

House File 2353 - Introduced

HOUSE FILE 2353
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO HSB 638)

A BILL FOR

1 An Act providing for the creation of first-time homebuyer
2 savings accounts in Iowa, including related individual
3 income tax exemptions, making penalties applicable, and
4 including effective date and applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 12I.1 Short title.

2 This chapter may be cited as the "*Iowa First-time Homebuyer*
3 *Savings Account Act*".

4 Sec. 2. NEW SECTION. 12I.2 Definitions.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Account administrator*" means one of the following:

8 a. A state or federally chartered bank, savings and loan
9 association, credit union, or trust company in this state.

10 b. A certified public accountant or licensed public
11 accountant, as those terms are defined in section 542.3.

12 c. An account holder.

13 2. "*Account holder*" means a first-time homebuyer who is a
14 resident of this state and who establishes, either individually
15 or jointly with the resident's spouse who is also a first-time
16 homebuyer, a first-time homebuyer savings account. A person
17 ceases to be an account holder following the purchase of a
18 principal residence after the establishment of a first-time
19 homebuyer savings account.

20 3. "*Business day*" means a day other than a Saturday, Sunday,
21 or federal holiday.

22 4. "*Eligible costs*" means the down payment and allowable
23 closing costs for the purchase of a principal residence in Iowa
24 which principal residence is purchased after the establishment
25 of the first-time homebuyer savings account.

26 5. "*First-time homebuyer*" means an individual who has never
27 owned or purchased under contract for deed, either individually
28 or jointly, a single-family, owner-occupied residence,
29 including but not limited to a manufactured or mobile home that
30 is assessed and taxed as real estate or taxed under chapter
31 435 or taxed under other similar law of another state, or a
32 condominium unit.

33 6. "*First-time homebuyer savings account*" means an account
34 established with a state or federally chartered bank, savings
35 and loan association, credit union, or trust company in this

1 state to finance the purchase of a principal residence in this
2 state.

3 7. "*Principal residence*" means a single-family,
4 owner-occupied residence in the state that will be the
5 principal place of residence of the account holder, whether
6 owned or purchased under contract for deed by the account
7 holder, individually or jointly. "*Principal residence*" includes
8 but is not limited to a manufactured home or mobile home that
9 is assessed and taxed as real estate or taxed under chapter
10 435, and a condominium unit.

11 8. "*Resident*" means the same as defined in section 422.4.

12 Sec. 3. NEW SECTION. 12I.3 **First-time homebuyer savings**
13 **account.**

14 1. *Establishment.*

15 a. A first-time homebuyer who is a resident of this
16 state may establish, either individually or jointly with
17 the resident's spouse who is also a first-time homebuyer, a
18 first-time homebuyer savings account to finance the purchase
19 of a principal residence. Married taxpayers electing to file
20 separate tax returns or separately on a combined tax return
21 shall not establish or maintain a joint first-time homebuyer
22 savings account.

23 b. The account holder who establishes the first-time
24 homebuyer savings account, individually or jointly, is the
25 owner of the account.

26 c. A first-time homebuyer savings account shall be an
27 interest-bearing savings account.

28 d. A financial institution shall not be responsible for
29 the use or application of funds within a first-time homebuyer
30 savings account solely because the account is held at that
31 financial institution.

32 2. *Use by account holder.*

33 a. The account holder shall use the money in the first-time
34 homebuyer savings account for eligible costs related to the
35 purchase of a principal residence within ten years following

1 the year in which the account is first established.

2 *b.* An account holder shall not contribute to a first-time
3 homebuyer savings account for a period exceeding ten years.

4 *c.* There is no limitation on the amount of contributions
5 that may be made to or retained in a first-time homebuyer
6 savings account.

7 3. *Administration.*

8 *a.* An account administrator shall administer the first-time
9 homebuyer savings account and has a fiduciary duty to the
10 person for whose benefit the account is administered.

11 *b.* Within thirty days after an account administrator begins
12 administering a first-time homebuyer savings account, the
13 account administrator shall notify, in writing, each account
14 holder on whose behalf the account administrator administers
15 the account of the date of the last business day of the
16 calendar year.

17 *c.* (1) An account administrator shall use funds held in a
18 first-time homebuyer savings account only for the purpose of
19 making withdrawals at the request of the account holder and for
20 paying the expenses of administering the account.

21 (2) If the account holder is subject to the withdrawal
22 penalty in section 422.7, subsection 57, paragraph "c",
23 subparagraph (1), the account administrator shall withhold the
24 amount of the penalty from the amounts withdrawn and shall
25 remit the amount to the department of revenue in the same
26 manner as provided in section 422.16, subsection 2.

27 (3) Notwithstanding section 422.16, subsection 4,
28 an account administrator shall not be held personally,
29 individually, or corporately liable for the failure to
30 withhold and remit a withdrawal penalty from a withdrawal made
31 at the request of the account holder for which the account
32 administrator relied in good faith on documentation submitted
33 by the account holder of eligible costs paid or owed by the
34 account holder in the calendar year. The burden of proving
35 that a withdrawal from a first-time homebuyer savings account

1 was made for eligible costs is upon the account holder and not
2 upon the account administrator.

