 business in this state, credit union chartered by the state of Missouri,  
14 national bank, broker-dealer, mutual fund, insurance company, or other  
15 similar financial entity qualified to do business in this state;

16 (5) "First-time home buyer", an individual who:

17 (a) Has never owned or purchased under contract for deed,  
18 either individually or jointly, a single-family, owner-occupied primary  
19 residence including, but not limited to, a condominium unit or a  
20 manufactured or mobile home that was assessed and taxed as real  
21 property; or

22 (b) As a result of the individual's dissolution of marriage, has not  
23 been listed on a property title for at least three consecutive years;

24 (6) "First-time home buyer savings account" or "account", an  
25 account with a financial institution designated as such in accordance

26 with subdivision (1) of section 443.1004;

27 (7) "Qualified beneficiary", a first-time home buyer designated by  
28 an account holder for whose eligible expenses the moneys in a  
29 first-time home buyer savings account are or will be used.

443.1004. 1. Beginning January 1, 2018, any individual may open  
2 an account with a financial institution and designate the account, in its  
3 entirety, as a first-time home buyer savings account to be used to pay  
4 or reimburse a qualified beneficiary's eligible expenses for the  
5 purchase of a primary residence in Missouri. An individual may be the  
6 account holder of multiple accounts, and an individual may jointly own  
7 the account with another person if such persons file a joint income tax  
8 return. To be eligible for the tax deduction under section 143.1150, an  
9 account holder shall comply with the requirements of this section.

10 2. An account holder shall designate, no later than April fifteenth  
11 of the year following the tax year during which the account was  
12 established, a first-time home buyer as the qualified beneficiary of the  
13 first-time home buyer savings account. The account holder may  
14 designate himself or herself as the qualified beneficiary. The account  
15 holder may change the designated qualified beneficiary at any time, but  
16 no first-time home buyer savings account shall have more than one  
17 qualified beneficiary at any time. No account holder shall have  
18 multiple accounts with the same qualified beneficiary, but an  
19 individual may be designated as the qualified beneficiary of multiple  
20 accounts.

21 3. (1) The following limits apply to a first-time home buyer  
22 savings account:

23 (a) The maximum contribution to a first-time home buyer savings  
24 account is sixteen thousand dollars per year for an individual and  
25 thirty-two thousand dollars per year for account holders who file a  
26 joint tax return;

27 (b) The maximum amount of all contributions for all tax years to  
28 a first-time home buyer savings account is fifty thousand dollars; and

29 (c) The maximum total amount in an account is one hundred fifty  
30 thousand dollars;

31 (2) If a limit in subdivision (1) of this subsection is exceeded,  
32 then thereafter no interest or other income earned on the investment  
33 of moneys in the first-time home buyer savings account shall be

34 included in the tax deduction under section 143.1150; and

35 (3) Moneys may remain in a first-time home buyer savings  
36 account for unlimited duration without the interest or income being  
37 subject to recapture or penalty.

38 4. The account holder shall not use moneys in an account to pay  
39 expenses of administering the account, except that a service fee may be  
40 deducted from the account by a financial institution. The account  
41 holder shall be responsible for maintaining documentation for the  
42 first-time home buyer savings account and for eligible expenses related  
43 to the qualified beneficiary's purchase of a primary residence.

443.1005. 1. (1) For purposes of the tax benefit conferred under  
2 the first-time home buyer savings account act, the moneys in a  
3 first-time home buyer savings account may be:

4 (a) Used for eligible expenses related to a qualified beneficiary's  
5 purchase of his or her primary residence located in this state;

6 (b) Used for eligible expenses related to a qualified beneficiary's  
7 purchase of his or her primary residence located outside this state if  
8 the qualified beneficiary is active-duty military and was stationed in  
9 Missouri for any time after the creation of the account;

10 (c) Used for expenses that would have qualified under paragraph  
11 (a) or (b) of this subdivision, but the contract for purchase did not  
12 close;

