

1 HB248  
2 189198-6  
3 By Representatives South, Blackshear, Tuggle, Collins,  
4 Treadaway, Faulkner, Standridge, Wadsworth, Rowe, Fridy,  
5 Harbison, Moore (B), Ellis, Hill and Daniels  
6 RFD: Financial Services  
7 First Read: 18-JAN-18

1  
2 ENROLLED, An Act,

3           Relating to first-time and second chance home  
4 buyers; to establish a first-time and second chance home buyer  
5 savings account; and to allow a tax deduction for  
6 contributions made to the account and a tax exclusion on  
7 earnings from the account to provide qualified first-time and  
8 second chance home buyers with meaningful incentives to save  
9 funds for the purchase of a first home in Alabama.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11           Section 1. Short Title. This act shall be known and  
12 may be cited as the "Alabama First-time and Second Chance Home  
13 Buyer Savings Account Act."

14           Section 2. Legislative Declaration. The Legislature  
15 recognizes that saving for the purchase of a first home is  
16 very challenging in today's economy. The Legislature declares  
17 that first-time and second chance home buyer savings accounts  
18 provide an opportunity for Alabama residents to save funds for  
19 home ownership. The first-time and second chance home buyer  
20 savings account program is intended to enable first-time and  
21 second chance home buyers in Alabama to plan for and utilize a  
22 tax incentive to save funds for a down payment and closing  
23 costs for the purchase of a first home in Alabama.

24           Section 3. Definitions. As used in this act, the  
25 following terms shall have the following meanings:

1           (1) ACCOUNT HOLDER. A first-time and second chance  
2 home buyer who establishes, individually or jointly with  
3 another first-time and second chance home buyer, a first-time  
4 and second chance home buyer savings account.

5           (2) ALLOWABLE CLOSING COSTS. A disbursement listed  
6 on a settlement statement for the purchase of a single-family  
7 residence in Alabama by a first-time and second chance home  
8 buyer.

9           (3) DEPARTMENT. Alabama Department of Revenue.

10          (4) ELIGIBLE COSTS. The down payment and allowable  
11 closing costs for the purchase of a single-family residence in  
12 Alabama by a first-time and second chance home buyer.  
13 Eligible costs do not include any costs incurred prior to the  
14 establishment of a first-time and second chance home buyer  
15 savings account.

16          ~~(5) FINANCIAL INSTITUTION. Any bank, trust company,~~  
17 ~~savings institution, industrial loan association, consumer~~  
18 ~~finance company, credit union, benefit association, insurance~~  
19 ~~company, safe deposit company, money market mutual fund, or~~  
20 ~~similar entity authorized to do business in Alabama.~~

21          (5) FINANCIAL INSTITUTION. Any bank, savings  
22 institution, industrial loan association, credit union, or  
23 other similar entity authorized to do business and accept  
24 deposits in Alabama.

1           (6) FIRST-TIME AND SECOND CHANCE HOME BUYER. An  
2 individual who resides in Alabama and has not owned or  
3 purchased, either individually or jointly, a single-family  
4 residence during a period of ~~three five~~ ten years prior to the  
5 date of the purchase of a single-family residence.

6           (7) FIRST-TIME HOME BUYER SAVINGS ACCOUNT or  
7 ACCOUNT. An account with a financial institution created for  
8 the purpose of payment or reimbursement of eligible costs for  
9 the purchase of a single-family residence in Alabama by a  
10 first-time and second chance home buyer and designated by the  
11 financial institution upon its creation as a first-time and  
12 second chance home buyer savings account.

13           (8) SETTLEMENT STATEMENT. The statement of receipts  
14 and disbursements for a transaction related to real estate,  
15 including a statement prescribed under the Real Estate  
16 Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., as  
17 amended, and regulations thereunder.

18           (9) SINGLE-FAMILY RESIDENCE. A single-family  
19 residence owned and occupied by a first-time and second chance  
20 home buyer as the first-time and second chance home buyer's  
21 principal residence, which may also include a manufactured  
22 home, trailer, mobile home, condominium unit, or cooperative.

23           Section 4. Establishment and Use of First-time and  
24 second chance Home Buyer Savings Account.

1           (a) Beginning January 1, 2019, a first-time and  
2 second chance home buyer may open an account with a financial  
3 institution designated in its entirety by the financial  
4 institution as a first-time and second chance home buyer  
5 savings account.

6           (b) Funds from a first-time and second chance home  
7 buyer savings account may be used only to pay a first-time and  
8 second chance home buyer's eligible costs for the purchase of  
9 a single-family residence in Alabama.

