

**SUBSTITUTE FOR
HOUSE BILL NO. 4289**

A bill to create the Michigan first-time home buyer savings program; to provide for first-time home buyer savings accounts; to prescribe the powers and duties of certain state agencies, boards, and departments; to allow certain tax deductions; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan first-time home buyer savings program act".

3 Sec. 3. As used in this act:

4 (a) "Account holder" means an individual who establishes,
5 individually or jointly with 1 or more other individuals, an
6 account with a financial institution for which the account holder
7 claims a first-time home buyer savings account status on his or her

1 income tax return.

2 (b) "Allowable closing costs" means a disbursement listed on a
3 settlement statement for the purchase of a single-family residence
4 in this state by a qualified beneficiary.

5 (c) "Department" means the department of treasury.

6 (d) "Eligible costs" means the down payment and allowable
7 closing costs for the purchase of a single-family residence in this
8 state by a qualified beneficiary.

9 (e) "Financial institution" means any bank, trust company,
10 savings institution, industrial loan association, consumer finance
11 company, credit union, or any benefit association, insurance
12 company, safe deposit company, money market mutual fund, broker, or
13 similar entity authorized to do business in this state.

14 (f) "First-time home buyer" means an individual who is a
15 resident of this state and has not owned or purchased, either
16 individually or jointly, a single-family residence during a period
17 of 3 years prior to the date of the purchase of a single-family
18 residence.

19 (g) "First-time home buyer savings account" or "account" means
20 an account with a financial institution that an account holder
21 designates as a first-time home buyer savings account on his or her
22 income tax return pursuant to this act for the purpose of paying or
23 reimbursing eligible costs for the purchase of a single-family
24 residence in this state by a qualified beneficiary.

25 (h) "Principal residence" means that term as defined in
26 section 7dd of the general property tax act, 1893 PA 206, MCL
27 211.7dd.

28 (i) "Program" means the first-time home buyer savings program
29 established pursuant to this act.

1 (j) "Qualified beneficiary" means a first-time home buyer who
2 is designated as the beneficiary of an account designated by the
3 account holder as a first-time home buyer savings account.

4 (k) "Qualified withdrawal" means a withdrawal from an account
5 that is not subject to a penalty under this act or taxation under
6 the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and
7 that is a withdrawal from an account that is made at least 1 year
8 after the account was opened and designated as a first-time home
9 buyer savings account and the withdrawal is used to pay the
10 eligible costs of the qualified beneficiary incurred at least 1
11 year after the account is designated.

12 (l) "Settlement statement" means the statement of receipts and
13 disbursements for a transaction related to real estate, including a
14 statement prescribed under the real estate settlement procedures
15 act of 1974 (RESPA), 12 USC 2601 to 2617, or an executed sales
16 agreement for the purchase of a manufactured home being conveyed as
17 personal property.

18 (m) "Single-family residence" means a single-family residence
19 owned and occupied by a qualified beneficiary as the qualified
20 beneficiary's principal residence. Single-family residence includes
21 a manufactured home, trailer, mobile home, condominium unit, or
22 cooperative.

23 (n) "Treasurer" means the state treasurer.

24 Sec. 5. (1) The first-time home buyer savings program is
25 established in the department. The purposes, powers, and duties of
26 the first-time home buyer savings program are vested in and shall
27 be exercised by the treasurer or the designee of the treasurer.

28 (2) Beginning January 1, 2022, any individual may open an
29 account with a financial institution and designate the account, in

1 its entirety, as a first-time home buyer savings account to be used
2 to pay or reimburse a qualified beneficiary's eligible costs for
3 the purchase of a single-family residence in this state. An account
4 holder shall designate a first-time home buyer as the qualified
5 beneficiary of the first-time home buyer savings account. The
6 account holder may designate himself or herself as the qualified
7 beneficiary and may change the designated qualified beneficiary at
8 any time, but there may not be more than 1 qualified beneficiary at
9 any 1 time.

10 (3) An individual may jointly own a first-time home buyer
11 savings account with another person if the joint account holders
12 file a joint return under part 1 of the income tax act of 1967,
13 1967 PA 281, MCL 206.1 to 206.532. An individual may be the account
14 holder of more than 1 first-time home buyer savings account.
15 However, an account holder cannot have multiple accounts that
16 designate the same qualified beneficiary. An individual may be
17 designated as the qualified beneficiary on more than 1 first-time
18 home buyer savings account.

19 (4) Only cash and marketable securities may be contributed to
20 a first-time home buyer savings account. Subject to the limitation
21 under section 11, persons other than the account holder may make
22 contributions to a first-time home buyer savings account.

23 Sec. 7. (1) The account holder is responsible for the use or
24 application of funds in a first-time home buyer savings account.
25 The account holder shall not use funds held in an account to pay
26 expenses of administering the account, except that a service fee
27 may be deducted from the account by a financial institution in
28 which the account is held. An account holder may withdraw funds, in
29 whole or in part, from a first-time home buyer savings account and

1 deposit the funds in a new first-time home buyer savings account
2 held by a different financial institution or the same financial
3 institution. If necessary, an account holder or qualified
4 beneficiary may make a hardship withdrawal from the account due to
5 an immediate and heavy financial need of the account holder or
6 qualified beneficiary. However, the amount withdrawn must be
7 limited to the amount necessary to satisfy that need. A hardship
8 withdrawal is not a qualified withdrawal and will be subject to
9 taxation under part 1 of the income tax act of 1967, 1967 PA 281,
10 MCL 206.1 to 206.532.

