

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 16-0265.04 Ed DeCecco x4216

HOUSE BILL 16-1467

HOUSE SPONSORSHIP

Duran and Salazar,

SENATE SPONSORSHIP

Scheffel and Martinez Humenik,

House Committees

Transportation & Energy
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A STATE INCOME TAX DEDUCTION FOR AMOUNTS EARNED**
102 **ON THE INVESTMENT OF MONEY IN A FIRST-TIME HOME BUYER**
103 **SAVINGS ACCOUNT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

The starting point for determining state income tax liability is federal taxable income. This number is adjusted for additions and subtractions (deductions) that are used to determine Colorado taxable income, which amount is multiplied by the state's 4.63% income tax rate.

The bill allows an individual taxpayer to claim a deduction for the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
May 5, 2016

interest and other income earned on contributions made to a first-time home buyer savings account (account). Beginning January 1, 2017, any individual may create a first-time home buyer savings account with a financial institution to be used to pay or reimburse a qualified beneficiary's eligible expenses for the purchase of a primary residence in Colorado. To qualify as a beneficiary, a person must never have owned a single-family, owner-occupied primary residence or, as a result of the individual's dissolution of marriage, must have been off title for at least 3 years. There are annual and total limits on the contributions to an account and on the interest and other income earned in the account that is deductible.

An individual may be the account holder of multiple accounts and may jointly own the account with another individual, if they file a joint income tax return. An account holder must designate a qualified beneficiary by April 15 of the following year and may designate himself or herself as the qualified beneficiary. An account holder may change the designated qualified beneficiary at any time, but there may not be more than one qualified beneficiary at any time. An account holder cannot have multiple accounts with the same beneficiary, but an individual may be designated as the qualified beneficiary of multiple accounts.

Money must stay in the account for at least one year before it is used. After that time, the money in the account that is used for a down payment and closing costs related to a qualified beneficiary's purchase of his or her primary residence in the state is exempt from the state income tax, as are several other uses. If the money in the account is used for any other purpose, then a pro rata share is subject to recapture in the taxable year in which it is used. In addition, the account holder is liable for a penalty that is a percentage of the amount recaptured, unless a qualified beneficiary purchases a home outside of the state or the qualified beneficiary dies and is not replaced.

The department of revenue is required to establish a form that an account holder must complete and file with his or her state income tax return.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **add** (3)
3 (k) and (4) (v) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**
5 **trusts - single rate - definitions - repeal.** (3) There shall be added to the
6 federal taxable income:

1 (k) THE AMOUNT RECAPTURED IN ACCORDANCE WITH SECTION
2 39-22-4705 (2).

3 (4) There shall be subtracted from federal taxable income:

4 (v) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
5 JANUARY 1, 2017, TO THE EXTENT INCLUDED IN FEDERAL TAXABLE
6 INCOME AND AS PERMITTED UNDER PART 47 OF THIS ARTICLE, AN AMOUNT
7 EQUAL TO ANY INTEREST AND OTHER INCOME EARNED ON THE
8 INVESTMENT OF THE MONEY IN A FIRST-TIME HOME BUYER SAVINGS
9 ACCOUNT DURING THE TAXABLE YEAR.

10 (II) ANY EXCLUSION TAKEN UNDER SUBPARAGRAPH (I) OF THIS
11 PARAGRAPH (v) IS SUBJECT TO RECAPTURE UNDER PARAGRAPH (k) OF
12 SUBSECTION (3) OF THIS SECTION AS SPECIFIED IN SECTION 39-22-4705.

13 **SECTION 2.** In Colorado Revised Statutes, **add** part 47 to article
14 22 of title 39 as follows:

15 PART 47

16 FIRST-TIME HOME BUYER

17 SAVINGS ACCOUNT

18 **39-22-4701. Short title.** THE SHORT TITLE OF THIS PART 47 IS THE
19 "FIRST-TIME HOME BUYER SAVINGS ACCOUNT ACT".

20 **39-22-4702. Legislative declaration.** THE GENERAL ASSEMBLY
21 DECLARES THAT THE PURPOSE FOR ALLOWING TAXABLE INCOME TO BE
22 REDUCED BY EARNINGS FROM A FIRST-TIME HOME BUYER SAVINGS
23 ACCOUNT IS TO ENCOURAGE FIRST-TIME HOME OWNERSHIP THROUGH
24 INCENTIVIZING SAVING FOR A DOWN PAYMENT AND CLOSING COSTS
25 BECAUSE OF THE SIGNIFICANT FINANCIAL AND CIVIC BENEFITS HOME
26 OWNERSHIP PROVIDES FOR OUR STATE.

