

2018 Regular Session

HOUSE BILL NO. 383

BY REPRESENTATIVE DAVIS

TAX/TAX REBATES: Authorizes a rebate for first-time home buyers

1 AN ACT

2 To enact Chapter 5 of Subtitle VII of Title 47 of the Revised Statutes of 1950, to be

3 comprised of R.S. 47:6361 through 6367, relative to rebates; to authorize a rebate for

4 first-time home buyers; to provide for definitions, requirements, and limitations; to

5 provide for the amount, approval, and issuance of rebates; to provide for first-time

6 home buyer savings accounts; to provide for contributions to first-time home buyer

7 savings accounts; to provide for account holder rights and responsibilities; to provide

8 for the responsibilities of financial institutions as it relates to the first-time home

9 savings accounts; to provide for administration of the rebate; to authorize the

10 promulgation of rules and regulations; to provide for certain penalties; to provide for

11 the recapture of rebates under certain circumstances; to provide for the termination

12 of the rebate; to provide for an effective date; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Chapter 5 of Subtitle VII of Title 47 of the Revised Statutes of 1950,
15 comprised of R.S. 47:6361 through 6367, is hereby enacted to read as follows:

16 §6361. Short Title

17 This Chapter shall be known and may be cited as the "Louisiana First-Time
18 Home Buyer Act."

1 §6362. Definitions

2 For purposes of this Chapter, the following terms and phrases shall have the
3 following meanings unless the context clearly indicates otherwise:

4 (1) "Account holder" means an individual who establishes, individually or
5 jointly with one or more other individuals, a first-time home buyer savings account.

6 (2) "Allowable closing costs" means a disbursement listed on a settlement
7 statement for the purchase of a single-family residence in Louisiana by a first-time
8 home buyer.

9 (3) "Department" means the Department of Revenue.

10 (4) "Eligible costs" means the down payment and allowable closing costs for
11 the purchase of a single-family residence in Louisiana by a first-time home buyer.

12 (5) "Financial institution" means any person organized to engage in the
13 business of banking pursuant to the laws of the United States or any person
14 organized to engage in the business of banking pursuant to Title 6 of the Louisiana
15 Revised Statutes of 1950, et seq.

16 (6) "First-time home buyer" means an individual or individuals who reside
17 in Louisiana who have never owned or purchased, either individually or jointly, a
18 single-family residence.

19 (7) "First time home buyer savings account" or "account" means an account
20 with a financial institution that an account holder designates as a first-time home
21 buyer savings account.

22 (8) "Settlement statement" means the statement of receipts and
23 disbursements for the purchase of a single-family residence, including a statement
24 prescribed under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601
25 et seq., as amended, and regulations thereunder.

26 (9) "Single family residence" means a residence to be owned and occupied
27 by a first-time home buyer as the first-time home buyer's principal residence, which
28 may include a manufactured home, trailer, mobile home, condominium unit, or
29 cooperative.

1 §6363. Rebate; amount of the rebate; administration of the rebate; affidavit; duties
2 of the department

3 A.(1) Beginning July 1, 2019, and ending July 1, 2022, there shall be a
4 rebate for eligible costs a first-time home buyer expends from a first-time home
5 owner savings account for the purchase of a single-family residence in Louisiana. A
6 first-time home buyer shall apply for the rebate authorized pursuant to the provisions
7 of this Section in the fiscal year in which the single-family residence is purchased.
8 The amount of the rebate shall be equal to the amount of first-time home buyer
9 savings account funds used to pay the eligible costs of a first-time home buyer, but
10 shall not exceed seven thousand five hundred dollars for the purchase of a
11 single-family residence, regardless of whether the single-family residence is
12 purchased by the first-time home buyer individually or jointly.

13 (2) The total amount of rebates issued pursuant to the provisions of this
14 Chapter shall not exceed fifteen million dollars per fiscal year; however, in any fiscal
15 year in which the amount of rebates awarded is at least ninety percent of the current
16 year annual cap, the annual cap for the next fiscal year shall be increased by ten
17 percent. The department shall approve rebates on a first-come, first-served basis
18 until the maximum amount of rebates have been issued for a fiscal year; however,
19 all rebate requests received on the same business day shall be treated as received at
20 the same time. If the aggregate amount of rebate requests received on a single
21 business day exceeds the total amount of available rebates, rebates shall be approved
22 on a pro rata basis.

23 B. The secretary of the department shall make the rebate authorized pursuant
24 to provisions of this Chapter from the current collections of the taxes imposed under
25 Chapter 1 of Subtitle II of this Title.

26 C. The department shall develop an affidavit to be completed by the
27 first-time home buyer at the time of closing. The affidavit shall include, but not be
28 limited to the following information:

29 (1) The full legal name of the first-time home buyer.

1 (2) The last four digits of the social security number of the first-time home
2 buyer.

3 (3) The address of the single-family residence purchased by the first-time
4 home buyer.

