

SENATE, No. 2228

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator VIN GOPAL

District 11 (Monmouth)

SYNOPSIS

Establishes New Jersey First-Time Home Buyer Savings Account Program; provides gross income tax benefits for certain contributions to and earnings on assets maintained in accounts established under program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing the New Jersey First-Time Home Buyer
2 Savings Account Program and providing gross income tax
3 benefits for certain contributions to and earnings on assets
4 maintained in accounts established under the program,
5 supplementing Title 55 of the Revised Statutes and Title 54A of
6 the New Jersey Statutes.

7

8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10

11 1. As used in sections 1 through 7 of P.L. , c. (C.)
12 (pending before the Legislature as this bill):

13 “Certified first-time home buyer” means an individual or
14 individuals certified as a first-time home buyer by the New Jersey
15 Housing and Mortgage Finance Agency in accordance with section
16 4 of P.L. , c. (C.) (pending before the Legislature as this
17 bill).

18 “Eligible expenses” means the down payment and any closing
19 costs enumerated in the qualified home purchase settlement
20 statement, which shall include but shall not be limited to appraisal
21 fees, mortgage origination fees, and inspection fees.

22 “Financial institution” means a State or federally chartered bank,
23 savings bank, savings and loan association, credit union, or other
24 entity held out to the public as a place of deposit of funds or
25 medium of savings or investment that has been approved by the
26 New Jersey Housing and Mortgage Finance Agency.

27 “First-time home buyer savings account” means a savings,
28 deposit, investment, or other brokerage account opened by a
29 certified first-time home buyer with a financial institution that has
30 entered into an agreement with the New Jersey Housing and
31 Mortgage Finance Agency in accordance with section 3 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill).

33 “Principal residence” means a qualified residential property
34 actually and continually occupied by the certified first-time home
35 buyer as the certified first-time home buyer’s permanent residence,
36 as distinguished from a vacation home, property owned and rented
37 or offered for rent by the certified first-time home buyer, and other
38 secondary real property holdings.

39 “Qualified home purchase” means: the acquisition, by sale, of a
40 qualified residential property located in this State which is occupied
41 as a certified first-time homebuyer’s principal residence; or the
42 construction of a new qualified residential property located in this
43 State paid for by the certified first-time home buyer and occupied as
44 the certified first-time home buyer’s principal residence.

45 “Qualified residential property” means: a dwelling house; a
46 condominium unit under the form of real property ownership
47 provided for under the “Condominium Act,” P.L.1969, c.257
48 (C.46:8B-1 et seq.); a unit in a cooperative or mutual housing

1 corporation; a unit in a horizontal property regime under the form
2 of real property ownership provided under the “Horizontal Property
3 Act,” P.L.1963, c.168 (C.46:8A-1 et seq.); a unit in a continuing
4 care retirement community; or a manufactured home that is taxable
5 as real property or that is installed in a mobile home park.

6
7 2. There is established the New Jersey First-Time Home Buyer
8 Savings Account Program.

9 The program shall be under the direction and control of the New
10 Jersey Housing and Mortgage Finance Agency and shall be
11 administered by the executive director of the agency and any
12 clerical, technical, and other professional staff as may be designated
13 by the executive director from among the personnel appointed and
14 employed by the agency.

15 The purpose of the program shall be to encourage first-time
16 home ownership by providing for the establishment of first-time
17 home buyer savings accounts and authorizing tax incentives for
18 earnings on assets maintained in those accounts.

19 To effectuate those purposes, the agency shall: make and enter
20 into agreements with financial institutions capable of establishing
21 and maintaining first-time home buyer savings accounts; certify
22 first-time home buyers eligible to participate in the program; and
23 administer and enforce program reporting and compliance
24 requirements.

25
26 3. The New Jersey Housing and Mortgage Finance Agency
27 shall enter into an agreement with each financial institution that
28 expresses to the agency in writing an interest in establishing and
29 maintaining first-time home buyer savings accounts in accordance
30 with the program.

31 The agreement shall require the financial institution entering the
32 agreement to allow a certified first-time home buyer to open a
33 savings, deposit, investment, or other brokerage account with the
34 financial institution and designate the account in its entirety as a
35 first-time home buyer savings account.

