

HOUSE No. 3919

The Commonwealth of Massachusetts

PRESENTED BY:

Dylan Fernandes

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing the establishment of first-time homebuyer savings accounts.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|------------------------|--|------------------|
| <i>Dylan Fernandes</i> | <i>Barnstable, Dukes and Nantucket</i> | <i>7/10/2017</i> |

HOUSE No. 3919

By Mr. Fernandes of Falmouth, a petition (subject to Joint Rule 12) of Dylan Fernandes relative to the establishment of first-time homebuyer savings accounts and providing for an income tax deduction for certain amounts contributed to such accounts. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act authorizing the establishment of first-time homebuyer savings accounts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 62 of the General Laws is hereby amended by inserting after
2 section 5C the following new section:-

3 Section 5D. Definitions applicable to this section and section 5E.

4 The following words and phrases for the purposes of this sections and the following
5 section shall have the following meanings:

6 “Account holder” means an individual who establishes, individually or jointly with one
7 or more other individuals, a first-time homebuyer savings account.

8 “Allowable closing costs” means a disbursement listed on a settlement statement for the
9 purchase of a single-family residence in Massachusetts by a qualified beneficiary.

10 “Eligible costs” means the down payment and allowable closing costs for the purchase of
11 a single-family residence in Massachusetts by a qualified beneficiary.

12 “Financial institution” means any bank, trust company, savings institution, industrial loan
13 association, consumer finance company, credit union, or any benefit association, insurance
14 company, safe deposit company, money market mutual fund, or similar entity authorized to do
15 business in Massachusetts.

16 “First-Time Homebuyer” means an individual who resides in Massachusetts and has not
17 owned or purchased, either individually or jointly, a single-family residence during a period of
18 three (3) years prior to the date of the purchase of a single-family residence.

19 “First-Time Home Buyer Savings Account” or “account” means an account with a
20 financial institution that an account holder designates as a first-time home buyer savings account
21 on the account holder’s Massachusetts income tax return for tax year 2017 or any tax year
22 thereafter, pursuant to this Chapter for the purpose of paying or reimbursing eligible costs for the
23 purchase of a single-family residence in Massachusetts by a qualified beneficiary.

24 “Qualified Beneficiary” means a first-time home buyer who is designated as the qualified
25 beneficiary of an account designated by the account holder as a first-time home buyer savings
26 account.

27 “Settlement Statement” means the statement of receipts and disbursements for a
28 transaction related to real estate, including a statement prescribed under the Real Estate
29 Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., as amended, and regulations
30 thereunder.

31 “Single-Family Residence” means a single-family residence owned and occupied by a
32 qualified beneficiary as the qualified beneficiary’s principal residence, which may include a
33 manufactured home, trailer, mobile home, condominium unit, or cooperative.

34

35 SECTION 2. Chapter 62 is hereby amended by inserting after section 5D the following
36 new section:-

37 Section 5E. Designation and Use of First-Time Home Buyer Savings Account.

38 (a) Beginning January 1, 2017, any individual may open an account with a financial
39 institution and designate the account, in its entirety, as a first-time home buyer savings account
40 to be used to pay or reimburse a qualified beneficiary's eligible costs for the purchase of a
41 single-family residence in Massachusetts.

42 (b) An account holder must designate no later than April 15 of the year following the tax
43 year during which the account is established, a first-time home buyer as the qualified beneficiary
44 of the first-time home buyer savings account. The account holder may designate himself or
45 herself as the qualified beneficiary and may change the designated qualified beneficiary at any
46 time, but there may not be more than one qualified beneficiary at any one time.

47 (c) An individual may jointly own a first-time home buyer savings account with another
48 person if the joint account holders file a joint income tax return.

49 (d) An individual may be the account holder of more than one first-time home buyer
50 savings account. However, an account holder cannot have multiple accounts that designate the
51 same qualified beneficiary.

52 (e) An individual may be designated as the qualified beneficiary on more than one first-
53 time home buyer savings account.

54 (f) Only cash and marketable securities may be contributed to a first-time home buyer
55 savings account. Subject to the limitations of this section, persons other than the account holder
56 may contribute funds to a first-time home buyer savings account. There is no limitation on the
57 amount of contributions that may be made to or retained in a first-time home buyer savings
58 account.

