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# A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING AND HOMEOWNERSHIP INCENTIVES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that the affordable  
2       housing crisis continues to be one of the State's most  
3       significant and challenging social problems and is a critical  
4       issue for many Hawaii residents. As the cost of housing  
5       increases, the State must continue to assist residents in  
6       finding methods of increasing the availability of homeownership.  
7       Saving for a down-payment on a home loan continues to be a  
8       barrier for many Hawaii residents with few programs available to  
9       assist in this endeavor.

10       The legislature also finds that the federal government has  
11       incorporated a First-Time Homebuyer Savings Account (FHSA) into  
12       the tax code to allow pre-tax dollars for home purchase down-  
13       payment expenses. Such programs are already implemented in  
14       states such as Alabama, Colorado, Idaho, Minnesota, Mississippi,  
15       Montana, Oregon, and Virginia. These pre-tax dollars are capped  
16       at both an annual amount as well as a total amount, providing  
17       both the opportunity for families to save for homeownership



1 while also allowing them some tax relief reducing the burden of  
2 the high cost of living Hawaii has experienced for many years.

3 The purpose of this Act is to allow taxable income to be  
4 reduced by contributions to a first-time home buyer savings  
5 account to encourage first time home ownership through  
6 incentivizing saving for a down payment and closing costs. This  
7 incentive acknowledges the significant financial and civic  
8 benefits of home ownership for the State.

9 SECTION 2. Chapter 235-\_\_\_\_, Hawaii Revised Statutes is  
10 amended to include the following definitions:

11 (1) "Account holder" means a first-time home buyer who  
12 establishes a first-time home buyer savings account.

13 (2) "allowable closing costs" means disbursements listed in  
14 a settlement statement for the purchase of a single family  
15 residence by an account holder.

16 (3) "Eligible costs" means the down payment and allowable  
17 closing costs for the purchase of a single family residence by  
18 an account holder.

19 (4) "Financial Institution" means a bank, a trust company,  
20 a commercial bank, a national bank, a savings bank, a savings  
21 and loan, a thrift institution, a credit union, an insurance



1 company, a mutual fund, an investment firm or similar entity  
2 authorized to do business in this state.

3 (5) "First-time home buyer" means an individual who is a  
4 resident of this state and has not owned or purchased, either  
5 individually or jointly, a single family residence during the  
6 period of three years prior to the date of the purchase of a  
7 single family residence.

8 (6) "First-time home buyer savings account" or "account"  
9 means an account established as a first-time home buyer savings  
10 account by written agreement between an account holder and a  
11 financial institution and that the account holder designates for  
12 the purpose of paying or reimbursing eligible costs for the  
13 purchase of a single family residence in this state by the  
14 account holder.

15 (7) "Resident of this state" has the meaning given that  
16 term in HRS §11-13.

17 (8) "Settlement statement" means the statement of receipts  
18 and disbursements for a transaction related to real estate,  
19 including statement prescribed under the Real Estate Settlement  
20 Procedures Act of 1974, 12 U.S.C. 2601 et seq., and regulations  
21 thereunder.



1       (9) "Single family residence" means a residence intended  
2       for occupancy by a single family unit that is owned and occupied  
3       by an account holder as the account holder's principal  
4       residence. "Single family resident" includes a manufactured  
5       home, residential trailer, mobile home or condominium unit.

6       (10) "Taxable income" has the meaning given that term in 26  
7       U.S.C. §63.

8               SECTION 3. Provisions for the execution of a First-Time  
9       Home Buyer Savings Account are as follows:

10           (1) An individual may create a first-time home buyer  
11       savings account with a financial institution to be used to pay  
12       or reimburse the account holder's eligible costs related to the  
13       purchase of a single family residence by entering into a first-  
14       time home buyer savings account agreement with the financial  
15       institution.

16           (2) An individual may jointly own a first-time home buyer  
17       savings account with another person if the joint account holders  
18       are both first-time home buyers and file a joint income tax  
19       return.

20           (3) An individual may not be the account holder of more  
21       than one first-time home buyer savings accounts.



1 (4) Only cash may be contributed to the first-time home  
2 buyer savings account. Subject to the limitations of section  
3 4(4) of this Act, persons other than the account holder may  
4 contribute funds to a first-time home buyer savings account.  
5 There is no limitation on the amount of contributions that may  
6 be made to or retained in a first-time home buyer savings  
7 account.

8 (5) The account holder may not use funds held in a first-  
9 time home buyer savings account to pay expenses of administering  
10 the account, except that the financial institution that  
11 administers the account may deduct a service fee from the  
12 account.

13 (6) No financial institution is required to offer first-  
14 time home buyer savings accounts to customers of the  
15 institution.

16 SECTION 4. (1) Subject to section 6 of this Act, and in  
17 addition to the other modifications to federal taxable income,  
18 there shall be subtracted from federal taxable income the amount  
19 of funds contributed by an account holder to the account  
20 holder's first-time home buyer savings account during the tax  
21 year, not to exceed \$5,000 for an account holder who files an



1 individual income tax return, or \$10,000 for joint account  
2 holders who file a joint income tax return.