36 The agreement shall require the financial institution entering the
37 agreement to allow a certified first-time home buyer to contribute
38 cash or other marketable securities to the account and to transfer to
39 the account assets that may be held in another first-time home buyer
40 savings account or held in another similar account maintained
41 through a comparable program in another state or jurisdiction;
42 provided, however, that the agreement shall include provisions
43 stipulating that:

44 the maximum amount of cash or other marketable securities that
45 may be contributed to an account for a taxable year shall not exceed
46 \$15,000;

1 the maximum amount of all cash or other marketable securities
2 that may be contributed to an account for all taxable years shall not
3 exceed \$75,000; and

4 the maximum fair market value of all assets that may be
5 maintained in an account in any taxable year shall not exceed
6 \$150,000.

7 The agreement shall require the financial institution entering the
8 agreement to allow a certified first-time home buyer to make
9 withdrawals and distribute assets maintained in a first-time home
10 buyer savings account to pay eligible expenses incurred by the
11 certified first-time home buyer for a qualified home purchase, to
12 make transfers of assets to another first-time home buyer savings
13 account or to another similar account maintained through a
14 comparable program in another state or jurisdiction, and to pay fees
15 charged to the certified first-time home buyer by the financial
16 institution for the establishment or maintenance of the account.

17 The agreement shall require the financial institution entering the
18 agreement to allow a certified first-time home buyer to make
19 withdrawals and distribute assets maintained in a first-time home
20 buyer savings account for any purpose other than to pay eligible
21 expenses incurred by the certified first-time home buyer for a
22 qualified home purchase, to make transfers of assets to another
23 first-time home buyer savings account or to another similar account
24 maintained through a comparable program in another state or
25 jurisdiction, or to pay fees charged to the certified first-time home
26 buyer by the financial institution for the establishment or
27 maintenance of the account; provided, however, that the agreement
28 shall include provisions stipulating that at the time the account is
29 opened or at any time prior to the withdrawal or distribution of
30 assets for such purposes the financial institution shall notify the
31 certified first-time home buyer of the certified home buyer's
32 responsibility to report and pay any taxes and penalties that may be
33 due and required to be paid as a result of the withdrawal or
34 distribution of account assets for any purpose other than to pay
35 eligible expenses, to make transfers to another first-time home
36 buyer savings account or to another similar account, or to pay fees
37 for the establishment or maintenance of the account.

38 The agreement shall include a provision that permits the agency
39 to amend the agreement.

40 The agreement shall include a provision establishing the
41 conditions under which the agreement may be terminated.

42
43 4. The New Jersey Housing and Mortgage Finance Agency
44 shall establish an application process and prescribe the form and
45 manner through which an individual or individuals seeking to open
46 a first-time home buyer savings account may individually or
47 collectively file an application to be certified as a first-time home
48 buyer.

1 The application shall require the individual or individuals to
2 provide information regarding:
3 the state or jurisdiction in which the individual or individuals
4 currently reside;
5 the annual income of the individual or individuals;
6 the home ownership history of the individual or individuals;
7 the purposes to which the assets maintained in a first-time home
8 buyer savings account will be used;
9 any home buyer education course attended or completed by the
10 individual or individuals; and
11 any other first-time home buyer savings account or other similar
12 account maintained by the individual or individuals through the
13 program or through a comparable program in another state or
14 jurisdiction.

15 The agency shall review each complete application and shall
16 certify the individual or individuals as a first-time home buyer if the
17 agency determines that the individual or individuals:
18 reside in this State or will reside in this State as a result of a
19 qualified home purchase;
20 has or have annual gross income of not more than \$175,000 in
21 each of the three taxable years immediately preceding the taxable
22 year in which the application is filed;
23 has or have not made a qualified home purchase, owned a
24 principal residence located in this State, or owned residential
25 property located in another state or jurisdiction that was actually
26 and continually occupied by the individual or individuals as the
27 individual's or individuals' permanent residence in the taxable year
28 or the three taxable years immediately preceding the taxable year
29 the application is filed;
30 will use assets maintained in a first-time home buyer savings
31 account to pay eligible expenses incurred by the certified first-time
32 home buyer for a qualified home purchase;
33 has or have attended or completed a home buyer education
34 course, that has been approved by the agency, in the taxable year or
35 the three taxable years immediately preceding the taxable year the
36 application is filed; and
37 does or do not maintain any other first-time home buyer savings
38 account or other similar account through the program or through a
39 comparable program in another state or jurisdiction, or does or do
40 maintain another first-time home buyer savings account or other
41 similar account but will terminate that account within 90 days of the
42 date the written certification is issued to the individual or
43 individuals by the agency.

