Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 186

134th General Assembly

Bill Analysis

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Version: As Reported by House Ways and Means

Primary Sponsors: Reps. Swearingen and Wilkin

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SUMMARY

- Creates a First-Time Home Buyer Savings Program, beginning in 2023, under which individuals may receive an income tax deduction for deposits made to a first-time home buyer savings account.
- Allows an individual to designate an account as a "first-time home buyer savings account" and a first-time home buyer (either the individual or another person) as the account's beneficiary.
- Authorizes an annual income tax deduction of up to $3,000 for deposits made to, and interest earned on, a first-time home buyer savings account.
- Limits the total deduction an individual may claim for all years to $15,000.
- Provides that individuals retain this tax benefit only if the account beneficiary uses the money in the account to make a down payment or pay the closing costs on an eligible home in Ohio.
- Requires that, if money in an account is not used for that purpose, the individual must add back the deduction claimed and, unless an exception applies, pay an additional 10% penalty.
- Requires the Department of Taxation to administer the program.

DETAILED ANALYSIS

First-Time Home Buyer Savings Act

The bill, titled the "First-Time Home Buyer Savings Act," authorizes a tax-favored savings program for home buyers. Under the program, an individual may designate a savings account as a first-time home buyer savings account and receive an income tax deduction for amounts deposited into the account. The individual may then withdraw money from the account to make a down payment or pay the closing costs on a single-family home, a unit in a multiple-unit building, or a manufactured or mobile home (referred to in the analysis as an "eligible residence"), provided the residence is located in Ohio.[1]

First-time home buyer savings accounts

To participate in the program, an individual must first designate a savings account with a bank or other financial institution as a "first-time home buyer savings account" beginning in 2023 or any year thereafter. To be a first-time home buyer savings account, all amounts in the account must be designated for purposes of making a down payment or paying the closing costs for an eligible residence in Ohio.[2]

The individual must also designate an individual as the beneficiary of the account. Under the bill, a qualifying beneficiary is an Ohio resident who has never owned or purchased an eligible residence.[3]

The beneficiary of the account can be the account holder or another individual selected by the account holder. An individual can designate multiple accounts, but cannot designate the same beneficiary for more than one account. Similarly, an individual can be the beneficiary of more than one account, so long as those accounts are each designated by a different person. The account holder may change the qualified beneficiary of the account no more than one time per taxable year and must attest that the new beneficiary meets all qualifications of a first-time home buyer.[4]

Anyone can contribute any monetary amount to a first-time home buyer savings account, but only deposits made by the account holder qualify for the income tax deduction.[5]

Income tax deduction

An individual who designates a first-time home buyer savings account may claim an income tax deduction for (a) deposits made to the account and (b) interest earned on the account, in both cases for the year in which the account is designated and the following four taxable years. The deduction equals the amount deposited, plus interest earned, each year, up to a maximum of $3,000 per year ($6,000 for joint returns). The total deduction that an individual may receive, for all years and for all of the individual's accounts, is $15,000 ($30,000 for joint returns).[6]

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[1] R.C. 193.01(I).

[2] R.C. 193.01(F) and 193.02(A).

[3] R.C. 193.01(E) and (G) and 193.02(B) and (D).

[4] R.C. 193.02(C), (E), and (F).

[5] R.C. 193.02(G) and (H) and 193.05(D).

[6] R.C. 193.05(A) and (C) and 5747.01(A)(36)(a).

Withdrawal requirements

Under the bill, when an individual withdraws money from a first-time home buyer savings account, the individual (or other beneficiary) must use the withdrawal to make a down payment or pay the closing costs on an eligible residence in Ohio or to transfer money to another first-time home buyer savings account. The financial institution may withdraw money from the account to pay service fees.

Add-back and penalty for nonqualified withdrawals

If an individual withdraws money from an account and uses that money for another purpose, or if there is money remaining in the account five years after the account holder first designates an account as a first-time home buyer savings account, those amounts are disqualified from the tax deduction and must be added back to the individual's federal adjusted gross income (FAGI) on the individual's next tax return.[7]

In addition, disqualified amounts are subject to a 10% penalty, unless an amount was withdrawn for any of the following reasons:

1. Death, disability, or bankruptcy;
2. The bank withdrew the amount as a service fee;
3. The amount was transferred to another first-time home buyer savings account;
4. The account holder is a member of the uniformed services and withdrew the amount within one year of being transferred or called into active duty outside of the state or of the termination of the individual's active duty assignment in Ohio.

The 10% penalty must be paid with the individual's tax return and is considered state income tax revenue.[8]

Program administration

The bill requires the Tax Commissioner to administer the First-Time Home Buyer Savings Program. As part of that responsibility, the Commissioner may adopt rules to implement the program and must adopt forms for the designation of accounts and beneficiaries.[9]

In addition, account holders are required to provide the Commissioner with information about the account, including the name of the qualifying beneficiary and the financial institution at which the account is held, as well as the account number. Account holders must also furnish information about their account activity, including:

1. The beginning and ending balance for the account holder's taxable year;

[7] R.C. 193.05(B) and 5747.01(A)(36)(b).

[8] R.C. 193.06.

[9] R.C. 193.07.

2. A ledger indicating deposits into, and withdrawals from, the account, including withdrawals for bank service fees;
3. Any IRS form 1099 issued to the account holder by the bank or other financial institution with respect to the account or, if the bank or other financial institution is not required to issue that form under federal law, an account statement that lists the interest earnings;
4. The amount of the deduction claimed or disqualified amounts added to the account holder's next tax return for the taxable year;
5. When money is withdrawn from an account, the amount withdrawn, the amount remaining in the account, and the eligible costs for which the money was used;
6. When money is transferred to a different first-time home buyer savings account, information on that other account;
7. When money is withdrawn due to death or disability, the name and address of the person to whom the money was distributed.

This information must be submitted for each taxable year that the account holder claims the deduction or is required to make an addition as required under the bill, as well as for the fifth year following the account's designation, i.e., the last year the deduction is eligible to be claimed. However, no information is required in the fifth year if the account has been liquidated in a preceding year.[10]

Financial institution responsibilities

The bill specifies that financial institutions are not required to designate accounts as "first-time home buyer savings accounts" for purposes of the institution's account contracts or systems, track the use of money withdrawn from an account, or allocate funds among joint account holders or multiple beneficiaries. In addition, the institutions are not liable for determining whether an account qualifies as a first-time home buyer savings account, determining whether funds are used for eligible costs, or reporting or paying taxes or penalties related to an account.

The bill authorizes the Commissioner to request statements and other records from the financial institution with respect to the account for the purposes of resolving discrepancies in information reported by the account holder or investigating suspected false statements. If the Commissioner does so, the financial institution must provide the requested statements and records within 30 days.[11]

Criminal liability

Any person who knowingly makes a false statement on any form, report, affidavit, or other communication in connection with a first-time home buyer savings account is guilty of

[10] R.C. 193.03.

[11] R.C. 193.04.

falsification, a first degree misdemeanor, which generally carries a penalty of up to $1,000 and up to 180 days in jail.[12]

HISTORY

Action	Date
Introduced	03-09-21
Reported, H. Ways & Means	12-08-21

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[12] R.C. 2921.13(A)(16); R.C. 2929.24(A)(1) and 2929.28(A)(2)(a)(i), not in the bill.