5 (4) A statement by the first-time home buyer attesting that the first-time
6 home buyer has not previously purchased a single-family residence, either
7 individually or jointly, prior to the date of the purchase of the single-family residence
8 that is the subject of the sale.

9 D.(1) The department shall require a rebate applicant to submit the following
10 information when applying for the rebate authorized pursuant to the provisions of
11 this Chapter:

12 (a) Detailed information regarding the first-time home buyer savings account
13 on a form designated by the department, including a list of transactions for the
14 account from the date on which the account is designated as a first-time home buyer
15 savings account until the date on which the account is used to pay eligible costs, an
16 accounting of the eligible costs toward which the account funds were applied, and
17 a statement of the balance of funds remaining in the account, if any.

18 (b) Any Form 1099 issued by the financial institution for the account.

19 (c) A certified copy of the affidavit required pursuant to Subsection C of this
20 Section.

21 (d) A certified copy of the affidavit required pursuant to the provisions of
22 R.S. 47:6365 that has been filed in the parish where the homestead is situated.

23 (e)(i) A copy of the first-time home buyer's homestead exemption or
24 application for a homestead exemption for the single-family residence purchased.

25 No rebate shall be issued until the application for homestead exemption has been
26 approved and the first-time home buyer submits a copy of the homestead exemption
27 receipt, registration, or other document issued by the assessor's office of the parish
28 in which the single-family residence is situated evidencing approval of the
29 homestead exemption.

1 (ii) If the homestead exemption is granted in the fiscal year after the fiscal
2 year in which the single-family residence is purchased, the rebate application shall
3 only be approved by the department if the first-time home buyer applied for the
4 rebate and submitted a copy of the homestead exemption application to the
5 department in the same fiscal year as the purchase of the single-family residence.

6 (2) The department shall only issue a rebate to a first-time home buyer who
7 meets all of the qualifications provided for in this Subsection.

8 E. The secretary of the department may promulgate rules and regulations as
9 are necessary to implement the provisions of this Chapter.

10 §6364. First-Time Home Buyer Savings Accounts; account holder responsibilities
11 and rights; financial institution responsibilities

12 A. Establishment of First Time Home Buyer Savings Accounts. Beginning
13 July 1, 2018, until March 1, 2022, an individual may open an account with a
14 financial institution and designate the account, in its entirety, as a first-time home
15 buyer savings account to be used to pay or reimburse a first-time home buyer's
16 eligible costs for the purchase of a single-family residence in Louisiana.

17 B. Contributions to Account.

18 (1) Only cash and marketable securities may be contributed to a first-time
19 home buyer savings account.

20 (2) There is no limitation on the amount of contributions that may be made
21 to, or retained in, a first-time home buyer savings account.

22 (3) Subject to the limitations of Subsection (B)(4) of this Section, persons
23 other than the account holder may contribute funds to a first-time home buyer
24 savings account.

25 (4) With the exception of the account holder, no person or entity involved
26 in the purchase and sale of the single-family residence that is the subject of the rebate
27 applied for pursuant to this Chapter, including but not limited to the seller, the title
28 company, or, in the case of new construction, the developer or builder of the

1 single-family residence, shall contribute funds to a first-time home buyer savings
2 account.

3 C. Account holder responsibilities and rights.

4 (1) An account holder shall not use funds held in a first-time home buyer
5 savings account to pay expenses of administering the account; however, service fees
6 may be deducted from the account by the financial institution in which the account
7 is held.

8 (2) An account holder may withdraw funds, in whole or in part, from a
9 first-time home buyer savings account and deposit the funds in a different first-time
10 home buyer savings account held by a different financial institution or the same
11 financial institution.

12 D. Financial institutions. (1) A financial institution shall not be required to
13 do any of the following concerning the establishment or maintenance of an account:

14 (a) Designate an account as a first-time home buyer savings account in the
15 financial institution's account contracts or systems or in any other way.

16 (b) Track the use of money withdrawn from a first-time home buyer savings
17 account.

18 (c) Report any information to the department or any other governmental
19 agency that is not otherwise required by state or federal law.

20 (2) A financial institution shall not be responsible or liable for determining
21 or ensuring that an account satisfies the requirements to be a first-time home buyer
22 savings account or that funds in a first-time home buyer savings account are used for
23 eligible costs. Additionally, a financial institution shall not be responsible or liable
24 for reporting or remitting taxes or penalties related to the use of a first-time home
25 buyer savings account.

26 §6365. Attestation of first time home buyer; title company and first-time buyer
27 responsibility; filing in mortgage records

28 The title company that completes the closing for the first-time home buyer
29 shall provide the buyer with the affidavit developed by the department as required

1 by R.S. 47:6363 and the first-time home buyer shall record, or cause to be recorded,
2 the executed affidavit in the mortgage records of the parish where the purchased
3 homestead is situated.