3 *d.* Within thirty days of being furnished proof of death of
4 the account holder, the account administrator shall distribute
5 any amount remaining in the first-time homebuyer savings
6 account to the estate of the account holder or to a transfer
7 on death or pay on death beneficiary of the account properly
8 designated by the account holder with the financial institution
9 at which the first-time homebuyer savings account is held.

10 *e.* In the case of an account administrator who is also the
11 account holder, all of the following apply:

12 (1) Notice by the account administrator to the account
13 holder under paragraph "b" is not required.

14 (2) The account administrator shall not use funds held
15 in a first-time homebuyer savings account to pay expenses of
16 administering the account, except that a service fee may be
17 charged to the account by the financial institution where the
18 account is held.

19 (3) Documentation regarding the segregation of funds in
20 a first-time homebuyer savings account from other funds and
21 documentation regarding eligible costs for the purchase of
22 a principal residence shall be maintained by the account
23 administrator.

24 (4) The account administrator shall file reports with the
25 department of revenue as reasonably required by the department
26 of revenue.

27 (5) Paragraph "c", subparagraph (3), shall not apply. The
28 account administrator is required to remit the withdrawal
29 penalty in section 422.7, subsection 57, paragraph "c",
30 subparagraph (1), if assessed, to the department of revenue in
31 the same manner as provided in section 422.16, subsection 2.

32 4. *Penalties.* A person who knowingly prepares or causes to
33 be prepared a false claim, statement, or billing to justify the
34 withdrawal of money from a first-time homebuyer savings account
35 is guilty of a serious misdemeanor for each violation.

1 Sec. 4. NEW SECTION. **12I.4 Tax considerations.**

2 The state income tax treatment of a first-time homebuyer
3 savings account shall be as provided in section 422.7,
4 subsection 57.

5 Sec. 5. NEW SECTION. **12I.5 Rules.**

6 The department of revenue and the treasurer of state shall
7 each adopt rules to jointly implement and administer this
8 chapter.

9 Sec. 6. Section 422.7, Code 2014, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 57. *a.* Subtract the amount of
12 contributions made by an account holder to the account holder's
13 first-time homebuyer savings account during the tax year, not
14 to exceed three thousand dollars per individual per tax year,
15 or six thousand dollars per tax year for a married couple who
16 have a joint first-time homebuyer savings account and file a
17 joint return. An amount of contributions made during a tax
18 year in excess of three thousand dollars, or six thousand
19 dollars, as applicable, may be subtracted by an account holder
20 in a subsequent tax year, provided the total exemption under
21 this paragraph for the subsequent tax year does not exceed
22 three thousand dollars, or six thousand dollars, as applicable.
23 This paragraph shall not apply to an account holder more
24 than ten years after the account holder first establishes a
25 first-time homebuyer savings account.

26 *b.* Subtract, to the extent included, income from interest
27 and earnings received from an account holder's first-time
28 homebuyer savings account. This paragraph shall not apply to
29 any interest and earnings received by an account holder more
30 than ten years after the account holder first establishes a
31 first-time homebuyer savings account.

32 *c.* (1) Add, to the extent previously subtracted under
33 paragraph "a", the amount resulting from a withdrawal made from
34 a first-time homebuyer savings account for purposes other than
35 the payment of eligible costs of the account holder. If the

1 withdrawal is made on a day other than the last business day
2 of the calendar year, such withdrawal shall also be assessed a
3 penalty in an amount equal to ten percent of the amount of the
4 withdrawal. The penalty shall not apply to withdrawals made on
5 account of the death of the account holder.

6 (2) For purposes of this paragraph "c", any amount remaining
7 in a first-time homebuyer savings account of an account holder
8 on the day after the purchase of a principal residence or the
9 last business day of the tenth calendar year following the
10 calendar year in which the account holder first establishes a
11 first-time homebuyer savings account, whichever occurs first,
12 shall be considered a withdrawal under subparagraph (1).

13 (3) For purposes of this paragraph "c", the following shall
14 not be considered a withdrawal under subparagraph (1):

15 (a) Any amount transferred between different first-time
16 homebuyer savings accounts of the same account holder by a
17 person other than the account holder.

18 (b) Any amounts withdrawn or otherwise transferred from a
19 first-time homebuyer savings account pursuant to an order in
20 bankruptcy.

21 d. For purposes of this subsection, "account holder",
22 "business day", "eligible costs", and "first-time homebuyer
23 savings account" all mean the same as defined in section 12I.2.

24 Sec. 7. EFFECTIVE DATE. This Act takes effect January 1,
25 2015.

26 Sec. 8. APPLICABILITY. This Act applies to tax years
27 beginning on or after January 1, 2015.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill allows first-time homebuyers who are residents
32 of Iowa to establish a first-time homebuyer savings account
33 (account) with a state or federally chartered bank, savings and
34 loan association, credit union, or trust company in this state
35 to finance the purchase of a principal residence in this state.

