

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 buyer 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 CHAPTER 5. LOUISIANA FIRST-TIME HOME BUYER REBATE PROGRAM

17 §6361. short title

18 This Chapter shall be known and may be cited as the "Louisiana First-Time

19 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 have
17 resided in Louisiana and have filed a Louisiana tax return for no less than four
18 calendar years and who have never owned or purchased, either individually or
19 jointly, a single-family residence in this state.

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

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

27 (9) "Single family residence" means a residence to be owned and occupied
28 by a first-time home buyer as the first-time home buyer's principal residence, which

1 may include a manufactured home, trailer, mobile home, condominium unit, or
2 cooperative.

3 §6363. Rebate; amount of the rebate; administration of the rebate; affidavit; duties
4 of the department

5 A.(1) Beginning July 1, 2019, and ending June 30, 2022, there shall be a
6 rebate for eligible costs a first-time home buyer expends from a first-time home
7 owner savings account for the purchase of a single-family residence in Louisiana. A
8 first-time home buyer shall apply for the rebate authorized pursuant to the provisions
9 of this Section within thirty days from the date the single-family residence is
10 purchased. All applications for the rebate authorized by this Chapter and all
11 supporting documentation for the rebate shall be electronically submitted to the
12 Department of Revenue. The amount of the rebate shall be equal to the amount of
13 first-time home buyer savings account funds used to pay the eligible costs of a
14 first-time home buyer, but shall not exceed seven thousand five hundred dollars for
15 the purchase of a single-family residence, regardless of whether the single-family
16 residence is purchased by the first-time home buyer individually or jointly.

17 (2) The total amount of rebates issued pursuant to the provisions of this
18 Chapter shall not exceed fifteen million dollars per fiscal year; however, in any fiscal
19 year in which the amount of rebates awarded is at least ninety percent of the current
20 year annual cap, the annual cap for the next fiscal year shall be increased by ten
21 percent. For purposes of administering the per fiscal year cap, rebates issued
22 pursuant to the provisions of this Chapter shall be accounted for and shall relate to
23 the fiscal year in which the Act of Sale on the single-family residence is executed.
24 The department shall approve rebates on a first-come, first-served basis until the
25 maximum amount of rebates have been issued for a fiscal year; however, all rebate
26 requests received on the same business day shall be treated as received at the same
27 time. If the aggregate amount of rebate requests received on a single business day
28 exceeds the total amount of available rebates, rebates shall be approved on a pro rata
29 basis.

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

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

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

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

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

12 (4) A statement by the first-time home buyer attesting that the first-time
13 home buyer has not previously purchased a single-family residence in this state,
14 either individually or jointly, prior to the date of the purchase of the single-family
15 residence that is the subject of the sale.

16 (5) A statement by the first-time home buyer attesting that the first-time
17 home buyer has lived in this state and has filed a state income tax return for no less
18 than four calendar years prior to the date of purchase of the single-family residence
19 in this state for which the first-time home buyer is seeking the rebate for eligible
20 costs.

21 D.(1) The department shall require a rebate applicant to electronically submit
22 the following information when applying for the rebate authorized pursuant to the
23 provisions of this Chapter in order for the rebate claim to be complete:

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

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

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

4 (d) A copy of the statement by the first-time home buyer attesting that the
5 first-time home buyer has lived in this state and has filed a state income tax return
6 for no less than four calendar years prior to the date of purchase of the single-family
7 residence in this state and supporting documentation providing evidence of this
8 claim.

9 (e)(i) A copy of the first-time home buyer's homestead exemption or
10 application for a homestead exemption for the single-family residence purchased.
11 No rebate shall be issued until the application for homestead exemption has been
12 approved and the first-time home buyer submits a copy of the homestead exemption
13 receipt, registration, or other document issued by the assessor's office of the parish
14 in which the single-family residence is situated evidencing approval of the
15 homestead exemption.

16 (ii) If the homestead exemption is granted in the fiscal year after the fiscal
17 year in which the single-family residence is purchased, the rebate application shall
18 only be approved by the department if the first-time home buyer applied for the
19 rebate and submitted a copy of the homestead exemption application to the
20 department within thirty days of the purchase of the single-family residence.

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

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

25 §6364. First-Time Home Buyer Savings Accounts; account holder responsibilities
26 and rights; financial institution responsibilities

27 A. Establishment of First Time Home Buyer Savings Accounts. Beginning
28 July 1, 2018, until March 1, 2022, an individual may open an account with a
29 financial institution and designate the account, in its entirety, as a first-time home

1 buyer savings account to be used to pay or reimburse a first-time home buyer's
2 eligible costs for the purchase of a single-family residence in Louisiana.

