

SENATE No. 2847

Senate, June 27, 2024 -- Text of amendment (5.1) (offered by Senator Cyr) to the Ways and Means amendment (Senate, No. 2834) to the Senate Bill relative to the Affordable Housing Act

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

1 by striking out the text in its entirety and inserting in place thereof the following text:-

2 “SECTION 18A. Chapter 62 of the General Laws is hereby amended by inserting after
3 section 5D the following 2 sections:-

4 Section 5E. (a) For the purposes of this section, the following words shall have the
5 following meanings unless the context clearly requires otherwise:-

6 “Account holder”, an individual who establishes, individually or jointly with one or more
7 other individuals, a rental savings account.

8 “Allowable costs”, a fee paid for renting a unit as a permanent residence in the
9 commonwealth limited to the amount of: (i) first and last month's rent; (ii) a security deposit
10 equal to one month's rent; and (iii) the purchase and installation costs of a lock and key.

11 “Eligible costs”, fees paid for renting a unit as a permanent residence in the
12 commonwealth limited to the amount of: (i) first and last month's rent; (ii) a security deposit
13 equal to one month's rent; and (iii) the purchase and installation costs of a lock and key.

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

18 “Qualified beneficiary”, an individual seeking to rent a unit as a permanent residence.

19 (b) Beginning January 1, 2025, an individual may open an account with a financial
20 institution and designate the account as a rental savings account to pay or reimburse a qualified
21 beneficiary’s eligible costs.

22 (c) An account holder must designate, not later than April 15 of the year following the tax
23 year during which the account is established, a resident as the qualified beneficiary of the rental
24 savings account. The account holder may designate themselves as the qualified beneficiary and
25 may change the designated qualified beneficiary at any time; provided, however, there shall not
26 be more than 1 qualified beneficiary at any time.

27 (d) An individual may jointly own a rental savings account with another person if the
28 joint account holders file a joint income tax return; provided, however, this requirement shall not
29 apply if at least 1 person would not otherwise be required to make a return because their
30 Massachusetts gross income did not exceed \$8,000.

31 (e) An individual may be the account holder of more than 1 rental savings account;
32 provided, however, that the account holder shall not have multiple accounts that designate the
33 same qualified beneficiary.

34 (f) An individual may be designated as the qualified beneficiary on more than 1 rental
35 savings account.

36 (g) Only cash and marketable securities shall comprise a rental savings account. Subject
37 to the limitations of this section, persons other than the account holder may contribute funds to a
38 rental savings account. There shall be no limitation on the amount of contributions that may be
39 made to or retained in a rental savings account.

40 (h) The funds held in a rental savings account shall not be used to pay expenses of
41 administering the account; provided, however, that a service fee may be deducted from the
42 account by the financial institution.

43 (i) The account holder shall submit to the department of revenue: (1) detailed information
44 regarding the rental savings account, including a list of transactions for the account during the
45 tax year and the Form 1099 under the Internal Revenue Service requirements issued by the
46 financial institution for such account with the account holder's Massachusetts income tax return
47 on forms prepared by the department of revenue; and (2) a detailed accounting of the eligible
48 costs toward which the account funds were applied, if there was a withdrawal from the account,
49 and a statement of the amount of funds remaining in the account.

50 (j) A financial institution shall not be required to: (1) designate an account as a rental
51 savings account, or designate the qualified beneficiaries of an account, in the financial
52 institution's account contracts or systems; (2) track the use of funds withdrawn from a rental
53 savings account; (3) allocate funds in a rental savings account among joint account holders or
54 multiple qualified beneficiaries; or (4) report any information to the department of revenue or
55 other government agency that is not otherwise required by law.

56 (k) A financial institution shall not be liable for: (1) determining or ensuring that an
57 account satisfies the requirements to be a rental savings account; (2) determining or ensuring that
58 funds in a rental savings account are used for eligible costs; or (3) reporting or remitting taxes or
59 penalties related to the use of a rental savings account.

60 (l) Except as otherwise provided in this section and subject to the limitations under this
61 subsection, there shall be deducted from taxable income of an account holder, for Massachusetts
62 income tax purposes: (1) the amount contributed to a rental savings account during each tax year,
63 not to exceed \$15,000 for an account holder who files an individual tax return or \$30,000 for
64 joint account holders; (2) the amount of earnings, including interest and other income on the
65 principal, from the rental savings account during the tax year.

