

HOUSE BILL NO. 1241

Introduced by

Representatives Louser, Blum, Kading, Owens

Senators D. Larson, Meyer

1 A BILL for an Act to create and enact two new subdivisions to subsection 2 of section
2 57-38-30.3 and chapter 54-38.7 of the North Dakota Century Code, relating to an individual
3 income tax deduction for contributions made to a first-time home buyer savings account; and to
4 provide an effective date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota
7 Century Code is created and enacted as follows:

8 Reduced by up to two thousand dollars, or four thousand dollars if a joint return is
9 filed, of the amount contributed to the taxpayer's first-time home buyer savings
10 account pursuant to section 57-38.7-04.

11 **SECTION 2.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota
12 Century Code is created and enacted as follows:

13 Increased, to the extent previously deducted, by the amount of funds withdrawn
14 from an accountholder's first-time home buyer savings account for purposes
15 other than the payment of eligible costs and by the amount of funds remaining in
16 an accountholder's first-time home buyer savings account on January first of the
17 tenth calendar year after the calendar year during which the accountholder first
18 opened a first-time home buyer savings account pursuant to section 57-38.7-04.

19 **SECTION 3.** Chapter 57-38.7 of the North Dakota Century Code is created and enacted as
20 follows:

21 **57-38.7-01. Definitions.**

22 As used in this chapter:

23 1. "Accountholder" means an individual who establishes, either individually or jointly with
24 the individual's spouse, a first-time home buyer savings account pursuant to section

- 1 57-38.7-02. Married taxpayers filing jointly are considered as the accountholder. A
2 married taxpayer filing separately may be an accountholder if the account is
3 established separately from the taxpayer's spouse.
- 4 2. "Commissioner" means the tax commissioner.
- 5 3. "Eligible costs" means the down payment and allowable closing costs for the purchase
6 of a single-family residence in this state by a first-time home buyer.
- 7 4. "Financial institution" has the same meaning as provided under section 6-01-02.
- 8 5. "First-time home buyer" means an individual who is a resident of this state and who
9 has never owned or purchased under contract for deed, either individually or jointly, a
10 single-family residence in this state or out of state.
- 11 6. "First-time home buyer savings account" means an account that meets the
12 requirements of section 57-38.7-02 and that was established for the purpose of paying
13 eligible costs.
- 14 7. "Resident" means an individual whose residence is in North Dakota according to the
15 rules for determining residence as provided under section 54-01-26.
- 16 8. "Single-family residence" means an owner-occupied residence in this state, including
17 a manufactured home, mobile home, condominium unit, or cooperative, which is
18 owned by or has been purchased under contract for deed by an individual, either
19 individually or jointly.

20 **57-38.7-02. First-time home buyer savings account - Establishment.**

- 21 1. A first-time home buyer may open an interest-bearing savings account with a financial
22 institution and designate the entire account as a first-time home buyer savings account
23 for the purpose of paying eligible costs.
- 24 2. The first-time home buyer savings account designation must be made on forms
25 provided by the commissioner no later than April thirtieth of the year following the tax
26 year during which the account is opened.
- 27 3. A married couple electing to file a joint North Dakota individual income tax return may
28 establish a joint first-time home buyer savings account.
- 29 4. Married taxpayers electing to file separate tax returns or separately on a combined tax
30 return for North Dakota tax purposes may not establish or maintain a joint first-time
31 home buyer savings account.