27 **39-22-4703. Definitions.** AS USED IN THIS PART 47, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

2 (1) "ACCOUNT HOLDER" MEANS AN INDIVIDUAL WHO ESTABLISHES
3 AN ACCOUNT WITH A FINANCIAL INSTITUTION THAT IS DESIGNATED AS A
4 FIRST-TIME HOME BUYER SAVINGS ACCOUNT IN ACCORDANCE WITH
5 SECTION 39-22-4704.

6 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

7 (3) "ELIGIBLE EXPENSES" MEANS A DOWN PAYMENT AND ANY
8 CLOSING COSTS INCLUDED ON A REAL ESTATE SETTLEMENT STATEMENT,
9 INCLUDING, BUT NOT LIMITED TO, APPRAISAL FEES, MORTGAGE
10 ORIGINATION FEES, AND INSPECTION FEES.

11 (4) "FINANCIAL INSTITUTION" MEANS ANY STATE BANK, STATE
12 TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, FEDERALLY
13 CHARTERED CREDIT UNION DOING BUSINESS IN COLORADO, CREDIT UNION
14 CHARTERED BY THE STATE OF COLORADO, NATIONAL BANK,
15 BROKER-DEALER, MUTUAL FUND, INSURANCE COMPANY, OR OTHER
16 SIMILAR FINANCIAL ENTITY QUALIFIED TO DO BUSINESS IN THE STATE OF
17 COLORADO.

18 (5) "FIRST-TIME HOME BUYER" MEANS AN INDIVIDUAL WHO:

19 (a) HAS NEVER OWNED OR PURCHASED UNDER CONTRACT FOR
20 DEED, EITHER INDIVIDUALLY OR JOINTLY, A SINGLE-FAMILY,
21 OWNER-OCCUPIED PRIMARY RESIDENCE, INCLUDING, BUT NOT LIMITED TO,
22 A CONDOMINIUM UNIT OR A MANUFACTURED OR MOBILE HOME THAT IS
23 ASSESSED AND TAXED AS REAL PROPERTY; OR

24 (b) AS A RESULT OF THE INDIVIDUAL'S DISSOLUTION OF MARRIAGE,
25 HAS NOT BEEN LISTED ON A PROPERTY TITLE FOR AT LEAST THREE
26 CONSECUTIVE YEARS OR MORE.

27 (6) "FIRST-TIME HOME BUYER SAVINGS ACCOUNT" OR "ACCOUNT"

1 MEANS AN ACCOUNT WITH A FINANCIAL INSTITUTION DESIGNATED AS SUCH
2 IN ACCORDANCE WITH SECTION 39-22-4704 (1).

3 (7) "QUALIFIED BENEFICIARY" MEANS A FIRST-TIME HOME BUYER
4 DESIGNATED BY AN ACCOUNT HOLDER FOR WHOM THE MONEY IN A
5 FIRST-TIME HOME BUYER SAVINGS ACCOUNT IS OR WILL BE USED FOR
6 ELIGIBLE EXPENSES FOR THE PURCHASE OF HIS OR HER PRIMARY
7 RESIDENCE IN THE STATE.

8 **39-22-4704. First-time home buyer savings account.**

9 (1) BEGINNING JANUARY 1, 2017, ANY INDIVIDUAL MAY OPEN AN
10 ACCOUNT WITH A FINANCIAL INSTITUTION AND DESIGNATE THE ACCOUNT,
11 IN ITS ENTIRETY, AS A FIRST-TIME HOME BUYER SAVINGS ACCOUNT TO BE
12 USED TO PAY OR REIMBURSE A QUALIFIED BENEFICIARY'S ELIGIBLE
13 EXPENSES FOR THE PURCHASE OF A PRIMARY RESIDENCE IN COLORADO.
14 AN INDIVIDUAL MAY BE THE ACCOUNT HOLDER OF MULTIPLE ACCOUNTS,
15 AND AN INDIVIDUAL MAY JOINTLY OWN THE ACCOUNT WITH ANOTHER
16 PERSON IF THEY FILE A JOINT INCOME TAX RETURN. TO BE ELIGIBLE FOR
17 THE SUBTRACTION UNDER SECTION 39-22-104 (4) (v) (I), AN ACCOUNT
18 HOLDER MUST COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

