

Regular Session, 2009

SENATE BILL NO. 81

BY SENATOR MORRELL

TAX/INCOME/PERSONAL. Grants a refundable credit for 50 % of contributions made to an Emergency Evacuation Expense Savings Accounts for the benefit of certain individuals having a primary residence within a parish with a history of emergency evacuations, limited to \$250 per family member and \$5,000 per account. (gov sig)

1 AN ACT

2 To enact R.S. 47:297.13, relative to individual income tax; to grant a credit for contributions
3 made to certain savings accounts for the purpose of paying certain evacuation
4 expenses and for other permissible emergency expenditures; to provide for policies
5 and procedures for administering such account; to authorize rules and regulations;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:297.13 is hereby enacted to read as follows:

9 **§297.13. Tax credit; Emergency Evacuation Expense Savings Account**

10 **A.(1) There shall be allowed a limited, refundable tax credit for fifty**
11 **percent of the deposits made in a tax year by an account holder to an**
12 **Emergency Evacuation Expense Savings Account which the account holder has**
13 **established as provided for in this Section until the balance in the account is five**
14 **thousand dollars.**

15 **(2) Such an account may be established by an individual or an individual**
16 **and his spouse for himself, his spouse, and dependents if his primary residence**
17 **is located within a parish with a history of emergency evacuations, or may be**

1 established for the benefit of an eligible family member or members, and the
2 family member's or members' spouse and dependents, if the eligible family
3 member's primary residence is located within a parish with a history of
4 emergency evacuations.

5 (3) The credit for contributions to such an account shall not exceed two
6 hundred and fifty dollars per tax year, multiplied by the number of family
7 members residing in the primary residence of the account holder, or by the
8 number of family members residing in the primary residence of an eligible
9 family member; and further provided that when the funds in an account equal
10 five thousand dollars or more, no further credit shall be allowed for deposits to
11 such account.

12 B. For purposes of this Section, the following words and phrases shall
13 have the respective meanings ascribed to them in this Subsection:

14 (1)(a) "Account administrator" shall mean a state or national bank,
15 savings and loan association, credit union as those terms are defined in R.S. 6:2,
16 or a savings bank chartered pursuant to the Louisiana Savings Bank Act of
17 1990 (26 U.S.C.A. §21).

18 (b) Account administrator shall also mean a person or entity determined
19 by the secretary of the Department of Revenue to be qualified to be an
20 administrator of the accounts provided for in this Section.

21 (2) "Account holder" means an individual or an individual and his
22 spouse who have a primary residence located within a parish with a history of
23 emergency evacuations or who have eligible family members who have a
24 primary residence located within such a parish.

25 (3) "Eligible family member" means a family member with a primary
26 residence located within a parish with a history of emergency evacuations for
27 whose benefit an Emergency Evacuation Expense Savings Account is
28 established.

29 (4) "Emergency evacuation" means a voluntary or advisory evacuation

1 or a mandatory or forced evacuation as defined in R.S. 29:723(5)(a), (b), and (c)
2 recommended or ordered by an appropriate governmental authority because
3 of a threat of hurricane and/or flooding.

4 (5) "Emergency evacuation expenses" means any reasonable expense
5 paid for the family, animals, or property of an account holder by the account
6 holder, or for an eligible family member by such family member, which expense
7 is related to preparation for, travel and relocation because of, and return to
8 point of origin after, an emergency evacuation. Such expense shall be considered
9 an emergency evacuation expense if it occurs within a reasonable period before
10 an evacuation is advised or ordered.

11 (6) "Emergency Evacuation Expense Savings Account" means an
12 account established by an individual or individuals to pay for emergency
13 evacuation expenses of the account holder or eligible family members.

14 (7) "Family member" means any person in the following relationship to
15 an individual who establishes an Emergency Evacuation Expense Savings
16 Account, and the spouse and dependents of such person:

17 (a) A child or a descendant of such child.

18 (b) A brother, sister, stepbrother or stepsister.

19 (c) A father, mother or an ancestor of either.

20 (d) A stepfather or stepmother.

21 (e) A son or daughter of a brother or sister of an account holder.

22 (f) A brother or sister of an account holder.

23 (g) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-
24 in-law, or sister-in-law.

25 (8) "Has a primary residence" means having a residence in the state in
26 which an individual and his family resides for most of the tax year, and not a
27 residence used intermittently, or as a vacation home or camp.

28 (9) "Parish with a history of emergency evacuations" means a parish in
29 which all or part of the population of the parish has undergone an emergency

1 evacuation since January 1, 2005.

2 C.(1) In order to be eligible for the tax credit provided for in this Section,
3 the Emergency Evacuation Expense Savings Account contract shall limit access
4 to such account to an account administrator who shall administer such account
5 in accord with the provisions of this Section.

6 (2)(a) An account administrator shall use the funds held in an
7 Emergency Evacuation Expense Savings Account solely for the purpose of
8 investing such funds and for reimbursing the account holder or an eligible
9 family member for the payment of emergency evacuation expenses or for other
10 distributions from the fund as provided in Paragraph 3 of this Subsection.

11 (b) Any earnings on investment of the funds in an Emergency Evacuation
12 Expense Savings Account shall be deposited by the account administrator into
13 the account after the deduction of any charges by the account administrator for
14 management of the account. Such net earnings shall not be considered taxable
15 income of the account holder.

16 (3) Funds in the Emergency Evacuation Expense Savings Account may
17 be distributed by the account administrator solely as follows:

18 (a)(i) To reimburse the account holder or an eligible family member for
19 the payment of emergency evacuation expenses, according to documentation of
20 such emergency evacuation expenses paid by the account holder or the eligible
21 family member during a tax year.