44 The agency shall issue a written certification to each individual
45 certified as a first-time home buyer by the agency. The written
46 certification shall be used by the certified first-time home buyer to
47 open a first-time home buyer savings account. The written
48 certification shall not be transferred, sold, or assigned to another

1 person, and shall not be used to open another first-time home buyer
2 savings account with the same or another financial institution,
3 unless the individual is or the individuals are recertified as a first-
4 time home buyer by the agency in accordance with this section.

5
6 5. The New Jersey Housing and Mortgage Finance Agency
7 shall establish a reporting process and prescribe the form and
8 manner through which a certified first-time home buyer shall
9 annually report to the agency information regarding a first-time
10 home buyer savings account.

11 The report shall require the certified first-time home buyer to
12 provide the agency with information regarding:

13 the date the account was opened;

14 the financial institution through which the account is maintained;

15 the aggregate amount of cash or other marketable securities
16 deposited to the account during the taxable year immediately
17 preceding the taxable year in which the report is required to be
18 filed;

19 the aggregate amount of any assets transferred to the account
20 from any other financial institution during the taxable year
21 immediately preceding the taxable year in which the report is
22 required to be filed;

23 the fair market value of all assets maintained in the account as of
24 the close of business on the last day of the taxable year immediately
25 preceding the taxable year in which the report is required to be
26 filed; and

27 the date, amount, and purpose of each withdrawal or distribution
28 of assets made from the account during the taxable year
29 immediately preceding the taxable year in which the report is
30 required to be filed.

31 The report shall be filed with the agency on or before March 1 of
32 each taxable year immediately following the taxable year in which
33 the account was opened and shall be filed on or before that date
34 each taxable year thereafter until the account is closed and the
35 report providing information regarding the account during the last
36 taxable year the account was open is filed with the agency.

37 The agency shall transmit a copy of each report filed by a
38 certified first-time home buyer to the Director of the Division of
39 Taxation in the Department of the Treasury within 30 days of the
40 date the report is filed with the agency.

41
42 6. The New Jersey Housing and Mortgage Finance Agency
43 shall impose a penalty on each certified first-time home buyer who
44 makes a withdrawal or distributes assets maintained in a first-time
45 home buyer savings account for any purpose other than to pay
46 eligible expenses incurred by the certified first-time home buyer for
47 a qualified home purchase, to make transfers of assets to another
48 first-time home buyer savings account or to another similar account

1 maintained through a comparable program in another state or
2 jurisdiction, or to pay fees charged to the certified first-time home
3 buyer by the financial institution for the establishment or
4 maintenance of the account.

5 The amount of the penalty imposed pursuant to this section shall
6 be equal to 10 percent of the assets withdrawn or distributed from
7 the first-time home buyer savings account by the certified first-time
8 home buyer, and shall be collected by the agency in a civil action in
9 a summary proceeding pursuant to the "Penalty Enforcement Law
10 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court
11 and the municipal court shall have jurisdiction to enforce the
12 provisions of the "Penalty Enforcement Law of 1999," P.L.1999,
13 c.274 (C.2A:58-10 et seq.), in connection with this section. The
14 penalty when recovered by the agency shall be deposited to the
15 General Fund.

16 The penalty imposed by this section shall not apply to assets
17 withdrawn or distributed from a first-time home buyer savings
18 account due to: the death or disability of the certified first-time
19 home buyer; or the disbursement of assets maintained in the account
20 pursuant to an order for relief under Title 11 of the United States
21 Bankruptcy Code or a comparable order under federal, state, or
22 foreign law governing insolvency.

23
24 7. Notwithstanding any provisions of the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
26 contrary, the New Jersey Housing and Mortgage Finance Agency
27 may adopt immediately upon filing with the Office of
28 Administrative Law such rules and regulations as the agency
29 determines to be necessary and appropriate to implement and
30 administer the program, which rules and regulations shall be
31 effective for a period not to exceed 360 calendar days following the
32 effective date of P.L. , c. (C.) (pending before the
33 Legislature as this bill) and may thereafter be amended, adopted, or
34 readopted by the agency pursuant to the requirements of P.L.1968,
35 c.410 (C.52:14B-1 et seq.).

36
37 8. a. A taxpayer who is a certified first-time home buyer shall
38 be allowed a credit against the tax otherwise due for the taxable
39 year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
40 et seq., in an amount equal to five percent of up to \$15,000 of
41 contributions, or up to \$7,500 of contributions for a married
42 individual filing separately, that are made by the taxpayer during
43 the taxable year to one first-time home buyer savings account.

