
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 refundable individual income tax credit for up to \$600 of deposits made in a tax year by an account holder to a Wind and Hail Deductible Savings Account until the balance in the account, including any earnings on the account deposited to the credit of the account, reaches an amount equal to the "Wind and Hail Deductible" in the insurance policy covering the "qualified residence" for which the account is opened. The money in the account is to be used for reimbursing the account holder for the payment of "eligible unreimbursed damages" to a "qualified residence".

"Eligible unreimbursed damages" is defined as documented, unreimbursed expenses paid to repair damages or losses to a "qualified residence" for which a Wind and Hail Deductible Savings Account has been created which are incurred as a result of a hurricane, a named storm, or otherwise by wind and hail, which damages or losses are not covered because of a "Wind and Hail Deductible".

"Qualified residence" is defined as a residence or dwelling in the state which is covered by an insurance policy which covers the residence or dwelling from damages and loss up to a wind and hail deductible amount or a policy specifically designed to cover the residence or dwelling from damages and loss from a hurricane, named storm, or from wind and hail up to a wind and hail deductible amount.

"Wind and Hail Deductible" is defined as a separate hurricane, named storm, or wind and hail deductible in an insurance policy insuring a qualified residence expressed as a percentage of the insured value of the property or as a specific dollar amount.

An account may be established by any taxpayer for his qualified residence or the qualified residence of an "eligible family member". However, only one Wind and Hail Deductible Savings Account may be created for any qualified residence.

"Eligible family member" means any person in the following relationship to an account holder:

- (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 provides that, in order to be eligible for the tax credit, a Wind and Hail Deductible Savings Account must be established by an "account administrator" who must be approved by the Department of Revenue [DOR].

"Account administrator" is 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), which are approved by the DOR for the purposes of establishing and maintaining Wind and Hail Deductible Savings Accounts. "Account administrator" also means a person or entity determined by the secretary of DOR to be qualified to be an administrator of such accounts.

The contract for the account must limit access to the account to the account administrator who must administer it in accord with the proposed law and any rules and regulations promulgated pursuant to it. The account administrator must obtain such information from the account holder as is reasonably required by rules and regulations of the department to determine that the residence covered by the account is and remains a qualified residence for the tax year and that the balance in the account does not exceed the limit. An account administrator must use the funds held in an account solely for the purpose of investing such funds and for reimbursing the account holder for the payment of eligible unreimbursed damages or for other distributions from the account set out below.

Proposed law provides that, after the deduction of reasonable charges by the account administrator for management of the account, net earnings on investment of the funds in an Wind and Hail Deductible Savings Account are to be distributed by the account administrator as follows:

- (1) They must be deposited into the account until the balance in the account reaches the limit.
- (2) After the account reaches the limit, the net earnings are distributed to another account established by the account holder. The deposit is not considered taxable income of the account holder and is not eligible for the credit.
- (3) If there is no other such account, the net earnings must be distributed to the DOR in an amount which equals the proportion of money in the account consisting of deposits for which a credit was claimed bears to the total. The remainder of the net earnings, if any, must be distributed to the account holder and is considered taxable income of the account holder.

Proposed law funds deposited in the Wind and Hail Deductible Savings Account are authorized to be distributed by the account administrator solely as follows:

- (1) To reimburse the account holder for the payment of "eligible unreimbursed damages", according to documentation of such eligible unreimbursed damages paid by the account holder during a tax year. Such reimbursement distributions are not considered taxable income of the account holder.
- (2) To distribute to the DOR the amount of funds in the account which are derived from deposits for which a tax credit was claimed, and the remainder of such funds, if any, to the account holder, or to the heirs and assigns of the account holder, when the account holder is deceased or when the account is terminated. The account may be terminated by the account holder or the account administrator, and must be terminated upon the loss of qualification for the credit of the residence or dwelling for which the account was established. The money distributed is not considered to be taxable income of the account holder or the heirs and assigns of the account holder.

Proposed law provides that any excess of the credit over tax liability constitutes an overpayment and the secretary of DOR must make a refund of the overpayment from the current collections of the income taxes.

Proposed law requires the commissioner of insurance and the secretary of DOR to issue joint rules in accordance with the APA, but oversight of such rules is with the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

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

(Adds R.S. 47:297.13)