

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1796

99TH GENERAL ASSEMBLY

5281H.04P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapters 143 and 443, RSMo, by adding thereto seven new sections relating to the first-time home buyer savings account act.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapters 143 and 443, RSMo, are amended by adding thereto seven new sections, to be known as sections 143.1150, 443.1001, 443.1003, 443.1004, 443.1005, 443.1006, and 443.1007, to read as follows:

**143.1150. 1. This section shall be known and may be cited as the "First-Time Home Buyer Tax Deduction".**

**2. As used in this section, the following terms mean:**

**(1) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income for the tax year in which such deduction is claimed;**

**(2) "Eligible expenses", the same meaning as that term is defined under subdivision (3) of section 443.1003;**

**(3) "First-time home buyer savings account", the same meaning as that term is defined under subdivision (6) of section 443.1003;**

**(4) "First-time home buyer savings account act", sections 443.1001 to 443.1007;**

**(5) "Taxpayer", any individual who is a resident of this state and subject to the income tax imposed under this chapter, excluding withholding tax imposed under sections 143.191 to 143.265.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           **3. For all tax years beginning on or after January 1, 2019, a taxpayer shall be**  
16 **allowed a deduction equal to fifty percent of the taxpayer's contributions to a first-time**  
17 **home buyer savings account in the tax year of the contribution.**

18           **4. The amount of the deduction claimed shall not exceed the amount of the**  
19 **taxpayer's Missouri adjusted gross income for the tax year the deduction is claimed.**

20           **5. The assets of a first-time home buyer savings account and any income therefrom**  
21 **shall be exempt from all taxation by the state or any of its political subdivisions. Income**  
22 **earned or received as a result of assets in a first-time home buyer savings account shall not**  
23 **be subject to state income tax imposed under chapter 143. The exemption from taxation**  
24 **under this section shall apply only to assets and income maintained, accrued, or expended**  
25 **pursuant to the requirements of the first-time home buyer savings account act, and no**  
26 **exemption shall apply to assets and income expended for any other purposes. Annual**  
27 **contributions made to the savings program up to and including eight hundred dollars per**  
28 **participating taxpayer and up to and including one thousand six hundred dollars for**  
29 **married individuals filing a joint tax return shall be subtracted in determining Missouri**  
30 **adjusted gross income under section 143.121.**

31           **6. If any deductible contributions to or earnings from any such program referred**  
32 **to in this section are distributed and not used to pay for eligible expenses or are not held**  
33 **for the minimum length of time under subsection 2 of section 443.1005, the amount so**  
34 **distributed shall be added to the Missouri adjusted gross income of the participant or, if**  
35 **the participant is not living, the beneficiary.**

36           **7. The department of revenue shall promulgate rules to implement the provisions**  
37 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**  
38 **is created under the authority delegated in this section shall become effective only if it**  
39 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
40 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
41 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
42 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
43 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2018,**  
44 **shall be invalid and void.**

45           **8. Under section 23.253 of the Missouri sunset act:**

46           **(1) The provisions of the new program authorized under this section shall**  
47 **automatically sunset on December thirty-first six years after the effective date of this**  
48 **section, unless reauthorized by an act of the general assembly;**

49           (2) If such program is reauthorized, the program authorized under this section  
50 shall automatically sunset on December thirty-first six years after the effective date of the  
51 reauthorization of this section; and

52           (3) This section shall terminate on September first of the calendar year immediately  
53 following the calendar year in which the program authorized under this section is sunset.

          443.1001. Sections 443.1001 to 443.1007 shall be known and may be cited as the  
2 "First-Time Home Buyer Savings Account Act".