4 §6366. Penalty; false swearing; remittance of rebate

5 The submission of a certified copy of an affidavit to the department by a
6 person who does not meet the qualifications for a first-time home buyer rebate
7 pursuant to this Chapter shall be a false swearing pursuant to R.S. 14:125. In
8 addition to any other penalties allowed by law, any person who is found guilty of,
9 or pleads guilty or nolo contendere to a false swearing in the submission of certified
10 copy of an affidavit to the department to qualify for the rebate authorized pursuant
11 to the provisions of this Chapter shall be required to remit the amount of the rebate
12 received, plus judicial interest, to the department.

13 §6367. Termination of Louisiana First Time Home Buyer Rebate Program

14 The department shall not accept any applications for rebates nor shall the
15 department issue any rebate pursuant to this Chapter on or after March 1, 2022.

16 Section 2. This Act shall become effective on July 1, 2018; if vetoed by the governor
17 and subsequently approved by the legislature, this Act shall become effective on July 1,
18 2018, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 383 Original

2018 Regular Session

Davis

Abstract: Establishes a rebate for the eligible costs a first-time home buyer expends from a first-time home owner savings account for the purchase of a single-family residence.

Proposed law establishes a rebate beginning July 1, 2019, and ending July 1, 2022, for eligible costs a first-time home buyer expends from a first-time home owner savings account for the purchase of a single-family residence in this state. The amount of the rebate shall be equal to the amount of first-time home buyer savings account funds used to pay the eligible costs of a first-time home buyer not to exceed \$7,500.

Proposed law further provides that the total amount of rebates issued is capped at \$15 million per fiscal year; however, in any fiscal year in which the amount of rebates awarded is at least 90% of the current year annual cap, the annual cap for the next fiscal year shall be

increased by 10%. Proposed law requires the Dept. of Revenue (DOR) to approve rebates on a first-come, first-served basis until the maximum amount of rebates have been issued for a fiscal year.

Proposed law defines "eligible costs" as the down payment and allowable closing costs for the purchase of a single-family residence in La. by a first-time home buyer. Further defines a "first-time home buyer" as an individual who resides in La. who has never owned or purchased a single-family residence.

Proposed law requires DOR to pay rebates out of current income tax collections.

Proposed law requires DOR to develop an affidavit to be completed by the first-time home buyer at the time of closing. The affidavit shall include information such as the full legal name and last four digits of the social security number of the first-time home buyer, the address of the single-family residence purchased by the first-time home buyer, and a statement that the first-time home buyer has not previously purchased a single-family residence prior to the date of the purchase of the single-family residence that is the subject of the sale.

Proposed law requires an applicant to submit the following information when applying for the rebate:

- (1) Detailed information regarding the first-time home buyer savings account on a form designated by the department.
- (2) Any Form 1099 issued by the financial institution for the account.
- (3) A certified copy of the affidavit required by proposed law attesting that the first-time home buyer has not previously purchased a single-family residence.
- (4) A certified copy of the affidavit required by proposed law indicating that the first-time home buyer applied for a homestead exemption.
- (5) A copy of the first-time home buyer's homestead exemption or application for a homestead exemption for the single-family residence.

Proposed law prohibits a rebate from being issued until the application for homestead exemption has been approved and the first-time home buyer submits a copy of the homestead exemption receipt, registration, or other document issued by the assessor's office of the parish in which the single-family residence is situated evidencing approval of the homestead exemption.

Proposed law authorizes DOR to promulgate rules and regulations as are necessary to implement the provisions of proposed law.

Proposed law authorizes the establishment of first-time home buyer savings accounts with a financial institution to be used to pay or reimburse a first-time home buyer's eligible costs for the purchase of a single-family residence. Further provides for the types of funds that may be deposited into these savings accounts and for account holder responsibilities and rights.

Proposed law prohibits a person or entity involved in the purchase and sale of the single-family residence, including the seller, the title company, or, in the case of new construction, the developer or builder of the single-family residence, from contributing funds to a first-time home buyer savings account.

Proposed law provides that a financial institution shall not be responsible or liable for determining or ensuring that an account satisfies the requirements of a first-time home buyer savings account or that funds in the savings account are used for eligible costs.

Proposed law requires the title company that completes the closing for the first-time home buyer to provide the buyer with the affidavit developed by DOR as required by proposed law and the first-time home buyer shall record the executed affidavit in the mortgage records of the parish where the purchased homestead is situated.

Proposed law provides that the penalty for a first-time home buyer who submits a certified copy of an affidavit to DOR who does not meet the qualifications for a first-time home buyer rebate shall be a false swearing pursuant to present law and the party shall be required to remit the amount of the rebate received, plus judicial interest, back to DOR.

Proposed law prohibits DOR from accepting applications for rebates and from issuing rebates on or after March 1, 2022.

Effective July 1, 2018.

(Adds R.S. 47:6361 through 6367)