66 (m) An account holder may claim the deduction and exclusion under subsection (k): (1)
67 for a period not to exceed 15 years; (2) for an aggregate total amount of principal and earnings
68 not to exceed \$50,000 during said 15-year period; and (3) only if the principal and earnings of
69 the account remain in the account until a withdrawal is made for eligible costs related to the
70 securing a rental intended as a permanent residence.

71 (n) Any funds in a rental savings account not expended on eligible costs by December 31
72 of the last year of the 15-year period under shall thereafter be included in the account holder's
73 taxable income.

74 (o) A person other than the account holder who deposits funds in a rental savings account
75 shall not be entitled to the deduction and exclusion provided for under this section.

76 (p) The deduction and exclusion from taxable income provided for by this section shall
77 apply to any alternative bases for calculating taxable income for Massachusetts income tax
78 purposes.

79 (q) Except as otherwise authorized in this section, if the account holder withdraws any
80 funds from a rental savings account for a purpose other than eligible costs for the securing a
81 rental property to be used as a permanent residence: (1) such funds shall be included in the
82 account holder's taxable income; and (2) the account holder shall pay a penalty to the department
83 of revenue equal to the tax that would have been collected had the withdrawn funds been subject
84 to income tax. Such penalty shall not apply to funds withdrawn from an account that were: (i)
85 withdrawn by reason of the account holder's death or disability; (ii) a disbursement of assets of
86 the account pursuant to a filing for protection under the United States Bankruptcy Code, 11
87 U.S.C. § 101 et seq.; or (iii) a transfer of the funds from a rental savings account to a new rental
88 savings account held by a different financial institution or the same financial institution.

89 (r) The department of revenue shall prepare forms for: (1) the designation of an account
90 with a financial institution to serve as a first-time home buyer savings account; (2) the
91 designation of a qualified beneficiary of a rental savings account; and (3) an account holder to
92 annually submit to the department of revenue detailed information regarding the rental savings
93 account, including but not limited to a list of transactions for the account during the tax year, and
94 identifying any supporting documentation that is required to be maintained by the account
95 holder.

96 Section 5F. (a) For the purposes of this section, the following words shall have the
97 following meanings unless the context clearly requires otherwise:

98 “Account holder”, an individual who establishes, individually or jointly with 1 or more
99 other individuals, a first-time homebuyer savings account.

100 “Allowable closing costs”, a disbursement listed on a settlement statement for the
101 purchase of a single-family residence in the commonwealth by a qualified beneficiary.

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

104 “Financial institution”, any bank, trust company, savings institution, industrial loan
105 association, consumer finance company, credit union, or any benefit association, insurance
106 company, safe deposit company, money market mutual fund, or similar entity authorized to do
107 business in the commonwealth.

108 “First-time homebuyer”, an individual who resides in the commonwealth and has not
109 owned or purchased, either individually or jointly, a single-family residence.

110 “First-time home buyer savings account”, an account with a financial institution that an
111 account holder designates as a first-time home buyer savings account on the account holder’s
112 Massachusetts income tax return for tax year 2025 or any tax year thereafter, pursuant to this
113 section for the purpose of paying or reimbursing eligible costs for the purchase of a single-family
114 residence in the commonwealth by a qualified beneficiary.

115 “Qualified beneficiary”, a first-time home buyer who is designated as the qualified
116 beneficiary of an account designated by the account holder as a first-time home buyer savings
117 account.

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

121 “Single-family residence”, a single-family residence owned and occupied by a qualified
122 beneficiary as the qualified beneficiary’s principal residence, which may include a manufactured
123 home, trailer, mobile home, condominium unit, or cooperative.

124 (b) Beginning January 1, 2025, any individual may open an account with a financial
125 institution and designate the account, in its entirety, as a first-time home buyer savings account
126 to be used to pay or reimburse a qualified beneficiary’s eligible costs for the purchase of a
127 single-family residence in the commonwealth.

128 (c) An account holder must designate, no later than April 15 of the year following the tax
129 year during which the account is established, a first-time home buyer as the qualified beneficiary
130 of the first-time home buyer savings account. The account holder may designate themselves as
131 the qualified beneficiary and may change the designated qualified beneficiary at any time
132 provided, however, there shall not be more than 1 qualified beneficiary at any time.

133 (d) An individual may jointly own a first-time home buyer savings account with another
134 person if the joint account holders file a joint income tax return; provided, however, this
135 requirement shall not apply if at least 1 person would not otherwise be required to make a return
136 because their Massachusetts gross income did not exceed \$8,000.

137 (e) An individual may be the account holder of more than one first-time home buyer
138 savings account; provided, however, the account holder shall not have multiple accounts that
139 designate the same qualified beneficiary.