          443.1003. As used in sections 443.1001 to 443.1007 the following terms mean:

2           (1) "Account holder", an individual who establishes an account with a financial  
3 institution that is designated as a first-time home buyer savings account in accordance with  
4 section 443.1004;

5           (2) "Department", the department of revenue;

6           (3) "Eligible expenses", a down payment and any closing costs included on a real  
7 estate settlement statement including, but not limited to, appraisal fees, mortgage  
8 origination fees, and inspection fees;

9           (4) "Financial institution", any state bank, state trust company, savings and loan  
10 association, federally chartered credit union doing business in this state, credit union  
11 chartered by the state of Missouri, national bank, broker-dealer, mutual fund, insurance  
12 company, or other similar financial entity qualified to do business in this state;

13           (5) "First-time home buyer", an individual who:

14           (a) Has never owned or purchased under contract for deed, either individually or  
15 jointly, a single-family, owner-occupied primary residence including, but not limited to,  
16 a condominium unit or a manufactured or mobile home that was assessed and taxed as real  
17 property; or

18           (b) As a result of the individual's dissolution of marriage, has not been listed on a  
19 property title for at least three consecutive years;

20           (6) "First-time home buyer savings account" or "account", an account with a  
21 financial institution designated as such in accordance with subsection 1 of section 443.1004;

22           (7) "Qualified beneficiary", a first-time home buyer designated by an account  
23 holder for whose eligible expenses the moneys in a first-time home buyer savings account  
24 are or will be used.

          443.1004. 1. Beginning January 1, 2019, any individual may open an account with  
2 a financial institution and designate the account, in its entirety, as a first-time home buyer  
3 savings account to be used to pay or reimburse a qualified beneficiary's eligible expenses  
4 for the purchase of his or her primary residence in Missouri. An individual may be the  
5 account holder of multiple accounts, and an individual may jointly own the account with

6 another person if such persons file a joint income tax return. To be eligible for the tax  
7 deduction under section 143.1150, an account holder shall comply with the requirements  
8 of this section.

9       2. An account holder shall designate, no later than April fifteenth of the year  
10 following the tax year during which the account was established, a first-time home buyer  
11 as the qualified beneficiary of the first-time home buyer savings account. The account  
12 holder may designate himself or herself as the qualified beneficiary. The account holder  
13 may change the designated qualified beneficiary at any time, but no first-time home buyer  
14 savings account shall have more than one qualified beneficiary at any time. No account  
15 holder shall have multiple accounts with the same qualified beneficiary, but an individual  
16 may be designated as the qualified beneficiary of multiple accounts.

17       3. (1) The following limits apply to a first-time home buyer savings account:

18       (a) The maximum contribution to a first-time home buyer savings account is one  
19 thousand six hundred dollars per year for an individual and three thousand two hundred  
20 dollars per year for account holders who file a joint tax return;

21       (b) The maximum amount of all contributions for all tax years to a first-time home  
22 buyer savings account is twenty thousand dollars; and

23       (c) The maximum total amount in an account is thirty thousand dollars;

24       (2) If a limit in subdivision (1) of this subsection is exceeded, then thereafter no  
25 interest or other income earned on the investment of moneys in the first-time home buyer  
26 savings account shall be included in the tax deduction under section 143.1150; and

27       (3) Moneys may remain in a first-time home buyer savings account for an unlimited  
28 duration without the interest or income being subject to recapture or penalty.

29       4. The account holder shall not use moneys in an account to pay expenses of  
30 administering the account, except that a service fee may be deducted from the account by  
31 a financial institution. The account holder shall be responsible for maintaining  
32 documentation for the first-time home buyer savings account and for eligible expenses  
33 related to the qualified beneficiary's purchase of a primary residence.

443.1005. 1. (1) For purposes of the tax benefit conferred under the first-time  
2 home buyer savings account act, the moneys in a first-time home buyer savings account  
3 may be:

4       (a) Used for eligible expenses related to a qualified beneficiary's purchase of his or  
5 her primary residence located in this state;

6       (b) Used for eligible expenses related to a qualified beneficiary's purchase of his or  
7 her primary residence located outside this state if the qualified beneficiary is active-duty  
8 military and was stationed in Missouri for any time after the creation of the account;

9 (c) Used for expenses that would have qualified under paragraph (a) or (b) of this  
10 subdivision, but the contract for purchase did not close;

11 (d) Transferred to another newly created first-time home buyer savings account;  
12 and

13 (e) Used to pay a service fee that is deducted by the financial institution.

14 (2) Subdivision (1) applies whether the qualified beneficiary is the sole owner of the  
15 primary residence or joint owner with another person who does not qualify as a qualified  
16 beneficiary. Moneys in a first-time home buyer savings account shall not be used for the  
17 purposes under paragraphs (a), (b), and (c) of subdivision (1) of this subsection related to  
18 the purchase of a manufactured or mobile home that is not taxed as real property.

