

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### House Bill 4922

FISCAL  
NOTE

BY DELEGATES STORCH, WESTFALL, QUEEN, D. KELLY,

PHILLIPS AND WORRELL

[Introduced February 11, 2020; Referred to the  
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §31-18F-1, §31-18F-2, §31-18F-3, §31-18F-4, §31-18F-5, §31-18F-6, §31-  
 3 18F-7, §31-18F-8, §31-18F-9, and §31-18F-10, all relating to creating the “First Time  
 4 Home Buyer Savings Account Act”; providing definitions; creating first time home buyer  
 5 savings account; providing for subtractions from federal taxable income; providing limits  
 6 applicable to subtraction from federal taxable income; penalties for withdrawal of funds;  
 7 requiring financial institution to provide account holder information certificate; requiring  
 8 Tax Commissioner to propose rules to implement this act; and -stating years to which this  
 9 act applies.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 18F. FIRST-TIME HOME BUYER SAVINGS ACCOUNT ACT.**

**§31-18F-1. Legislative findings.**

1 The Legislature finds that saving for a down payment and closing costs for the purchase  
 2 of a first home is challenging in the present economy. The first-time home buyer savings account  
 3 program will provide opportunities for West Virginia residents to save funds for first-time home  
 4 ownership and will provide West Virginias with meaningful incentives to save for the purchase of  
 5 a first home.

**§31-18F-2. Definitions.**

1 “Account holder” means a first-time home buyer who establishes a first-time home buyer  
 2 savings account.

3 “Allowable closing costs” means disbursements listed in a settlement statement for the  
 4 purchase of a single-family residence by an account holder.

5 “Eligible costs” means the down payment and allowable closing costs for the purchase of  
 6 a single-family residence by an account holder.

7 “Financial institution” means a bank, a trust company, a commercial bank, a national bank,  
 8 a savings bank, a savings and loan, a thrift institution, a credit union, an insurance company, a

9 mutual fund, an investment firm or a similar entity authorized to do business in this state.

10 “First-time home buyer” means an individual who is a resident of this state and has not  
11 owned or purchased, either individually or jointly, a single-family residence during a period of  
12 three years prior to the date of the purchase of a single-family residence.

13 “First-time home buyer savings account” or “account” means an account with a financial  
14 institution that an account holder designates as a first-time home buyer savings account on the  
15 account holder’s West Virginia income tax return for the purpose of paying or reimbursing eligible  
16 costs for the purchase of a single family residence in this state by the account holder.

17 (7) “Resident of this state” means an individual who is domiciled in this state for more than  
18 six months of the calendar.

19 (8) “Settlement statement” means the statement of receipts and disbursements for a  
20 transaction related to real estate, including a statement prescribed under the Real Estate  
21 Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., and regulations thereunder.

22 (9) “Single-family residence” means a residence intended for occupation by a single-family  
23 unit that is owned and occupied by an account holder as the account holder’s principal residence.

24 “Single family residence” includes a manufactured home, residential trailer, mobile home, or  
25 condominium unit.

26 (10) “Taxable income” has the meaning given that term in §11-21-11 of this code.

**§31-18F-3. Creation of first-time home buyer savings account.**

1 (1) An individual may create a first-time home buyer savings account with a financial  
2 institution to be used to pay or reimburse the account holder’s eligible costs related to the  
3 purchase of a single family residence.

4 (2) An individual may jointly own a first-time home buyer savings account with another  
5 person if the joint account holders are both first-time home buyers and file a joint income tax  
6 return.

7 (3) An individual may not be the account holder of more than one first-time home buyer

8 savings account.

9 (4) Only cash and marketable securities may be contributed to a first-time home buyer  
10 savings account. Subject to the limitations of this article, persons other than the account holder  
11 may contribute funds to a first-time home buyer savings account. There is no limitation on the  
12 amount of contributions that may be made to or retained in a first-time home buyer savings  
13 account.

14 (5) The account holder may not use funds held in a first-time home buyer savings account  
15 to pay expenses of administering the account, except that the financial institution that administers  
16 the account may deduct a service fee from the account.

17 (6) An account holder may withdraw all or part of the funds from a first-time home buyer  
18 savings account and deposit the funds in a new first-time home buyer savings account held by a  
19 different financial institution or the same financial institution.

**§31-18F-4. Subtractions from federal taxable income.**

1 (a) Subject to this article, and in addition to the other modifications to federal taxable  
2 income contained in §21-21-1 et seq. of this code, there shall be subtracted from federal taxable  
3 income the amount of funds contributed to an account holder’s first-time home buyer savings  
4 account established under this article during the tax year, not to exceed \$5,000 for an account  
5 holder who files an individual income tax return or \$10,000 for joint account holders who file a  
6 joint income tax return.

7 (b)(1) Funds contributed to a first-time home buyer savings account and earnings, in-  
8 cluding interest and other income, on the principal in the account during the tax year are exempt  
9 from taxation until withdrawn by the taxpayer, subject to subsection (3) of this section.

10 (2) Moneys withdrawn by the account holder from a first-time home buyer savings account  
11 to pay or reimburse that account holder’s eligible costs related to purchase of a single-family  
12 residence are exempt from taxation under §21-21-1 et seq. of this code. A withdrawal by an  
13 account holder for a purpose other than paying or reimbursing eligible costs related to the

14 purchase of a single-family residence is taxable under §21-21-1 et seq. of this code.