11 (2) An account holder shall submit, with the account holder's
12 income tax return filed under part 1 of the income tax act of 1967,
13 1967 PA 281, MCL 206.1 to 206.532, all of the following to the
14 department, along with the form prescribed by the department under
15 subsection (5):

16 (a) Account statements that show the contributions made during
17 the tax year and the taxable interest or earnings on the account in
18 the tax year for which the deduction is claimed.

19 (b) The Form 1099 issued by the financial institution for the
20 account for the tax year for which the deduction is claimed.

21 (c) Upon a withdrawal of funds from a first-time home buyer
22 savings account, a copy of the real estate settlement statement
23 that shows that the withdrawal was used for eligible costs.

24 (3) An account holder shall maintain and keep, for a period of
25 at least 4 years, suitable records and documentation, for each
26 first-time home buyer savings account, including, but not limited
27 to, account statements for all contributions and withdrawals made,
28 a detailed list describing the transactions for the account, and
29 other pertinent records and papers as required by the department

1 for the administration of this act.

2 (4) The treasurer may promulgate rules to implement the
3 program in accordance with the administrative procedures act of
4 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules shall not apply
5 to, or impose administrative, reporting, or other obligations or
6 requirements on, financial institutions-related accounts for first-
7 time home buyer savings accounts.

8 (5) The department shall prescribe the form and manner in
9 which a taxpayer shall claim a deduction in accordance with this
10 act on his or her income tax return filed under part 1 of the
11 income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. The form
12 shall include, at a minimum all of the following:

13 (a) The account holder's name.

14 (b) The name of the qualified beneficiary.

15 (c) The name of the financial institution and the account
16 number.

17 (d) The beginning and end of the year balance of the account.

18 (e) The amount of the deduction claimed for the tax year.

19 (6) The department may prepare and distribute informational
20 materials on the Michigan first-time home buyer savings program to
21 financial institutions and potential home buyers to publicize the
22 availability of the program.

23 Sec. 9. (1) A financial institution is not required to do any
24 of the following:

25 (a) Designate an account as a first-time home buyer savings
26 account, or designate the qualified beneficiaries of an account, in
27 the financial institution's account contracts or systems or in any
28 other way.

29 (b) Track the use of money withdrawn from a first-time home

1 buyer savings account.

2 (c) Allocate funds in a first-time home buyer savings account
3 among joint account holders or multiple qualified beneficiaries.

4 (d) Report any information to the department that is not
5 otherwise required by law.

6 (2) A financial institution is not responsible or liable for
7 any of the following:

8 (a) Determining or ensuring that an account satisfies the
9 requirements to be a first-time home buyer savings account.

10 (b) Determining or ensuring that funds in a first-time home
11 buyer savings account are used for eligible cost.

12 (c) Reporting or remitting taxes or penalties related to the
13 use of a first-time home buyer savings account.

14 (3) Upon being furnished proof of the death of the account
15 holder and any other information required by the contract governing
16 the first-time home buyer savings account, a financial institution
17 shall distribute the principal and accumulated interest or other
18 income in the account in accordance with the terms of the contract
19 governing the account.

20 Sec. 11. (1) The maximum account balance limit for a first-
21 time home buyer savings account shall not exceed a maximum of
22 \$50,000.00. Accounts may continue to accrue earnings if the total
23 balance has reached the maximum account balance limit and shall not
24 be considered to have exceeded the maximum account balance limit
25 under this subsection.

26 (2) Contributions to and interest earned on a first-time home
27 buyer savings account are exempt from taxation as provided in
28 section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30.

29 (3) Qualified withdrawals made from first-time home buyer

savings accounts are exempt from taxation as provided in section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30.

Sec. 13. (1) If funds are withdrawn from an account for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, there is a penalty equal to 10% of the amount withdrawn. The penalty shall be paid to the department.

(2) The penalty does not apply if the funds withdrawn satisfy any of the following:

(a) Withdrawn by reason of the qualified beneficiary's death or disability.

(b) A disbursement of assets of the account pursuant to a filing for protection under the United States bankruptcy code, 11 USC 101 to 1330.

(c) Transferred from an account established pursuant to this act into another account established pursuant to this act for the benefit of another qualified beneficiary as provided in section 7.

(d) Withdrawn by reason of a hardship withdrawal as provided in section 7.

(e) Withdrawn by reason of qualified beneficiary who is a service member who is transferred or deployed out of this state on active duty pursuant to a permanent change of station order and provides proof acceptable to the department that the qualified beneficiary or his or her spouse is assigned to a duty station outside this state under a permanent change of station order.

(3) As used in this section:

(a) "Active duty" means active duty pursuant to an executive order of the President of the United States, an act of Congress, or an order of the governor.

(b) "Armed forces" means that term as defined in section 2 of

1 the veteran right to employment services act, 1994 PA 39, MCL
2 35.1092.

3 (c) "Michigan National Guard" means that term as defined in
4 section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

5 (d) "Service member" means a member of the armed forces, a
6 reserve branch of the armed forces, or the Michigan National Guard.

7 Enacting section 1. This act does not take effect unless House
8 Bill No. 4290 of the 101st Legislature is enacted into law.