22 (ii) Such reimbursement distributions shall not be considered taxable
23 income of the account holder or of the eligible family member.

24 (b)(i) To distribute to the account holder funds that have accumulated
25 in the account which are in excess of the limit provided for in Subsection A of
26 this Section to be used by him for any purpose.

27 (ii) The money distributed shall be considered to be taxable income of the
28 account holder.

29 (c)(i) To distribute all the funds in the account, fifty percent to the

1 account holder and fifty percent to the Department of Revenue when the
2 account holder or the eligible family member for whom an account was
3 established no longer has a primary residence in a parish with a history of
4 emergency evacuations.

5 (ii) The money distributed shall not be considered as taxable income of
6 the account holder.

7 (d)(i) To distribute all the funds in the account, fifty percent to the heirs
8 and assigns of the account holder and fifty percent to the Department of
9 Revenue when the account holder is deceased.

10 (ii) The money distributed shall not be considered as taxable income of
11 the heirs and assigns of the account holder.

12 D. Any excess of the credit allowed in a taxable period over the
13 individual income tax liability for that taxable period against which the credit
14 can be applied shall constitute an overpayment, as defined in R.S. 47:1621(A),
15 and the secretary shall make a refund of such overpayment from the current
16 collections of the taxes imposed by Chapter 1 of Subtitle II of this Title, as
17 amended. The right to a refund of any such overpayment shall not be subject
18 to the requirements of R.S. 47:1621(B).

19 E. The commissioner of insurance and the secretary of the Department
20 of Revenue shall issue joint rules for the purpose of implementing the provisions
21 of this Section in accordance with the Administrative Procedure Act.

22 Section 2. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Proposed law grants a limited, refundable individual income tax credit for 50% of the deposits made in a tax year by an "account holder" to an "Emergency Evacuation Expense Savings Account" until the balance in the account is \$5,000. An "account holder" is defined as an individual or an individual and his spouse who have a "primary residence" located within "a parish with a history of emergency evacuations" or who have "eligible family members" who have a "primary residence" located within such a parish.

"Has a primary residence" is defined as having a residence in the state in which an individual and his family resides for most of the tax year, and not a residence used intermittently, or as a vacation home or camp.

"Parish with a history of emergency evacuations" is defined as a parish in which all or part of the population of the parish has undergone an emergency evacuation since January 1, 2005. "Emergency evacuation" means a voluntary or advisory evacuation or a mandatory or forced evacuation as defined in R.S. 29:723(5)(a), (b), and (c) recommended or ordered by an appropriate governmental authority because of a threat of hurricane and/or flooding.

"Family member" is defined as people in the following relationship to an individual who establishes an account, and the spouse and dependents of such person:

- (1) A child or a descendant of such child.
- (2) A brother, sister, stepbrother or stepsister.
- (3) A father, mother or an ancestor of either.
- (4) A stepfather or stepmother.
- (5) A son or daughter of a brother or sister of an account holder.
- (6) A brother or sister of an account holder.
- (7) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

Proposed law allows the account holder to establish the account for himself, his spouse and dependents if their primary residence is located within a parish with a history of emergency evacuations, or for an eligible family member or members, and the family member's or members' spouse and dependents if their primary residence is located within "a parish with a history of emergency evacuations."

Proposed law limits the credit for contributions to \$250 per tax year, multiplied by the number of family members residing in the primary residence of the account holder or family members residing in the "primary residence" of an "eligible family member"; provided that when the funds in an account equal \$5,000 or more, no further credit can be allowed for deposits to an account.

Proposed law requires access to the Emergency Evacuation Expense Savings Account to be limited to an "account administrator"- defined as a state or national bank, savings and loan association, credit union as those terms are defined in R.S. 6:2, or a savings bank chartered pursuant to the Louisiana Savings Bank Act of 1990 (26 U.S.C.A. §21). Also defined as a person or entity determined by the secretary of the Department of Revenue to be qualified to be an administrator of such accounts.

Any earnings on investment of the funds in an account are required to be deposited into the account after the deduction of any charges by the account administrator for management of the account. The net earnings are not to be considered taxable income of the account holder. Funds in the account may be distributed by the account administrator solely as follows:

1. To reimburse the account holder or an eligible family member for the payment of "emergency evacuation expenses" - defined as any reasonable expense paid for the family, animals, or property of an account holder by the account holder, or for an eligible family member by such family member, which expense is related to preparation for, travel and relocation because of, and return to point of origin after, an emergency evacuation. An expense must be considered an emergency evacuation expense if it occurs within a reasonable period before an evacuation is advised or ordered.

The account administrator reimburses the account holder or an "eligible family member" for the "emergency evacuation expenses" paid by the account holder or an eligible family member during a tax year out of funds in the account according to documentation presented by them.

Such distributions are not considered taxable income of the account holder.

2. To distribute to the account holder funds that have accumulated in the account which are in excess of the \$5,000 limit to be used by him for any purpose. The money distributed is considered to be taxable income of the account holder.
3. To distribute all the funds in the account, 50% to the account holder and 50% to the Department of Revenue when the account holder or the eligible family member for whom an account was established no longer has a primary residence in a parish with a history of emergency evacuations. The money distributed is not considered as taxable income of the account holder.
4. To distribute all the funds in the account, 50% to the heirs and assigns of the account holder and 50% to the Department of Revenue when the account holder is deceased. The money distributed is not considered to be taxable income of the heirs and assigns of the account holder.

Proposed law requires the commissioner of insurance and the secretary of the DOR to issue joint rules for the purpose of implementing the provisions of the proposed law in accordance with the APA.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:297.13)