13 (d) Transferred to another newly created first-time home buyer  
14 savings account; and

15 (e) Used to pay a service fee that is deducted by the financial  
16 institution;

17 (2) Subdivision (1) of this subsection shall apply whether the  
18 qualified beneficiary is the sole owner of the primary residence or joint  
19 owner with another person who does not qualify as a qualified  
20 beneficiary. Moneys in a first-time home buyer savings account shall  
21 not be used for the purposes under paragraphs (a), (b), and (c) of  
22 subdivision (1) of this subsection related to the purchase of a  
23 manufactured or mobile home that is not taxed as real property.

24 2. Moneys withdrawn from a first-time home buyer savings  
25 account shall be subject to recapture in the tax year in which they are  
26 withdrawn by a percentage equal to the amount of moneys not  
27 attributable to interest or income divided by the total amount of

28 moneys in the account, if:

29 (1) At the time of the withdrawal, it has been less than a year  
30 since the first deposit in the first-time home buyer savings account; or

31 (2) The moneys are used for any purpose other than those  
32 specified under subdivision (1) of subsection 1 of this section.

33 3. If any moneys are subject to recapture under subsection 2 of  
34 this section, the account holder shall pay to the department a penalty  
35 in the same tax year as the recapture. If the withdrawal was made ten  
36 or fewer years after the first deposit in the first-time home buyer  
37 savings account, then the penalty shall be equal to five percent of the  
38 amount subject to recapture, and, if the withdrawal was made more  
39 than ten years after the first deposit in the account, then the penalty  
40 shall be equal to ten percent of the amount subject to recapture. These  
41 penalties shall not apply if:

42 (1) The withdrawn moneys are used for eligible expenses related  
43 to a qualified beneficiary's purchase of his or her primary residence  
44 outside of the state; or

45 (2) The withdrawn moneys are from a first-time home buyer  
46 savings account for which the qualified beneficiary died, and the  
47 account holder does not designate a new qualified beneficiary during  
48 the same tax year.

49 4. If the account holder dies and the account does not have a  
50 surviving transfer on death beneficiary or, if the first-time home buyer  
51 savings account is jointly owned, the account holders die, then all of  
52 the moneys in the account that were used for a tax deduction under  
53 section 143.1150 shall be subject to recapture in the tax year of the  
54 death or deaths, but no penalty shall be due to the department.

443.1006. The department shall establish forms for an account  
2 holder to annually report information about a first-time home buyer  
3 savings account including, but not limited to, how the moneys  
4 withdrawn from the fund are used, and shall identify any supporting  
5 documentation that is required to be maintained. To be eligible for a  
6 tax deduction under section 143.1150, an account holder shall annually  
7 file with the account holder's state income tax return all forms  
8 required by the department under this section, the 1099 tax form for  
9 the account issued by the financial institution, and any other  
10 supporting documentation the department requires.

443.1007. 1. No financial institution shall be required to:

2 (1) Designate an account as a first-time home buyer savings  
3 account or designate the beneficiaries of an account in the financial  
4 institution's account contracts or systems or in any other way;

5 (2) Track the use of moneys withdrawn from a first-time home  
6 buyer savings account; or

7 (3) Report any information to the department or any other  
8 governmental agency that is not otherwise required by law.

9 2. No financial institution shall be responsible or liable for:

10 (1) Determining or ensuring that an account holder is eligible for  
11 a tax deduction under section 143.1150;

12 (2) Determining or ensuring that moneys in the account are used  
13 for eligible expenses; or

14 (3) Reporting or remitting taxes or penalties related to use of  
15 moneys in a first-time home buyer savings account.

16 3. In implementing section 143.1150 and sections 443.1001 to  
17 443.1007, the department shall not establish any administrative,  
18 reporting, or other requirements on financial institutions that are  
19 outside the scope of normal account procedures.

✓

Copy