59 (g) The funds held in a first-time home buyer savings account shall not be used to pay
60 expenses of administering the account, except that a service fee may be deducted from the
61 account by a financial institution in which the account is held;

62 (h) The account holder shall submit the following to the department of revenue:

63 (1) detailed information regarding the first-time home buyer savings account, including a
64 list of transactions for the account during the tax year and the Form 1099 issued by the financial
65 institution for such account with the account holder's Massachusetts income tax return on forms
66 prepared by the department of revenue; and

67 (2) a detailed account of the eligible costs toward which the account funds were applied,
68 if there was a withdrawal from the account, and a statement of the amount of funds remaining in
69 the account, if any.

70 (i) Under this section and section 5D of this chapter, a financial institution shall not be
71 required to:

72 (1) Designate an account as a first-time home buyer savings account, or designate the
73 qualified beneficiaries of an account, in the financial institution's account contracts or systems or
74 in any other way;

75 (2) Track the use of funds withdrawn from a first-time home buyer savings account;

76 (3) Allocate funds in a first-time home buyer savings account among joint account
77 holders or multiple qualified beneficiaries; or

78 (4) Report any information to the Department of Revenue or any other governmental
79 agency that is not otherwise required by law.

80 (j)A financial institution is not responsible or liable for:

81 (1) Determining or ensuring that an account satisfies the requirements to be a first-time
82 home buyer savings account;

83 (2) Determining or ensuring that funds in a first-time home buyer savings account are
84 used for eligible costs; or

85 (3) Reporting or remitting taxes or penalties related to the use of a first-time home buyer
86 savings account.

87 (k) Except as otherwise provided in this section and subject to the limitations under this
88 subsection, there shall be deducted from taxable income of an account holder, for Massachusetts
89 income tax purposes:

90 (1) the amount contributed to a first-time home buyer savings account during each tax
91 year, not to exceed \$5,000 for an account holder who files an individual tax return or \$10,000 for
92 joint account holders who file a joint tax return.

93 (2) the amount of earnings, including interest and other income on the principal, from the
94 first-time home buyer savings account during the tax year.

95 (l) An account holder may claim the deduction and exclusion under subsection (k):

96 (1) For a period not to exceed 15 years;

97 (2) For an aggregate total amount of principal and earnings, not to exceed \$50,000 during
98 that 15-year period; and

99 (3) Only if the principal and earnings of the account remain in the account until a
100 withdrawal is made for eligible costs related to the purchase of a single-family residence by a
101 qualified beneficiary, except as otherwise provided in this section.

102 (m) Any funds in a first-time home buyer savings account not expended on eligible costs
103 by December 31 of the last year of the 15-year period under Subsection 7(2)(a) of this Chapter
104 shall thereafter be included in the account holder's taxable income.

105 (n) A person other than the account holder who deposits funds in a first-time home buyer
106 savings account shall not be entitled to the deduction and exclusion provided for under this
107 Chapter.

108 (o) The deduction and exclusion from taxable income provided for by this Section shall
109 apply to any alternative bases for calculating taxable income for Massachusetts income tax
110 purposes.

111 (p) Except as otherwise authorized in this of this section, if the account holder withdraws
112 any funds from a first-time home buyer savings account for a purpose other than eligible costs
113 for the purchase of a single-family residence:

114 (1) Those funds shall be included in the account holder's taxable income; and

115 (2) The account holder shall pay a penalty to the Department of Revenue equal to the tax
116 that would have been collected had the withdrawn funds been subject to income tax. Such
117 penalty shall not apply to funds withdrawn from an account that were:

118 (i) Withdrawn by reason of the account holder's death or disability;

119 (ii) A disbursement of assets of the account pursuant to a filing for protection under the
120 United States Bankruptcy Code, 11 U.S.C. § 101 et seq.; or

121 (iii) A transfer of the funds from a first-time home buyer savings account to a new first-
122 time home buyer savings account held by a different financial institution or the same financial
123 institution.

124 (q) The Department of Revenue shall prepare forms for:

125 (1) The designation of an account with a financial institution to serve as a first-time home
126 buyer savings account;

127 (2) The designation of a qualified beneficiary of a first-time home buyer savings account;
128 and

129 (3) For an account holder to annually submit to the Department of Revenue detailed
130 information regarding the first-time home buyer savings account, including but not limited to a
131 list of transactions for the account during the tax year, and identifying any supporting
132 documentation that is required to be maintained by the account holder.