15 (c) An account holder may claim the subtraction and exemption under subsections (1) and  
16 (2) of this section:

17 (1) For a period not to exceed 10 years;

18 (2) For an aggregate total amount of principal and earnings not to exceed \$50,000 during  
19 the 10-year period; and

20 (3) Only if the principal and earnings of the account remain in the account until a  
21 withdrawal is made for eligible costs related to the purchase of a single-family residence by the  
22 account holder except as provided in section 3 (6) of this 2018 Act.

23 (4) A person other than the account holder who deposits funds in a first-time home buyer  
24 savings account is not entitled to the subtraction and exemption provided for in this section.

25 (5) Moneys in a first-time home buyer savings account not expended on paying or reim-  
26 bursing eligible costs for the purchase of a single-family residence by December 31 of the last  
27 year of the 10-year period described under this section shall thereafter be included in the account  
28 holder's taxable income.

**§31-18F-5. Limits applicable to subtraction from federal taxable income.**

1 (a) The limits applicable to a subtraction from federal taxable income and an exemption  
2 allowed under this article are:

3 (1) Ten thousand dollars if reported on a joint income tax return, or \$5,000 for all others,  
4 if the federal adjusted gross income of the taxpayer for the tax year is less than \$150,000 or, if  
5 reported on other than a joint return, less than \$75,000.

6 (2) Eight thousand dollars if reported on a joint income tax return, or \$4,000 for all others,  
7 if the federal adjusted gross income of the taxpayer for the tax year is \$150,000 or more and less  
8 than \$160,000 or, if reported on other than a joint return, \$75,000 or more and less than \$80,000.

9 (3) Six thousand dollars if reported on a joint income tax return, or \$3,000 for all others, if  
10 the federal adjusted gross income of the taxpayer for the tax year is \$160,000 or more and less

11 than \$170,000 or, if reported on other than a joint return, \$80,000 or more and less than \$85,000.

12 (4) Four thousand dollars if reported on a joint income tax return, or \$2,000 for all others,  
 13 if the federal adjusted gross income of the taxpayer for the tax year is \$170,000 or more and less  
 14 than \$180,000 or, if reported on other than a joint return, \$85,000 or more and less than \$90,000.

15 (5) Two thousand dollars if reported on a joint income tax return, or \$1,000 for all others,  
 16 if the federal adjusted gross income of the taxpayer for the tax year is \$180,000 or more and less  
 17 than \$200,000 or, if reported on other than a joint return, \$90,000 or more and less than \$100,000.

18 (b) If the federal adjusted gross income of the taxpayer for the tax year is \$200,000 or  
 19 more if reported on a joint income tax return, or \$100,000 or more if reported on other than a joint  
 20 income tax return, the limit is zero and the taxpayer is not allowed a subtraction from federal  
 21 taxable income or an exemption under this article.

**§31-18F-6. Withdrawal of funds from a first-time home buyer savings account.**

1 If an account holder withdraws funds from a first-time home buyer savings account for a  
 2 purpose other than paying or reimbursing an account holder for eligible costs related to the  
 3 purchase of a single-family residence:

4 (1) The withdrawn funds must be included in the account holder's taxable income; and

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

8 (a) Withdrawn by reason of the account holder's death or disability;

9 (b) A disbursement of assets of the account pursuant to a filing for protection under the  
 10 United States Bankruptcy Code, 11 U.S.C. 101 et seq.; or

11 (c) Transferred from an account into another account established in accordance with this  
 12 article.

**§31-18F-7. Tax Commissioner to create means for subtraction.**

1 The Tax Commissioner shall create a means for designating the subtraction to which an

2 account holder is entitled under this article in the individual state income tax return form required  
3 to be filed under §21-21-1 et seq. of this code.

**§31-18F-8. Financial institution to provide account holder information certificate.**

1 (1) On or before January 31 of each year, a financial institution at which an account holder  
2 has created a first-time home buyer savings account shall provide to the account holder a  
3 certificate containing the following information:

- 4 (a) The date when the account was created;
- 5 (b) The name of the account holder;
- 6 (c) The amount of funds contributed to the account during the tax year;
- 7 (d) The amount of funds withdrawn from the account during the tax year; and
- 8 (e) Any other information as required by rules adopted by the Tax Commissioner.

9 (2) A financial institution is not required to:

- 10 (a) Track the use of moneys withdrawn from a first-time home buyer savings account; or
- 11 (b) Allocate funds in a first-time home buyer savings account among joint account holders.

12 (3) A financial institution is not responsible or liable for:

- 13 (a) Determining or ensuring that an account satisfies the requirements to be a first-time  
14 home buyer savings account;

- 15 (b) Determining or ensuring that funds in a first-time home buyer savings account are used  
16 for eligible costs; or

- 17 (c) Reporting or remitting taxes or penalties related to the use of a first-time home buyer  
18 savings account.

19 (4) Upon being furnished proof of the death of the account holder and such other infor-  
20 mation required by the contract governing the first-time home buyer savings account, a financial  
21 institution shall distribute the principal and accumulated interest or other income in the first-time  
22 home buyer savings account in accordance with the terms of the contract governing the account.

**§31-18F-9. Tax Commissioner to propose rules.**

1           The Tax Commissioner of Revenue shall propose rules for legislative approval in  
2 accordance with the provisions of §29A-3-1 et seq. of this code to implement and administer this  
3 article.

**§31-18F-10. Years tax exemption applies.**

1           (a) This article applies to tax years beginning on or after January 1, 2020, and before  
2 January 1, 2026.

3           (b) Notwithstanding subsection (a) of this section, funds contributed to a first-time home  
4 buyer savings account established under this article before January 1, 2025, shall continue to be  
5 exempt from taxation for the period and on the terms for which the exemption was granted under  
6 this article.

NOTE: The purpose of this bill is to create the “First Time Home Buyer Savings Account Act”.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.