10          (c) A first-time and second chance home buyer may  
11 jointly own a first-time and second chance home buyer savings  
12 account with another first-time and second chance home buyer  
13 if the joint account holders file a joint income tax return.

14          (d) Only cash and marketable securities may be  
15 contributed to a first-time and second chance home buyer  
16 savings account. Subject to the limitations of Section 7,  
17 persons other than the account holder may contribute funds to  
18 a first-time and second chance home buyer savings account.  
19 There is no limitation on the amount of contributions that may  
20 be made to or retained in a first-time and second chance home  
21 buyer savings account.

22           Section 5. Account Holder Responsibilities.

23           The account holder shall do all of the following:

24           (1) Not use funds held in a first-time and second  
25 chance home buyer savings account to pay expenses of

1 administering the account, except that a service or other  
 2 account fee may be deducted from the account by the financial  
 3 institution in which the account is held.

4 (2) Submit the following to the Department of  
 5 Revenue with the account holder's Alabama income tax return:

6 a. Detailed information, in a form prescribed by the  
 7 Department of Revenue, regarding the first-time and second  
 8 chance home buyer savings account, including a list of  
 9 transactions for the account during the tax year.

10 b. Form 1099 issued by the financial institution for  
 11 the account.

12 (3) Submit to the department, upon a withdrawal of  
 13 funds from a first-time and second chance home buyer savings  
 14 account, a detailed account of the eligible costs toward which  
 15 the account funds were applied and a statement of the amount  
 16 of funds remaining in the account, if any. If upon withdrawal  
 17 of funds from the first-time and second chance home buyer  
 18 savings account, the account holder fails to provide the  
 19 department with the detailed account of the eligible costs  
 20 towards which the account funds were applied, the entire  
 21 account's funds, including the interest and other income on  
 22 principal, shall be subject to the penalties listed under  
 23 Section 8.

24 Section 6. Responsibilities of financial  
 25 institutions.

1           (a) A financial institution shall be required to do  
2 the following:

3           (1) Create a new account for the first-time and  
4 second chance home buyer and designate the account as a  
5 "first-time and second chance home buyer's savings account" on  
6 records and transactional statements ~~related to the account.~~  
7 ~~Only the funds deposited into this account shall be eligible~~  
8 ~~for the first-time and second chance home buyer savings~~  
9 ~~account deduction under this act.~~ related to the account.

10           (2) Provide the account holder with a detailed  
11 account statement relating to the first-time and second chance  
12 home buyer's savings account on a yearly basis.

13           (b) A financial institution shall not be required to  
14 do any of the following:

15           (1) Track the use of money withdrawn from a  
16 first-time and second chance home buyer savings account.

17           (2) Allocate funds in a first-time and second chance  
18 home buyer savings account between joint account holders.

19           (3) Report any information not otherwise required by  
20 law to the Department of Revenue or any other governmental  
21 agency.

22           (c) A financial institution is not responsible or  
23 liable for the following:

1           (1) Determining or ensuring that an account  
2 satisfies the requirements to be a first-time and second  
3 chance home buyer savings account.

4           (2) Determining or ensuring that funds in a  
5 first-time and second chance home buyer savings account are  
6 used for eligible costs.

7           (3) Reporting or remitting taxes or penalties  
8 related to the use of a first-time and second chance home  
9 buyer savings account.

10           (c) Upon being furnished proof of the death of the  
11 account holder and any other information ~~required by the~~  
12 related to the death required by the financial institution or  
13 contract governing the first-time and second chance home buyer  
14 savings account, a financial institution shall distribute the  
15 principal and accumulated interest or other income in the  
16 account in accordance with the terms of the contract governing  
17 the account, or as otherwise required by law.

18           Section 7. Deduction of Contributions, Exclusion of  
19 Earnings, and Limitations.

20           (a) Except as otherwise provided in this act and  
21 subject to the limitations under this section, a first-time  
22 and second chance home buyer savings account holder shall be  
23 entitled to a state tax deduction, subject to the limitations  
24 of this section, not to exceed ~~six thousand dollars (\$6,000)~~  
25 five thousand dollars (\$5,000) for an account holder who files



1 an individual tax return or ~~twelve thousand dollars (\$12,000)~~  
 2 ten thousand dollars (\$10,000) for joint account holders who  
 3 file a joint tax return, for contributions made by the account  
 4 holder to a first-time and second chance home buyer savings  
 5 account during the tax year in which the deduction is claimed.

6 (b) Except as otherwise provided in this act and  
 7 subject to the limitations under this section, earnings from  
 8 the first-time and second chance home buyer savings account,  
 9 including interest and other income on the principal, shall be  
 10 excluded from taxable income of an account holder for Alabama  
 11 income tax purposes during the tax year.