1 "First-time homebuyer" and "principal residence" are defined in
2 the bill. The account is required to be an interest-bearing
3 savings account. The account may be established individually
4 or jointly with the resident's spouse. However, married
5 taxpayers electing to file separate tax returns or separately
6 on a combined tax return shall not establish or maintain a
7 joint account.

8 There is no limitation on the amount of contributions that
9 may be made to or retained in a first-time homebuyer savings
10 account. An account holder is required to use the funds in
11 an account for eligible costs related to the purchase of a
12 principal residence within 10 years following the year in which
13 the account is first established.

14 "Eligible costs" are defined in the bill and include the down
15 payment and allowable closing costs of a principal residence
16 that was purchased after the establishment of the account. If
17 the account holder withdraws funds for any purpose other than
18 the payment of eligible costs, the account holder is subject
19 to a penalty equal to 10 percent of the withdrawal, unless the
20 withdrawal occurs on the last business day of the calendar
21 year or was because of the death of the account holder. The
22 penalty amounts are required to be withheld by the account
23 administrator and remitted to the department of revenue in
24 the same manner as Code section 422.16(2), relating to the
25 withholding of income tax. A person ceases to be an account
26 holder following the purchase of a principal residence after
27 the establishment of an account.

28 Accounts are required to be administered by an account
29 administrator who will have a fiduciary duty to the account
30 holder. An account administrator may be a state or federally
31 chartered bank, savings and loan association, credit union, or
32 trust company in this state; a certified public accountant or
33 licensed public accountant; or the account holder. The account
34 administrator is required within 30 days of beginning account
35 administration to notify the account holder, in writing, of

1 the last business day of the calendar year. The account
2 administrator shall use account funds only for the purpose of
3 making withdrawals at the request of the account holder and
4 for the payment of the expenses of administering the account.
5 An account administrator shall not be held personally,
6 individually, or corporately liable for the failure to withhold
7 and remit a withdrawal penalty if the account administrator
8 relied in good faith on documentation submitted by the account
9 holder of eligible costs paid or owed by the account holder.
10 The burden of proving that a withdrawal from an account was
11 made for eligible costs is upon the account holder. Within 30
12 days of being furnished proof of death of the account holder,
13 the account administrator shall distribute funds in an account
14 to the estate of the account holder or to a transfer on death
15 or pay on death beneficiary properly designated by the account
16 holder with the financial institution where the account is
17 held.

18 Special rules apply to an account administrator that is
19 also the account holder. First, notice of the last business
20 day of the calendar year is not required to be given. Second,
21 administration expenses shall not be paid, except that a
22 service fee may be charged to the account by the financial
23 institution where the account is held. Third, documentation
24 regarding the segregation of funds in the account from other
25 funds and documentation regarding eligible costs shall
26 be maintained by the account administrator. Fourth, the
27 account holder is required to file reports as required by the
28 department of revenue and to remit any assessed penalties in
29 the same manner a third-party account holder would be required.
30 An account administrator that is also the account holder may
31 not rely on the good-faith exception to personal liability for
32 failure to withhold and remit the penalty.

33 The bill provides for two individual income tax incentives
34 relating to first-time homebuyer savings accounts. First,
35 an account holder is allowed to subtract from the individual

1 income tax the amount of contributions made during the year
2 to the account holder's account, not to exceed \$3,000 per
3 individual, or \$6,000 for a married couple with a joint account
4 and filing a joint income tax return. If the account holder
5 contributes more than that amount, the excess may be subtracted
6 in a subsequent tax year provided the total exemption in any
7 one tax year does not exceed \$3,000 or \$6,000, as applicable.
8 Second, the bill exempts any interest or earnings received from
9 an account holder's account. Both the contribution exemption
10 and interest exemption only apply for the first 10 years after
11 the account holder establishes an account.

12 The bill requires an account holder to add to net income the
13 amount of withdrawal from an account that was made for purposes
14 other than eligible costs of the account holder to the extent
15 it was previously subtracted as a contribution. Any amount
16 remaining in an account on the day after an account holder
17 purchases a principal residence or on the last business day of
18 the 10th calendar year following the calendar year the account
19 holder first establishes an account, whichever occurs first,
20 shall be considered a withdrawal that must be added to net
21 income to the extent it was previously subtracted. However,
22 amounts transferred between different accounts of the same
23 account holder by a person other than the account holder or
24 amounts withdrawn pursuant to an order in bankruptcy shall not
25 be considered withdrawals that must be added to net income.

26 The bill makes it a serious misdemeanor to knowingly prepare
27 or cause to be prepared a false claim, statement, or billing
28 to justify the withdrawal of money from a first-time homebuyer
29 savings account. A serious misdemeanor is punishable by
30 confinement for no more than one year and a fine of at least
31 \$315 but not more than \$1,875.

32 The bill requires the department of revenue and the
33 treasurer of state to each adopt rules to jointly implement and
34 administer the bill.

35 The bill takes effect January 1, 2015, and applies to tax

H.F. 2353

1 years beginning on or after that date.