19 (2) AN ACCOUNT HOLDER MUST DESIGNATE, NO LATER THAN APRIL
20 15 OF THE YEAR FOLLOWING THE TAXABLE YEAR DURING WHICH THE
21 ACCOUNT IS ESTABLISHED, A FIRST-TIME HOME BUYER AS THE QUALIFIED
22 BENEFICIARY OF THE FIRST-TIME HOME BUYER SAVINGS ACCOUNT. THE
23 ACCOUNT HOLDER MAY DESIGNATE HIMSELF OR HERSELF AS THE
24 QUALIFIED BENEFICIARY. THE ACCOUNT HOLDER MAY CHANGE THE
25 DESIGNATED QUALIFIED BENEFICIARY AT ANY TIME, BUT THERE MAY NOT
26 BE MORE THAN ONE QUALIFIED BENEFICIARY AT ANY TIME. AN ACCOUNT
27 HOLDER CANNOT HAVE MULTIPLE ACCOUNTS WITH THE SAME QUALIFIED

1 BENEFICIARY, BUT AN INDIVIDUAL MAY BE DESIGNATED AS THE QUALIFIED
2 BENEFICIARY OF MULTIPLE ACCOUNTS.

3 (3) (a) THE FOLLOWING LIMITS APPLY TO A FIRST-TIME HOME
4 BUYER SAVINGS ACCOUNT:

5 (I) THE MAXIMUM CONTRIBUTION TO A FIRST-TIME HOME BUYER
6 SAVINGS ACCOUNT FOR A TAXABLE YEAR IS FOURTEEN THOUSAND
7 DOLLARS FOR AN INDIVIDUAL AND TWENTY-EIGHT THOUSAND DOLLARS
8 FOR ACCOUNT HOLDERS WHO FILE A JOINT RETURN;

9 (II) THE MAXIMUM AMOUNT OF ALL CONTRIBUTIONS FOR ALL
10 TAXABLE YEARS TO A FIRST-TIME HOME BUYER SAVINGS ACCOUNT IS FIFTY
11 THOUSAND DOLLARS; AND

12 (III) THE MAXIMUM TOTAL AMOUNT IN AN ACCOUNT IS ONE
13 HUNDRED FIFTY THOUSAND DOLLARS.

14 (b) IF A LIMIT IN PARAGRAPH (a) OF THIS SUBSECTION (3) IS
15 EXCEEDED, THEN THEREAFTER NO INTEREST OR OTHER INCOME EARNED ON
16 THE INVESTMENT OF MONEY IN A FIRST-TIME HOME BUYER SAVINGS
17 ACCOUNT MAY BE SUBTRACTED FROM TAXABLE INCOME UNDER SECTION
18 39-22-104 (4) (v) (I).

19 (c) MONEY MAY REMAIN IN A FIRST-TIME HOME BUYER SAVINGS
20 ACCOUNT FOR UNLIMITED DURATION WITHOUT THE INTEREST OR INCOME
21 BEING SUBJECT TO RECAPTURE OR PENALTY.

22 (4) THE ACCOUNT HOLDER SHALL NOT USE MONEY IN AN ACCOUNT
23 TO PAY EXPENSES OF ADMINISTERING THE ACCOUNT; EXCEPT THAT A
24 SERVICE FEE MAY BE DEDUCTED FROM THE ACCOUNT BY A FINANCIAL
25 INSTITUTION. THE ACCOUNT HOLDER IS RESPONSIBLE FOR MAINTAINING
26 DOCUMENTATION FOR THE FIRST-TIME HOME BUYER SAVINGS ACCOUNT
27 AND FOR ELIGIBLE EXPENSES RELATED TO THE QUALIFIED BENEFICIARY'S

1 PURCHASE OF HIS OR HER PRIMARY RESIDENCE.

2 **39-22-4705. Eligible expenses - penalties for other uses.**

3 (1) (a) FOR PURPOSES OF THE INCOME TAX BENEFIT CONFERRED UNDER
4 THIS PART 47, THE MONEY IN A FIRST-TIME HOME BUYER SAVINGS
5 ACCOUNT MAY BE:

6 (I) USED FOR ELIGIBLE EXPENSES RELATED TO A QUALIFIED
7 BENEFICIARY'S PURCHASE OF HIS OR HER PRIMARY RESIDENCE IN THE
8 STATE;

9 (II) USED FOR ELIGIBLE EXPENSES RELATED TO A QUALIFIED
10 BENEFICIARY'S PURCHASE OF HIS OR HER PRIMARY RESIDENCE IN OR
11 OUTSIDE THE STATE, IF THE QUALIFIED BENEFICIARY IS ACTIVE-DUTY
12 MILITARY AND WAS STATIONED IN COLORADO FOR ANY TIME AFTER THE
13 CREATION OF THE ACCOUNT;

14 (III) USED FOR EXPENSES THAT WOULD HAVE QUALIFIED UNDER
15 SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (a), BUT THE CONTRACT
16 FOR PURCHASE DID NOT CLOSE;

17 (IV) TRANSFERRED TO ANOTHER NEWLY CREATED FIRST-TIME
18 HOME BUYER SAVINGS ACCOUNT; OR

19 (V) USED TO PAY A SERVICE FEE THAT IS DEDUCTED BY THE
20 FINANCIAL INSTITUTION.

21 (b) PARAGRAPH (a) OF THIS SUBSECTION (1) APPLIES REGARDLESS
22 OF WHETHER THE QUALIFIED BENEFICIARY IS THE SOLE OWNER OF THE
23 PRIMARY RESIDENCE OR JOINT OWNER WITH ANOTHER PERSON WHO DOES
24 NOT QUALIFY AS QUALIFIED BENEFICIARY. THE MONEY IN A FIRST-TIME
25 HOME BUYER ACCOUNT MAY NOT BE USED FOR THE PURPOSES IN
26 SUBPARAGRAPHS (I), (II), AND (III) OF PARAGRAPH (a) OF THIS
27 SUBSECTION (1) RELATED TO THE PURCHASE OF A MANUFACTURED OR

1 MOBILE HOME THAT IS NOT TAXED AS REAL PROPERTY.

2 (2) MONEY WITHDRAWN FROM A FIRST-TIME HOME BUYER
3 SAVINGS ACCOUNT IS SUBJECT TO RECAPTURE IN THE TAXABLE YEAR IN
4 WHICH IT IS WITHDRAWN BASED ON A PROPORTION FROM THE ACCOUNT
5 SUBTRACTED UNDER 39-22-104 (4) (v) (I) TO THE TOTAL AMOUNT IN THE
6 ACCOUNT, IF:

7 (a) AT THE TIME OF THE WITHDRAWAL, IT HAS BEEN LESS THAN A
8 YEAR SINCE THE FIRST DEPOSIT IN THE FIRST-TIME HOME BUYER SAVINGS
9 ACCOUNT; OR

10 (b) THE MONEY IS USED FOR ANY PURPOSE OTHER THAN THOSE
11 SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

12 (3) IF ANY MONEY IS SUBJECT TO RECAPTURE UNDER PARAGRAPH
13 (b) OF SUBSECTION (2) OF THIS SECTION, THE ACCOUNT HOLDER SHALL PAY
14 TO THE DEPARTMENT A PENALTY IN THE SAME TAXABLE YEAR AS THE
15 RECAPTURE. IF THE WITHDRAWAL WAS MADE TEN OR FEWER YEARS AFTER
16 THE FIRST DEPOSIT IN THE FIRST-TIME HOME BUYER SAVINGS ACCOUNT,
17 THEN THE PENALTY IS EQUAL TO FIVE PERCENT OF THE AMOUNT SUBJECT
18 TO RECAPTURE, AND IF THE WITHDRAWAL WAS MADE MORE THAN TEN
19 YEARS AFTER THE FIRST DEPOSIT IN THE ACCOUNT, THEN THE PENALTY IS
20 EQUAL TO TEN PERCENT OF THE AMOUNT SUBJECT TO RECAPTURE. BUT
21 THESE PENALTIES DO NOT APPLY IF:

