

Regular Session, 2009

SENATE BILL NO. 88

BY SENATORS LONG, NEVERS AND THOMPSON

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

1 AN ACT

2 To enact R.S. 47:297.13, relative to individual income tax; to grant a deduction for
3 contributions made to certain property and casualty deposit accounts for the purpose
4 of paying expenses related to weather-related events; to provide for definitions; to
5 provide with respect to contributions into and withdrawals from property and
6 casualty deposit accounts; 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 deduction; property and casualty deposit accounts**

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

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

1 policy, whichever is less.

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

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

8 (1)(a) "Account custodian" shall mean any federally insured depository
9 institution operating in Louisiana, with at least one office branch physically
10 located in the state, which establishes deposit accounts pursuant to this Section.

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

14 (2) "Qualified expense" means expenses paid or incurred by reason of
15 a weather-related event whereby damages are caused by a hurricane, rising
16 flood waters, wind, hail, or a freeze.

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

26 C. An account holder may withdraw funds from a property and casualty
27 deposit account for any qualified catastrophe expense.

28 D. Distributions from the property and casualty deposit account shall
29 be treated as income unless the funds are withdrawn to cover qualified

1 expenses. If expenses do not qualify as a qualified expense, the sum will be
 2 treated as income and subject to a two and one-half percent tax penalty. The
 3 penalty will not apply if the taxpayer no longer owns the property, or the
 4 distribution is from a qualified account and the distribution is made on or after
 5 the taxpayer reaches age seventy. If the account holder dies, the distributions
 6 to heirs or devisees will be considered as income to the person who inherits the
 7 account unless the distribution is to the surviving spouse. Upon the death of the
 8 surviving spouse, any distribution or withdrawal will be considered income to
 9 the person who inherits the account.

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

The original instrument was prepared by Cheryl Horne. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

DIGEST

Long (SB 88)

Proposed law permits the creation of a property and casualty deposit account to be used for qualified expenses associated with a weather-related event whereby damages are caused by a hurricane, rising flood waters, wind, hail, or a freeze.

Proposed law provides for a state income tax deduction for contributions to the deposit account. Limits contributions to the deposit 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 deposit account as a deposit account in a any federally insured depository institution operating in Louisiana with at least one office branch physically located in the state. Provides that an account holder may withdraw funds from a deposit account for any qualified catastrophic expense. 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 deposit account shall be treated as income unless the funds are withdrawn to cover qualified 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)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill.

1. Changes the types of expenses which qualify for tax-free distribution from the accounts provided for in the bill from "catastrophe expenses" incurred from a "major weather-related disaster" including hurricanes, rising flood waters, or other "catastrophic" windstorm events to expenses incurred from "a weather-related event" whereby damages are caused by a hurricane, rising flood waters and also wind, hail, or a freeze.

Senate Floor Amendments to engrossed bill.

1. Renames "savings account" as "deposit account."
2. Changes "account administrator" to "account custodian" and changes the meaning from a state or national bank, savings and loan association, credit union, or savings bank to any federally insured depository institution operating in Louisiana, with at least one office branch physically located in the state.
3. Provides that an account holder may withdraw funds from a deposit account for any qualified catastrophe expense.