12 (c) An account holder may claim the deduction and  
 13 exclusion under this section as follows:

14 (1) For a period not to exceed five years.

15 (2) For an aggregate total amount of principal and  
 16 earnings not to exceed ~~thirty thousand dollars (\$30,000)~~  
 17 twenty-five thousand dollars (\$25,000) for individual accounts  
 18 and ~~sixty thousand dollars~~ fifty thousand dollars (\$50,000)  
 19 for joint accounts during the five-year period.

20 (3) Only if the principal and earnings of the  
 21 account remain in the account until a withdrawal is made for  
 22 eligible costs related to the purchase of a single-family  
 23 residence by a first-time and second chance home buyer.

24 (d) A person other than the account holder who  
 25 deposits funds in a first-time and second chance home buyer

1 savings account shall not be entitled to the deduction and  
2 exclusion provided under this act.

3 (e) Any funds in a first-time and second chance home  
4 buyer savings account not expended on eligible costs by  
5 December 31 of the last year of the five-year period beginning  
6 with January 1 of the tax year in which a deduction was first  
7 claimed under subsection (a) shall thereafter be included in  
8 the account holder's taxable income.

9 (f) The deduction and exclusion from taxable income  
10 provided by this act shall apply to any alternative basis for  
11 calculating taxable income for Alabama income tax purposes.

12 (g) The funds in the first-time and second chance  
13 home buyer savings account shall not be used to purchase a  
14 single-family residence outside of this state.

15 (h) The provisions of this section shall terminate  
16 five years from the effective date of this act for first-time  
17 and second chance home buyer savings account holders not  
18 currently claiming the deduction and exclusion under this  
19 section, unless extended by an act of the Legislature.

20 Section 8. Penalty for Withdrawal for Purpose Other  
21 Than Eligible Costs. Except as otherwise provided in this  
22 section, if the account holder withdraws any funds from a  
23 first-time and second chance home buyer savings account for a  
24 purpose other than eligible costs for the purchase of a

1 single-family residence in this state, the following shall  
2 apply:

3 (1) The entire balance of the fund, including  
4 interest and other income on principal, shall be included in  
5 the account holder's taxable income for the tax year in which  
6 the withdrawal was made.

7 (2) The account holder shall pay a penalty to the  
8 Department of Revenue equal to 10 percent of the amount  
9 withdrawn. The penalty shall not apply to funds withdrawn from  
10 an account which were:

11 a. Withdrawn by reason of the account holder's death  
12 or disability or due to employment after the account holder  
13 has exhausted his or her applicable unemployment compensation  
14 benefits.

15 b. A disbursement of assets of the account pursuant  
16 to a filing for protection under the United States Bankruptcy  
17 Code, 11 U.S.C. § 101 et seq.

18 (3) Subdivisions (1) and (2) do not apply to funds  
19 withdrawn or distributed from a first-time and second chance  
20 home buyer savings account that within sixty days of their  
21 withdrawal or distribution are deposited in full into another  
22 first-time and second chance home buyer savings account. This  
23 subdivision shall apply both to transfers between any  
24 qualifying first-time and second chance home buyer savings  
25 accounts whether such transfers are to or from qualifying

1 individual or joint accounts. The timely transfer of funds  
2 from a first-time and second chance home buyer savings account  
3 to another first-time and second chance home buyer savings  
4 account in accordance with this subdivision shall not alter  
5 the time limitations set forth in subsection (e) of Section 7.

6 Section 9. Department of Revenue; Forms. The  
7 Department of Revenue shall adopt forms for the following:

8 (1) The designation of an account with a financial  
9 institution to serve as a first-time and second chance home  
10 buyer savings account.

11 (2) An account holder to annually submit to the  
12 Department of Revenue detailed information regarding the  
13 first-time and second chance home buyer savings account,  
14 including, but not limited to, a list of transactions for the  
15 account during the tax year and identifying any supporting  
16 documentation required to be maintained by the account holder.

17 Section 10. The department shall report to the ~~Legal~~  
18 Fiscal Division of the Legislative Services Agency on an  
19 annual basis the total annual number of deductions claimed and  
20 total amount of deposits deducted pursuant to this act, and  
21 the number of taxpayers who claimed a first-time and second  
22 chance home buyer deduction that did not expend the funds  
23 pursuant to subsection (e) of Section 7, or were subjected to  
24 the penalty provisions of Section 8.

1                   Section 11. This act shall become effective  
2           immediately upon its passage and approval by the Governor, or  
3           its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 06-FEB-18, as amended.

Jeff Woodard  
Clerk

Senate	21-MAR-18	Amended and Passed
House	22-MAR-18	Concurred in Senate Amendment