44 b. The credit allowed pursuant to subsection a. of this section
45 shall not reduce the tax liability otherwise due for the taxable year
46 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-
47 1 et seq., to an amount less than zero. The amount of any unused
48 credit resulting from the limitations of this subsection may be

1 carried forward, if necessary, to the seven taxable years following
2 the taxable year for which the credit was allowed. The form and
3 method of carryforward shall be as prescribed by the director.

4 c. As used in this section:

5 “Certified first-time home buyer” and “first-time home buyer
6 savings account” mean the same as those terms are defined by
7 section 1 of P.L. , c. (C.) (pending before the Legislature
8 as this bill).

9
10 9. a. Gross income shall not include earnings on a first-time
11 home buyer savings account until the earnings are distributed from
12 the account, at which time the amount of the distribution
13 attributable to earnings on the account and the amount of the
14 distribution attributable to contributions allowed as a credit
15 pursuant to section 8 of P.L. , c. (C.) (pending before the
16 Legislature as this bill) shall be included in the gross income of the
17 distributee except as provided in this section.

18 b. Gross income shall not include a qualified distribution as
19 defined by subsection c. of this section.

20 c. For purposes of this section:

21 “Qualified distribution” means a withdrawal or distribution from
22 a first-time home buyer savings account to:

23 pay eligible expenses incurred by a certified first-time home
24 buyer for a qualified home purchase;

25 make transfers of assets to another first-time home buyer savings
26 account or to another similar account maintained through a
27 comparable program in another state or jurisdiction; and

28 pay fees charged to the certified first-time home buyer by the
29 financial institution for the establishment or maintenance of the
30 first-time home buyer savings account.

31 “First-time home buyer savings account,” “eligible expenses,”
32 “certified first-time home buyer,” “qualified home purchase,” and
33 “financial institution” mean the same as those terms are defined by
34 section 1 of P.L. , c. (C.) (pending before the Legislature
35 as this bill).

36 d. The portion of a distribution from a first-time home buyer
37 savings account that is attributable to earnings and to contributions
38 allowed as a credit pursuant to section 8 of P.L. , c. (C.) (pending
39 before the Legislature as this bill) shall be determined in accordance
40 with rules and regulations prescribed by the director.

41
42 10. This act shall take effect immediately, but sections 1 through
43 6 shall remain inoperative until the first day of the seventh month
44 next following the date of enactment and sections 8 and 9 shall
45 apply to taxable years beginning on or after January 1 next
46 following the date sections 1 through 6 are operative.

STATEMENT

This bill establishes the New Jersey First-Time Home Buyer Savings Account Program for the purpose of encouraging individuals to accumulate the level of savings necessary for the purchase of their first homes within this State.

The bill places the program under the direction and control of the New Jersey Housing and Mortgage Finance Agency, and provides for the program to be administered by the executive director and staff of the agency.

To effectuate the program, the bill directs the agency to:

- make and enter into agreements with financial institutions capable of establishing and maintaining first-time home buyer savings accounts;

- certify first-time home buyers eligible to participate in the program; and

- administer and enforce program reporting and compliance requirements.

The bill provides New Jersey gross income tax benefits for certain contributions made to, and earnings on assets maintained in, a first-time home buyer savings account. Under the bill, a taxpayer who is a certified first-time home buyer is allowed a credit against the gross income tax in an amount equal to five percent of up to \$15,000 of contributions (or up to \$7,500 of contributions if married filing separately) that are made during the taxable year to one first-time home buyer savings account.

In addition, the bill excludes from gross income the earnings on a first-time home buyer savings account. The bill provides that the earnings on these accounts are to be treated as tax-free until the earnings are distributed from the account, at which time the earnings and the contributions allowed as a tax credit shall be included in the gross income of the distributee unless the withdrawal or distribution is a qualified distribution from the account to:

- pay eligible expenses incurred by a certified first-time home buyer for a qualified home purchase;

- make transfers of assets to another first-time home buyer savings account or to another similar account maintained through a comparable program in another state or jurisdiction; or

- pay fees charged to the certified first-time home buyer by the financial institution for the establishment or maintenance of the first-time home buyer savings account.

The bill takes effect immediately, but provides for the sections of the bill that establish and implement the program to remain inoperative until the first day of the seventh month next following the date of enactment and for the sections establishing the gross income tax credit and exclusion to apply to taxable years beginning on or after the date the sections establishing and implementing the program are operative.