19 (3) The title of any home purchased with moneys from a first-time home buyer  
20 savings account shall not transfer for at least two years unless reasonable circumstances  
21 exist that were unforeseen at the time the home was purchased. The first-time home buyer  
22 shall request an exception from the department.

23 2. Moneys withdrawn from a first-time home buyer savings account shall be subject  
24 to recapture in the tax year in which they are withdrawn if:

25 (1) At the time of the withdrawal, it has been less than a year since the first deposit  
26 in the first-time home buyer savings account; or

27 (2) The moneys are used for any purpose other than those specified under  
28 subsection 1 of this section.

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30 The recapture shall be an amount equal to the moneys withdrawn and shall be added to  
31 the Missouri adjusted gross income of the account holder or, if the account holder is not  
32 living, the qualified beneficiary.

33 3. If any moneys are subject to recapture under subsection 2 of this section, the  
34 account holder shall pay to the department a penalty in the same tax year as the recapture.  
35 If the withdrawal was made ten or fewer years after the first deposit in the first-time home  
36 buyer savings account, the penalty shall be equal to five percent of the amount subject to  
37 recapture, and, if the withdrawal was made more than ten years after the first deposit in  
38 the account, the penalty shall be equal to ten percent of the amount subject to recapture.  
39 These penalties shall not apply if:

40 (1) The withdrawn moneys are used for eligible expenses related to a qualified  
41 beneficiary's purchase of his or her primary residence outside of the state; or

42 (2) The withdrawn moneys are from a first-time home buyer savings account for  
43 which the qualified beneficiary died, and the account holder does not designate a new  
44 qualified beneficiary during the same tax year.

45           **4. If the account holder dies or, if the first-time home buyer savings account is**  
46 **jointly owned, the account holders die and the account does not have a surviving transfer**  
47 **on death beneficiary, then all of the moneys in the account that were used for a tax**  
48 **deduction under section 143.1150 shall be subject to recapture in the tax year of the death**  
49 **or deaths, but no penalty shall be due to the department.**

**443.1006. 1. The department shall establish forms for an account holder to**  
2 **annually report information about a first-time home buyer savings account including, but**  
3 **not limited to, how the moneys withdrawn from the fund are used and shall identify any**  
4 **supporting documentation that is required to be maintained. To be eligible for the tax**  
5 **deduction under section 143.1150, an account holder shall annually file with the account**  
6 **holder's state income tax return all forms required by the department under this section,**  
7 **the 1099 form for the account issued by the financial institution, and any other supporting**  
8 **documentation the department requires.**

9           **2. The department of revenue may promulgate rules and regulations necessary to**  
10 **administer the provisions of the first-time home buyer savings account act. Any rule or**  
11 **portion of a rule, as that term is defined in section 536.010, that is created under the**  
12 **authority delegated in this section shall become effective only if it complies with and is**  
13 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**  
14 **section and chapter 536 are nonseverable, and if any of the powers vested with the general**  
15 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**  
16 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
17 **authority and any rule proposed or adopted after August 28, 2018, shall be invalid and**  
18 **void.**

**443.1007. 1. No financial institution shall be required to:**

2           **(1) Designate an account as a first-time home buyer savings account or designate**  
3 **the beneficiaries of an account in the financial institution's account contracts or systems**  
4 **or in any other way;**

5           **(2) Track the use of moneys withdrawn from a first-time home buyer savings**  
6 **account; or**

7           **(3) Report any information to the department or any other governmental agency**  
8 **that is not otherwise required by law.**

9           **2. No financial institution shall be responsible or liable for:**

10           **(1) Determining or ensuring that an account holder is eligible for a tax deduction**  
11 **under section 143.1150;**

12           **(2) Determining or ensuring that moneys in the account are used for eligible**  
13 **expenses; or**

14           **(3) Reporting or remitting taxes or penalties related to use of moneys in a first-time**  
15 **home buyer savings account.**

16           **3. In implementing section 143.1150 and sections 443.1001 to 443.1007, the**  
17 **department shall not establish any administrative, reporting, or other requirements on**  
18 **financial institutions that are outside the scope of normal account procedures.**

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