22 (a) THE MONEY IS USED FOR ELIGIBLE EXPENSES RELATED TO A
23 QUALIFIED BENEFICIARY'S PURCHASE OF HIS OR HER PRIMARY RESIDENCE
24 OUTSIDE OF THE STATE; OR

25 (b) THE MONEY IS FROM A FIRST-TIME HOME BUYER SAVINGS
26 ACCOUNT FOR WHICH THE QUALIFIED BENEFICIARY DIES AND THE
27 ACCOUNT HOLDER DOES NOT DESIGNATE A NEW QUALIFIED BENEFICIARY

1 DURING THE SAME TAXABLE YEAR.

2 (4) IF THE ACCOUNT HOLDER OR, IF THE FIRST-TIME HOME BUYER
3 SAVINGS ACCOUNT IS JOINTLY OWNED, ACCOUNT HOLDERS DIE, THEN ALL
4 OF THE MONEY IN THE ACCOUNT THAT WAS SUBTRACTED FROM TAXABLE
5 INCOME IS SUBJECT TO RECAPTURE IN THE TAXABLE YEAR OF THE DEATH
6 OR DEATHS, BUT NO PENALTY IS DUE TO THE DEPARTMENT.

7 **39-22-4706. Forms.** THE DEPARTMENT SHALL ESTABLISH FORMS
8 FOR AN ACCOUNT HOLDER TO ANNUALLY REPORT INFORMATION ABOUT A
9 FIRST-TIME HOME BUYER SAVINGS ACCOUNT, INCLUDING, BUT NOT
10 LIMITED TO, HOW THE MONEY FROM THE FUND IS USED, AND IDENTIFY ANY
11 SUPPORTING DOCUMENTATION THAT IS REQUIRED TO BE MAINTAINED. TO
12 BE ELIGIBLE FOR THE SUBTRACTION IN SECTION 39-22-104 (4) (v), AN
13 ACCOUNT HOLDER MUST ANNUALLY FILE WITH HIS OR HER STATE INCOME
14 TAX RETURN THE COMPLETED FORM, THE FORM 1099 FOR THE ACCOUNT
15 ISSUED BY THE FINANCIAL INSTITUTION, AND ANY OTHER SUPPORTING
16 DOCUMENTATION THE DEPARTMENT REQUIRES.

17 **39-22-4707. Financial institutions.** (1) A FINANCIAL
18 INSTITUTION IS NOT REQUIRED TO:

19 (a) DESIGNATE AN ACCOUNT AS A FIRST-TIME HOME BUYER
20 SAVINGS ACCOUNT, OR DESIGNATE THE BENEFICIARIES OF AN ACCOUNT, IN
21 THE FINANCIAL INSTITUTION'S ACCOUNT CONTRACTS OR SYSTEMS OR IN
22 ANY OTHER WAY;

23 (b) TRACK THE USE OF MONEY WITHDRAWN FROM A FIRST-TIME
24 HOME BUYER SAVINGS ACCOUNT; OR

25 (c) REPORT ANY INFORMATION TO THE DEPARTMENT OR ANY
26 OTHER GOVERNMENTAL AGENCY THAT IS NOT OTHERWISE REQUIRED BY
27 LAW.

1 (2) A FINANCIAL INSTITUTION IS NOT RESPONSIBLE OR LIABLE FOR:

2 (a) DETERMINING OR ENSURING THAT AN ACCOUNT HOLDER IS
3 ELIGIBLE FOR A SUBTRACTION UNDER SECTION 39-22-104 (4) (v) (I);

4 (b) DETERMINING OR ENSURING THAT MONEY IN THE ACCOUNT IS
5 USED FOR AN ELIGIBLE EXPENSE; OR

6 (c) REPORTING OR REMITTING TAXES OR PENALTIES RELATED TO
7 USE OF MONEY IN A FIRST-TIME HOME BUYER SAVINGS ACCOUNT.

8 (3) IN IMPLEMENTING THIS PART 47 AND SECTION 39-22-104 (3) (k)
9 AND (4) (v), THE DEPARTMENT SHALL NOT ESTABLISH ANY
10 ADMINISTRATIVE, REPORTING, OR OTHER REQUIREMENTS ON FINANCIAL
11 INSTITUTIONS THAT ARE OUTSIDE THE SCOPE OF NORMAL ACCOUNT
12 PROCEDURES.

13 **SECTION 3. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2016 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.