SLS 09RS-136 **ORIGINAL**

Regular Session, 2009

SENATE BILL NO. 88

BY SENATOR LONG

TAX/INCOME/PERSONAL. Provides for the creation of a tax deductible property and casualty savings account for property owners in Louisiana. (8/15/09)

AN ACT

To enact R.S. 47:297.13, relative to individual income tax; to grant a deduction for contributions made to certain property and casualty savings accounts for the purpose of paying expenses related to weather-related catastrophes; to provide for definitions; to provide with respect to contributions into and withdrawals from property and casualty savings accounts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

§297.13. Tax deduction; property and casualty savings accounts

A. There shall be allowed a deduction from tax table income for contributions to a property and casualty savings account as provided in this Section. Deductible contributions to such account shall not exceed the following amounts:

(1) On residential property owned by the taxpayer on which the taxpayer claims a homestead exemption or which is owned by the taxpayer for which the taxpayer pays ad valorem taxes, the amount of the deduction shall be ten thousand dollars, or the actual amount of the deductible limits as stated in the

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

policy, whichever is less.

(2) On commercial property owned by the taxpayer on which the taxpayer pays ad valorem taxes, the amount of the deduction shall be fifty thousand dollars, or the actual amount of the deductible as stated in the policy, whichever is less.

B. For purposes of this Section, the following terms shall have the respective meanings ascribed to them unless the context otherwise provides:

(1)(a) "Account administrator" shall mean a state or national bank, savings and loan association, credit union, or savings bank chartered pursuant to the Louisiana Savings Bank Act of 1990 (R.S. 6:1131, et al).

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

(2) "Qualified catastrophe expense" means expenses paid or incurred by reason of a major weather-related disaster including hurricanes, rising flood waters, or other catastrophic windstorm events.

(3) "Property and casualty savings account" means a regular savings account or money market account established by an insurance policyholder for residential and commercial property in the state of Louisiana used solely to cover qualified catastrophe expenses. The account shall be labeled as a property and casualty savings account for the benefit of the taxpayer in order to qualify for the tax deduction as provided in this Section. A taxpayer shall establish only one account of this type per residential or commercial insurance policy upon which premiums are paid. The property and casualty savings account is not subject to attachment, levy, garnishment or legal process in the state of Louisiana.

C. In order to withdraw funds from a property and casualty savings account, the account holder shall submit to the account administrator written documentation of a qualified catastrophe expense. Upon verification by the

account administrator of the qualified catastrophe expense, the account administrator shall reimburse the account holder for the eligible expense out of the property and casualty savings account.

D. Distributions from the property and casualty savings account shall be treated as income unless the funds are withdrawn to cover qualified catastrophe expenses. If expenses do not qualify as a qualified catastrophe expense, the sum will be treated as income and subject to a two and one-half percent tax penalty. The penalty will not apply if the taxpayer no longer owns the property, or the distribution is from a qualified account and the distribution is made on or after the taxpayer reaches age seventy. If the account holder dies, the distributions to heirs or devisees will be considered as income to the person who inherits the account unless the distribution is to the surviving spouse. Upon the death of the surviving spouse, any distribution or withdrawal will be considered income to the person who inherits the account.

E. The commissioner of insurance and the secretary of the Department of Revenue shall promulgate rules and regulations to implement the provisions of this Section.

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

DIGEST

Proposed law permits the creation of a property and casualty savings account to be used for qualified expenses associated with a major weather-related disaster including hurricane, rising flood waters or other catastrophic windstorm event.

Proposed law provides for a state income tax deduction for contributions to the savings account. Limits contributions to the savings account to $10,000 on any residential property policy or the actual amount of the deductible limits as stated in the policy, whichever is less. Contributions cannot exceed $50,000 on any commercial property policy or the actual deductible as stated in the policy, whichever is less.

Proposed law defines a property and casualty savings account as a regular savings account or money market account in a state or national bank, savings and loan association, credit union, or savings bank. A taxpayer is only allowed one such savings account per insurance policy. The savings account is not subject to attachment, levy, garnishment or legal process.

Proposed law provides that distributions from the property and casualty savings account shall be treated as income unless the funds are withdrawn to cover qualified catastrophe expenses; otherwise, distributions are treated as income and subject to a 2 ½% tax penalty.

The tax penalty will not apply if the taxpayer no longer owns the property or if the distribution is made by a taxpayer who reaches age 70.

Proposed law provides that if the account holder dies, the distribution to heirs or devisees will be considered income unless the distribution is to the surviving spouse.

Proposed law requires the commissioner of insurance and the secretary of the Department of Revenue to promulgate rules to implement the provisions of proposed law.

Effective August 15, 2009.

(Adds R.S. 47:297.13)