140 (f) An individual may be designated as the qualified beneficiary on more than 1 first-time
141 home buyer savings account.

142 (g) Only cash and marketable securities shall comprise a first-time home buyer savings
143 account. Subject to the limitations of this section, persons other than the account holder may
144 contribute funds to a first-time home buyer savings account. There shall be no limitation on the
145 amount of contributions that may be made to or retained in a first-time home buyer savings
146 account.

147 (h) The funds held in a first-time home buyer savings account shall not be used to pay
148 expenses of administering the account; provided, however, that a service fee may be deducted
149 from the account by the financial institution in which the account is held.

150 (i) The account holder shall submit the following to the department of revenue: (1)
151 detailed information regarding the first-time home buyer savings account, including a list of
152 transactions for the account during the tax year and the Form 1099 under the Internal Revenue
153 Service requirements issued by the financial institution for such account with the account
154 holder's Massachusetts income tax return on forms prepared by the department of revenue; and
155 (2) a detailed account of the eligible costs toward which the account funds were applied, if there
156 was a withdrawal from the account, and a statement of the amount of funds remaining in the
157 account, if any.

158 (j) A financial institution shall not be required to: (1) designate an account as a first-time
159 home buyer savings account, or designate the qualified beneficiaries of an account, in the
160 financial institution's account contracts or systems; (2) track the use of funds withdrawn from a
161 first-time home buyer savings account; (3) allocate funds in a first-time home buyer savings

162 account among joint account holders or multiple qualified beneficiaries; or (4) report any
163 information to the department of revenue or any other governmental agency that is not otherwise
164 required by law.

165 (k) A financial institution is not responsible or liable for: (1) determining or ensuring that
166 an account satisfies the requirements to be a first-time home buyer savings account; (2)
167 determining or ensuring that funds in a first-time home buyer savings account are used for
168 eligible costs; or (3) reporting or remitting taxes or penalties related to the use of a first-time
169 home buyer savings account.

170 (l) Except as otherwise provided in this section and subject to the limitations under this
171 subsection, there shall be deducted from taxable income of an account holder, for Massachusetts
172 income tax purposes: (1) the amount contributed to a first-time home buyer savings account
173 during each tax year, not to exceed \$25,000 for an account holder who files an individual tax
174 return or \$50,000 for joint account holders; and (2) the amount of earnings, including interest
175 and other income on the principal, from the first-time home buyer savings account during the tax
176 year.

177 (m) An account holder may claim the deduction and exclusion under subsection (k): (1)
178 for a period not to exceed 15 years; (2) for an aggregate total amount of principal and earnings,
179 not to exceed \$250,000 during said 15-year period; and (3) only if the principal and earnings of
180 the account remain in the account until a withdrawal is made for eligible costs related to the
181 purchase of a single-family residence by a qualified beneficiary, except as otherwise provided in
182 this section.

183 (n) Any funds in a first-time home buyer savings account not expended on eligible costs
184 by December 31 of the last year of the 15-year period shall thereafter be included in the account
185 holder's taxable income.

186 (o) A person other than the account holder who deposits funds in a first-time home buyer
187 savings account shall not be entitled to the deduction and exclusion provided for under this
188 section.

189 (p) The deduction and exclusion from taxable income provided for by this section shall
190 apply to any alternative bases for calculating taxable income for Massachusetts income tax
191 purposes.

192 (q) Except as otherwise authorized in this of this section, if the account holder withdraws
193 any funds from a first-time home buyer savings account for a purpose other than eligible costs
194 for the purchase of a single-family residence: (1) said shall be included in the account holder's
195 taxable income; and (2) the account holder shall pay a penalty to the department of revenue equal
196 to the tax that would have been collected had the withdrawn funds been subject to income tax.
197 Such penalty shall not apply to funds withdrawn from an account that were: (i) withdrawn by
198 reason of the account holder's death or disability; (ii) a disbursement of assets of the account
199 pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. § 101 et
200 seq.; or (iii) a transfer of the funds from a first-time home buyer savings account to a new first-
201 time home buyer savings account held by a different financial institution or the same financial
202 institution.

203 (r) The department of revenue shall prepare forms for: (1) the designation of an account
204 with a financial institution to serve as a first-time home buyer savings account; (2) the

205 designation of a qualified beneficiary of a first-time home buyer savings account; and (3) an
206 account holder to annually submit to the department of revenue detailed information regarding
207 the first-time home buyer savings account, including but not limited to a list of transactions for
208 the account during the tax year, and identifying any supporting documentation that is required to
209 be maintained by the account holder.”