3 B. Contributions to Account.

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

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

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

11 (4) With the exception of the account holder, no person or entity involved
12 in the purchase and sale of the single-family residence that is the subject of the rebate
13 applied for pursuant to this Chapter, including but not limited to the seller, the title
14 company, or, in the case of new construction, the developer or builder of the
15 single-family residence, shall contribute funds to a first-time home buyer savings
16 account.

17 C. Account holder responsibilities and rights.

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

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

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

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

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

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

5 (2) A financial institution shall not be responsible or liable for determining
6 or ensuring that an account satisfies the requirements to be a first-time home buyer
7 savings account or that funds in a first-time home buyer savings account are used for
8 eligible costs. Additionally, a financial institution shall not be responsible or liable
9 for reporting or remitting taxes or penalties related to the use of a first-time home
10 buyer savings account.

11 §6365. Attestation of first time home buyer; title company and first-time buyer
12 responsibility; filing in mortgage records

13 The title company that completes the closing for the first-time home buyer
14 shall provide the buyer with the affidavit developed by the department as required
15 by R.S. 47:6363 and the first-time home buyer shall record, or cause to be recorded,
16 the executed affidavit in the mortgage records of the parish where the purchased
17 homestead is situated.

18 §6366. Penalty; false swearing; remittance of rebate; recovery and recapture of
19 rebate

20 A. The submission of a certified copy of an affidavit or the submission of a
21 statement regarding residency and the filing of tax returns to the department by a
22 person who does not meet the qualifications for a first-time home buyer rebate
23 pursuant to this Chapter shall be a false swearing pursuant to R.S. 14:125. In
24 addition to any other penalties allowed by law, any person who is found guilty of,
25 or pleads guilty or nolo contendere to a false swearing in the submission of a
26 certified copy of an affidavit or the submission of a statement regarding residency
27 and the filing of tax returns to the department to qualify for the rebate authorized
28 pursuant to the provisions of this Chapter shall be required to remit the amount of the
29 rebate received, plus judicial interest, to the department.

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. Further requires rebates to be accounted for and to relate to the fiscal year in which the Act of Sale on the single-family residence is executed.

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 has resided in La. and has filed a state tax return for no less than four calendar years and 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, 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, and a statement attesting that the first-time home buyer has lived in this state and has filed a state income tax return for no less than four calendar years prior to the date of purchase of the single-family residence.

Proposed law requires an applicant to electronically 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 copy of the statement attesting that the first-time home buyer has lived in this state and has filed a state income tax return for no less than four calendar years prior to the date of purchase of the single-family residence and supporting documentation providing evidence of this claim.
- (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 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 in a form 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 or a statement regarding residency and the filing of tax returns 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 authorizes DOR to recover and recapture a rebate issued to a first-time home buyer who sells, leases, or otherwise relinquishes ownership of the single-family residence within four calendar years from the date of execution of the Act of Sale on the residence. Further authorizes DOR to use any collection remedy authorized in present law to recover and recapture the rebate; however, the proceeding to recover and recapture the rebate shall be initiated within three years from Dec. 31st of the year in which ownership of the single-family residence was relinquished by the first-time home buyer.

Proposed law prohibits DOR from issuing a rebate for any single-family residence purchased that has an Act of Sale executed after June 30, 2022.

Effective July 1, 2018.

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

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Modify the definition of "first-time home buyer" to require that the individual reside in La. and file a state tax return for no less than four calendar years.
2. Change the ending date of the rebate program from July 1, 2022, to June 30, 2022.
3. Change the date in which the rebate shall be applied for from the fiscal year in which the single-family residence is purchased to within 30 days from the date the single-family residence is purchased.
4. Require all rebate applications and supporting documentation to be electronically submitted to DOR.
5. Require rebates to be accounted for and to relate to the fiscal year in which the Act of Sale on the single-family residence is executed.
6. Require the affidavit developed by DOR to include a statement by the first-time home buyer attesting that he has lived in this state and has filed a state income tax return for no less than four calendar years prior to the date of purchase of the single-family residence.

7. Require submission of the homestead exemption application to DOR within 30 days of the purchase of the single-family residence.
8. Add authorization for the remittance of a rebate to DOR if a statement regarding residency and the filing of tax returns is submitted by a first-time home buyer who is not eligible for the rebate.
9. Add authorization for the recovery and recapture of rebates if the first-time home buyer sells or relinquishes ownership of the single-family residence within four calendar years from the date of execution of the Act of Sale on the single-family residence.
10. Clarify that DOR is prohibited from issuing rebates for any single-family residence purchased that has an Act of Sale executed after June 30, 2022.