3 (2) Earnings, including interest and other income, on the  
4 principal in the account during the tax year are exempt from  
5 taxation until withdrawn by the taxpayer, subject to subsection  
6 (3) of this section.

7 (3) An account holder may claim the subtraction and  
8 exemption under subsections (1) and (2) of this section:

9 (a) For contributions made into a first-time home  
10 buyer savings account opened before January 1, 2032;

11 (b) For a period not to exceed 10 years from the date  
12 the account holder first opens any first-time home buyer savings  
13 account; and

14 (c) For an aggregate total amount of principal and  
15 earnings not to exceed \$50,000 during the 10 year period.

16 (4) A person other than the account holder who deposits  
17 funds in a first-time home buyer savings account is not entitled  
18 to the subtraction and exemption provided for in this section.

19 SECTION 5. (1) The limits applicable to a subtraction from  
20 federal taxable income and an exemption allowed under section 4  
21 of this Act are:



1 (a) \$10,000 if reported on a joint income tax return,  
2 or \$5,000 for all others, if the federal adjusted gross income  
3 of the taxpayer for the tax year is less than \$149,000 or, if  
4 reported on other than a joint return, less than \$104,000.

5 (2) The Department of Taxation by rule may adjust the  
6 limits applicable in the current tax year to the subtractions  
7 and exemptions specified in subsection (1) of this section so  
8 that the limits reflect the percentage change in the U.S. City  
9 Average Consumer Price Index, as published by the Bureau of  
10 Labor Statistics of the United States Department of Labor,  
11 during the tax year.

12 (3) Any amounts contributed to a first-time home buyer  
13 savings account that are not subtracted from federal taxable  
14 income for any reason may not be carried forward as a  
15 subtraction for any succeeding tax year.

16 SECTION 6. (1) There shall be added to federal taxable  
17 income the amount of funds a taxpayer withdraws from a first-  
18 time home buyer savings account established under section 3 of  
19 this Act if:

20 (a) Those funds were used for a purpose other than  
21 eligible costs;



(b) In this tax year or a previous tax year, those funds were subtracted or exempted from federal taxable income under section 4 of this Act; and

(2) There shall be added to federal taxable income the amount of funds a taxpayer holds in a first-time home buyer savings account not expended on eligible costs by December 31 of the last year of the 10 year period described under section 4(3) of this Act if in a previous tax year those funds were subtracted or exempted from federal taxable income under section 4 of this Act.

(3) The Department of Taxation shall assess a penalty against the taxpayer in the amount of five percent of the funds withdrawn from a taxpayer's first-time home buyer savings account, if:

(a) The withdrawal of funds occurs during the 10-year period set forth in section 4(3) of this Act; and

(b) The withdrawn funds are not used for eligible costs.

(4) The penalty described in subsection (3) of this section does not apply to any funds withdrawn from a first-time home buyer savings account of:





- 1 (a) A taxpayer who is deceased;
- 2 (b) A taxpayer who has filed for protection under the
- 3 United States Bankruptcy Code (11 U.S.C. 101 et seq.); or
- 4 (c) A taxpayer whose loss of use of function of any
- 5 portion of the body permanently incapacitates the taxpayer from
- 6 regularly performing work at a gainful and suitable occupation.

7 SECTION 7. (1) On or before January 31 of each year, a

8 financial institution at which an account holder has created a

9 first-time home buyer savings account shall provide to the

10 account holder a certificate containing the following

11 information:

- 12 (a) The date when the account was created;
- 13 (b) The name of the account holder;
- 14 (c) The amount of funds contributed to the account
- 15 during the tax year;
- 16 (d) The amount of funds withdrawn from the account
- 17 during the tax year; and
- 18 (e) Any other information as required by rules adopted
- 19 by the Department of Taxation.
- 20 (2) A financial institution is not required to:



1           (a) Track the use of moneys withdrawn from a first-  
2 time home buyer savings account; or

3           (b) Allocate funds in a first-time home buyer savings  
4 account among joint account holders.

5           (3) A financial institution is not response or liable for:

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

8           (b) Determining or ensuring that funds in a first-time  
9 home buyer savings account are used for eligible costs; or

10           (c) Reporting or remitting taxes or penalties related  
11 to the use of a first-time home buyer savings account.

12           (4) Upon being furnished proof of death of the account  
13 holder and such other information required by the contract  
14 governing the first-time home buyer savings account, a financial  
15 institution shall distribute the principal and accumulated  
16 interest or other income in the first-time home buyer savings  
17 account in accordance with the terms of the contract governing  
18 the account.

19           SECTION 8. Statutory material to be repealed is  
20 bracketed and stricken. New statutory material is  
21 underscored.



1       SECTION 9. This Act, upon its approval, shall take  
2 effect on January 1, 2023.

3

INTRODUCED BY:

  
JAN 25 2022



# H.B. NO. 2212

**Report Title:**

Creation of a pre-tax home buyer down payment savings account.

**Description:**

Implementation of IRS pre-tax savings plans to assist first time home buyers with saving for down payment and closing costs.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

