GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS85343-RC-17 (4/29)

Short Title:	First-Time Home Buyer Savings Accounts.	(Public)
Sponsors:	Senators Queen and Rand.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA FIRST-TIME HOME BUYER SAVINGS ACCOUNT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 53 of the North Carolina General Statutes are amended by adding a new Article to read:

"Article 26.

"North Carolina First-Time Home Buyer Savings Accounts.

"**§ 53-530. Short title.**

This Chapter shall be known and may be cited as the 'North Carolina First-Time Home Buyer Savings Account Act.'

"**§ 53-531. Definitions.**

As used in this Chapter:

(1) 'Account administrator' means a state or federally chartered bank, savings and loan association, credit union, or trust company.

(2) 'Account holder' means an individual who is a resident of North Carolina and who establishes, individually or jointly, a first-time home buyer savings account. The account holder must also be a first-time home buyer. A married taxpayer filing separately may be an account holder if the account is established separately from the taxpayer's spouse. Married taxpayers filing jointly are considered as the account holder.

(3) 'Eligible costs' means the downpayment and allowable closing costs for the purchase of a single-family residence in North Carolina by a first-time home buyer.

(4) 'First-time home buyer' means an individual who has never owned or purchased under contract for deed, or who has not owned within the

last three years, either individually or jointly, a single-family residence in North Carolina or out-of-state.

(5) 'First-time home buyer savings account' or 'account' means an account established with an account administrator in this State pursuant to G.S.53-532.

(6) 'Single-family residence' means an owner-occupied residence in North Carolina, including a condominium unit that is owned by or that has been purchased under contract for deed by a person, individually or jointly, but not including a manufactured home, trailer, or mobile home.

"**§ 53-532. Establishment of account.**

A first-time home buyer may establish a first-time home buyer savings account for the first-time home buyer, either individually or jointly.

"**§ 53-533. Notice.**

When an account holder establishes an account, the account administrator must provide the account holder with a written notice of the following information:

(1) The federal tax treatment of a first-time home buyer savings account is the same as for a regular savings account. There is no federal tax deduction or credit for a first-time home buyer savings account.

(2) North Carolina provides a State tax deduction for a limited amount of the deposits in and earnings on a first-time home buyer savings account. Any deposits and earnings in excess of the legal maximums are not deductible.

(3) When the account holder withdraws funds from a first-time home buyer savings account, State income tax will be imposed on any portion that is deducted for federal income tax purposes.

(4) If an account holder withdraws funds from a first-time home buyer savings account and uses the funds other than for eligible costs, State income tax as well as a ten percent (10%) penalty will be imposed on the amount withdrawn.

(5) The account will be terminated at the end of the tenth calendar year after the date it was established and all funds in the account will be disbursed to the account holder.

"**§ 53-534. Withdrawal of funds for purposes other than eligible costs.**

(a) An account holder may withdraw money from the first-time home buyer's savings account for any purpose other than eligible costs for the first-time purchase of a single-family residence only on the last business day of the account administrator's business year. Money withdrawn from an account under this subsection must be taxed as ordinary income of the account holder.

(b) If the account holder withdraws money from the account other than for eligible costs for the purchase of a single-family residence or other than on the last business day of the account administrator's business year, the account administrator shall withhold from the amount of the withdrawal and, on behalf of the account holder, pay as a penalty to the Civil Penalty and Forfeitures Fund an amount equal to ten percent (10%) of the amount of the withdrawal. Money withdrawn from an account under this subsection shall be taxed as ordinary income of the account holder.

(c) The account administrator must terminate the account on the last day of the tenth calendar year after the date it was established and must disburse all funds in the account to the account holder. Funds disbursed under this subsection are subject to the penalty provided in subsection (a) of this section except to the extent that, before disbursement, the account holder provides documentation of eligible costs paid by the account holder.

(d) Upon the death of a single account holder or the death of all joint account holders, the account administrator must terminate the account and disburse all funds in the account in accordance with the terms of the account.

"**§ 53-535. Administration of account.**

(a) An account administrator shall administer the first-time home buyer savings account from which the payment of eligible costs for the purchase of a single-family residence is made and has a fiduciary duty to the person for whose benefit the account is administered. Except for reporting and remitting of penalties to the Civil Penalty and Forfeitures Fund, a financial institution shall administer a first-time home buyer's savings account as a regular deposit. A financial institution is not responsible for the use or applications of funds.

(b) An account administrator may use funds held in a first-time home buyer savings account only for the purpose of paying the eligible costs of the account holder or paying the expenses of administering the account.

(c) The account holder may submit documentation of eligible costs paid by the account holder in the tax year to the account administrator, and the account administrator shall reimburse the account holder from the account holder's account for eligible costs for the first-time purchase of a single-family residence. The burden of proving that a withdrawal from a first-time home buyer's savings account was made for eligible costs is upon the account holder and not upon the account administrator.

(d) Within 30 days after an account administrator begins to administer an account, the account administrator shall notify in writing each account holder on whose behalf the account administrator administers an account of the date of the last business day of the account administrator's business year.

"**§ 53-536. False claims prohibited, penalty.**

A person may not knowingly prepare or cause to be prepared a false claim, receipt, statement, or billing to justify the withdrawal of money from an account."

SECTION 2. G.S. 105-134.6 is amended by adding a new subsection to read:

"(e) First-Time Home Buyer Savings Accounts. – The definitions in G.S. 53-531 apply in this subsection. The following adjustments are required with respect to first-time home buyer savings accounts held by taxpayers who are first-time home buyers.

(1) In the first 10 years that the taxpayer deposits money in the first-time home buyer savings account, the taxpayer may deduct from taxable

income the amount the taxpayer deposited in the account during the taxable year subject to the following maximums:

Filing Status	**Maximum**
Married Filing Jointly	$6,000
Other	$3,000

(2) During the first 10 years that a taxpayer holds a first-time home buyer savings account, the taxpayer may deduct the interest or other investment earnings earned on the account during the taxable year, subject to the following maximums:

Filing Status	**Maximum**
Married Filing Jointly	$2,000
Other	$1,000

(3) The taxpayer must add to taxable income the amount withdrawn or disbursed from the account during the taxable year and not used for eligible costs.

(4) The taxpayer must add to taxable income the amount withdrawn from the account, used during the taxable year for eligible costs, and deducted under the Code for the taxable year.

(5) Any amount disbursed from the account upon the death of the taxpayer must be added to taxable income for the taxable year that the taxpayer died.

(6) The cumulative aggregate maximum amount that must be added to taxable income under subdivisions (3), (4), and (5) of this subsection is the cumulative aggregate maximum amount deducted from taxable income under subdivisions (1) and (2) of this section.

(7) The taxpayer must add to taxable income any amount deducted under the Code for the taxable year as a loss in value of an investment in the account."

SECTION 3. This act becomes effective January 1, 2005, and applies to accounts created on or after that date.