1 **57-38.7-03. Account administration - Required reports.**

- 2 1. Contributions to a first-time home buyer savings account may be made by any person.
3 There is no limitation on the amount of contributions that may be made to or retained
4 in a first-time home buyer savings account.
- 5 2. The accountholder may not use funds held in a first-time home buyer savings account
6 to pay expenses, if any, of administering the account, except all fees and charges
7 assessed by the financial institution may be deducted from the account by the financial
8 institution at which the account is held.
- 9 3. The accountholder shall submit the following information to the commissioner:
- 10 a. An annual report for the first-time home buyer savings account on forms
11 furnished by the commissioner. The report must be included with the North
12 Dakota income tax return of the accountholder.
- 13 b. A copy of the federal internal revenue service form 1099, or other similar federal
14 internal revenue service income reporting form, if any, issued for the first-time
15 home buyer savings account to the accountholder by the financial institution at
16 which the account is held. The form must be included with the North Dakota
17 income tax return of the accountholder.
- 18 c. Upon a withdrawal of funds from a first-time home buyer savings account, a
19 transaction report on forms furnished by the commissioner.
- 20 4. The accountholder may withdraw funds from a first-time home buyer savings account
21 at any time.

22 **57-38.7-04. First-time home buyer savings account - Income tax deduction.**

- 23 1. An accountholder is exempt from personal income tax liability in an amount equal to
24 the contributions made to the accountholder's first-time home buyer savings account
25 during the taxable year.
- 26 2. An accountholder is limited to exempting a maximum of two thousand dollars, or four
27 thousand dollars if a joint return is filed, of personal income tax liability per taxable
28 year.
- 29 3. If contributions to the accountholder's first-time home buyer savings account in a
30 taxable year exceed the maximum allowable yearly exemption amount, the excess

1 amount of contributions may be carried forward and exempted in the succeeding
2 taxable year, subject to the limitations provided in subsection 2.

3 4. An accountholder is limited to exempting a maximum of twenty thousand dollars, or
4 forty thousand dollars if a joint return is filed, over any combination of taxable years.

5 5. An accountholder may not claim the exemption upon one of the following dates,
6 whichever occurs first:

7 a. January first of the tenth calendar year after the calendar year during which the
8 accountholder first opened a first-time home buyer savings account.

9 b. The date on which funds in an accountholder's first-time home buyer savings
10 account are withdrawn for purposes other than payment of eligible costs.

11 6. To the extent previously deducted under subsection 1, an accountholder shall add
12 back to personal income tax liability the amount of funds withdrawn from the
13 accountholder's first-time home buyer savings account for purposes other than
14 payment of eligible costs and the amount remaining in the accountholder's first-time
15 home buyer savings account on January first of the tenth calendar year after the
16 calendar year during which the accountholder first opened a first-time home buyer
17 savings account.

18 **57-38.7-05. Financial institution protections.**

19 This chapter does require a financial institution to:

20 1. Designate or label within the financial institution's account contracts or systems, or in
21 any other manner, an account as a first-time home buyer savings account.

22 2. Ascertain or verify the purpose of a withdrawal of funds from a first-time home buyer
23 savings account, or track the destination or use of the withdrawn funds.

24 3. Allocate funds in a first-time home buyer savings account among joint accountholders.

25 4. Report any information to the commissioner or any other governmental agency.

26 5. Determine or ensure an account satisfies the requirements to be a first-time home
27 buyer savings account.

28 6. Determine or ensure funds withdrawn from a first-time home buyer savings account
29 are used for the payment of eligible costs.

30 7. Report or remit taxes or penalties related to the ownership or use of a first-time home
31 buyer savings account.

1 **57-38.7-06. Rules and forms.**

2 1. The commissioner shall adopt rules to implement and administer this chapter.

3 2. The commissioner shall create and make available forms to be used in complying with
4 this chapter, including:

5 a. A form for designating an account as a first-time home buyer savings account
6 pursuant to section 57-38.7-02.

7 b. A first-time home buyer savings account annual report as required under section
8 57-38.7-03. At a minimum, the report must require a list of transactions occurring
9 on the account during the tax year, and must identify any supporting
10 documentation to be included with the report or maintained by the taxpayer.

11 c. A transaction report as required under section 57-38.7-03, which at a minimum
12 must require information regarding the eligible costs to which any withdrawn
13 funds were applied, and information regarding the amount of funds remaining, if
14 any, in a first-time home buyer savings account.

15 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
16 December 31, 2018.