

An Act

ENROLLED SENATE
BILL NO. 961

By: Smalley of the Senate

and

West (Tammy) of the House

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.

SUBJECT: Oklahoma First-Time Home Buyer Savings Account Act

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 First-Time Home Buyer Savings Account Act".

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

As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. Only cash and marketable securities may be contributed to a home buyer savings account. Subject to the limitations of

subsection B of Section 6 of this act, persons other than the account holder may contribute funds to a home buyer savings account. There is no limitation on the amount of contributions that may be made to or retained in a home buyer savings account.

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

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

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

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

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

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

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

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

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

A. A financial institution shall not be required to:

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

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

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

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

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

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

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

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

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

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

A. 1. Except as otherwise provided in and subject to the limitations under this act, there shall be deducted from taxable income of an account holder for Oklahoma income tax purposes the amount contributed to a home buyer savings account during each tax

year, subject to the limitations of subsection B of this section, not to exceed Five Thousand Dollars (\$5,000.00) for an account holder who files an individual tax return or Ten Thousand Dollars (\$10,000.00) for joint account holders who file a joint tax return.

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

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

- a. for an aggregate total amount of principal and earnings, not to exceed Fifty Thousand Dollars (\$50,000.00), and
- b. only if the principal and earnings of the account remain in the account until a withdrawal is made for eligible costs related to the purchase of a single-family residence by a qualified beneficiary, except as otherwise provided in subsection B of Section 4 of this act.

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

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

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

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

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

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

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

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

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

The Oklahoma Tax Commission shall prepare forms for:

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

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

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

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

Passed the Senate the 11th day of March, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____