

# **FUNDING RESILIENCE**

## **RESILIENCE SAVINGS ACCOUNTS**

### **Section 1            Title**

This Act shall be known as the “[State] Disaster Resilience Savings Accounts Act.”

### **Section 2            Purpose**

The purpose of this Act is to increase the safety and resilience of [State’s] people and housing in the face of natural catastrophes through incentivizing savings for financial preparedness and pre-disaster loss mitigation.

### **Section 3            Contributions to Disaster Resilience Savings Account**

(A) Tax deduction.

- (1) An individual taxpayer is allowed a deduction from the state tax imposed pursuant to [state law section on income tax levied on individuals] for amounts contributed to a disaster resilience savings account up to a total contributed amount not to exceed:
  - (a) The catastrophe savings account maximum contribution, for a catastrophe savings account; or
  - (b) The mitigation savings account maximum contribution, for a mitigation savings account.
- (2) Notwithstanding any other provision, all interest income earned by a disaster resilience savings account is exempt from the tax imposed pursuant to [state law section on tax levied on individuals].
- (3) In calculating the income tax imposed pursuant to [state law section on tax levied on individuals], this tax deduction is allowed regardless of whether the taxpayer itemizes his or her income tax deductions.

(B) No tax deduction. If a taxpayer contributes in excess of the corresponding maximum contribution for a catastrophe savings account or a mitigation savings account, the taxpayer shall:

- (i) Withdraw the amount of the excess contributions; and
- (ii) Include that excess amount in [State] income for purposes of [state law section on tax levied on individuals] in the year of the withdrawal.

(C) Protected. A disaster resilience savings account is not subject to attachment, levy, garnishment, or legal process in this state.

### **Section 4            Distributions from Disaster Resilience Savings Account**

- (A) Conditions. A distribution from a disaster resilience savings account must be included in the income of the taxpayer unless:
- (1) During the taxable year the amount of the distribution is used to cover qualified resilience expenses which are equal to or greater than the aggregate distributions during that taxable year; or
  - (2) The distribution is made on or after the date on which the taxpayer attains the age of seventy, provided that if a taxpayer elects to receive a nontaxable distribution under this subsection such taxpayer must not make further contributions to a resilience savings account.
- (B) Offset. If the aggregate amount of the distributions exceeds the qualified resilience expenses during the taxable year, the amount included in the income of the taxpayer must be reduced by the amount of the distributions used to cover qualified resilience expenses.
- (C) Tax rate. A taxpayer's state income tax rate on a taxable distribution under this section must be increased by two and one-half percent and used to calculate the amount which is includable in income.
- (i) Additional tax exception. This additional tax does not apply if any of the following occur:
    - aa. The taxpayer no longer owns a legal residence that qualifies [state law section with tax exemptions relating to a legal residence].
    - bb. The distribution is made on or after the date on which the taxpayer attains the age of seventy, provided that the taxpayer elects to receive a nontaxable contribution under subsection (A)(2) of this section.
  - (ii) If the taxpayer receives a nontaxable distribution under this subsection, the taxpayer must not make further contributions to a disaster resilience savings account.
- (C) Death. If a taxpayer who owns a disaster resilience savings account dies, his or her account is included in the income of the person who receives the account, unless that person is the surviving spouse of the taxpayer. Upon the death of the surviving spouse, the account is included in the income of the person who receives the account. The additional tax in subsection (C) of this section does not apply to the distribution on death of the taxpayer or the surviving spouse.

## **Section 5            Rulemaking**

- (B) Tax related. The Department of Revenue may promulgate rules necessary to implement and administer this Section.
- (C) Mitigation programs and special activities. With respect to mitigation savings accounts, the Commissioner of Insurance may publish revised definitions for [catastrophic event, mitigation approved activity and mitigation approved program], as authorized in this Act.

## **Section 6            Definitions**

*Drafting notes: The definitions are organized this way for ease of drafting. If a state moves forward with both kinds of savings accounts, all definitions can be used (and organized as is or put into alphabetical order if preferred). If only one or the other type of account is being used, the unrelated definitions can be removed and reference to "resilience" items in the substantive text can be replaced with "catastrophe" or "mitigation" accordingly.*

*Drafting Note: Wording refers to a potential future federal savings account to allow for a more seamless approach if/when such savings incentive mechanisms are instituted at the federal level.*

For the purposes of this Act, the following definitions apply.

(A) Resilience savings accounts definitions.

- (1) **“Disaster resilience savings account”** means:
  - (a) Catastrophe savings account established under this Act; and/or
  - (b) Mitigation savings account established under this Act.
- (2) **“Qualified resilience expenses”** means any:
  - (a) Qualified catastrophe recovery expenses; or
  - (b) Qualified mitigation expenses.
- (3) **“Legal residence”** means the taxpayer’s principal and legal residence pursuant to [state law section with tax exemptions relating to a legal residence].

(B) Catastrophe savings accounts definitions.

- (4) **“Catastrophe savings account”** means an account at a financial institution that meets the catastrophe savings account conditions and is one of the following:
  - (a) A regular savings account;
  - (b) A money market account;
  - (c) Other accounts as designated by the Department of Revenue after considering: the stability and administration of such accounts; changes in laws and regulations; input from the Commissioner of Insurance and other stakeholders; and other relevant factors; or
  - (d) [A savings account established under federal law that provides income tax incentives for the purpose of encouraging individuals to save money to pay for disaster recovery expenses.]
- (5) **“Catastrophe savings account conditions”** means the following requirements which must be satisfied to qualify as a catastrophe savings account:
  - (a) The accountholder must:
    - (ii) Be an income taxpayer in [this state] who establishes this account:
      - aa. As an insurance policyholder responsible for an insurance deductible under an insurance policy that covers a catastrophic event for the taxpayer’s legal residence property; or
      - bb. To cover self-insured losses for the taxpayer’s legal residence from a catastrophic event.
    - (iii) Have no more than one catastrophe savings account at any time.
  - (b) The account must:
    - (i) Be labeled as a “catastrophe savings account.”
    - (ii) Specify that the sole purpose of the account is to cover the amount of insurance deductibles and/or other uninsured portions of risks of loss from catastrophic events.
- (6) **“Catastrophe savings account maximum contribution”** means the total amount that may be contributed annually to catastrophe savings account:
  - (a) In the case of an individual whose qualified deductible is less than or equal to [one thousand dollars (\$1,000)], [two thousand dollars (\$2,000)].

- (b) In the case of an individual whose qualified deductible is greater than [one thousand dollars (\$1,000)], the amount equal to the lesser of [fifteen thousand dollars (\$15,000)] or twice the amount of the taxpayer's qualified deductible.
  - (c) In the case of a self-insured individual who chooses not to obtain insurance on his or her legal residence, [three hundred fifty thousand dollars (\$350,000)], but in no event may the amount contributed exceed the value of the individual taxpayer's legal residence.
  - (d) At least every three years, the Department of Revenue must determine whether to increase the catastrophe savings account maximum contribution amounts, considering: cost of living adjustments; insurance deductibles; adequacy of catastrophe savings; input from the Commissioner of Insurance and other stakeholders; and other factors relevant to residents' ability to respond financially to natural catastrophes.
- (4) **"Catastrophic event"** means a natural catastrophe, including any of the following:
- (a) [Windstorms, cyclones, hurricanes, tornadoes, high winds and hail, and similar perils which may not be among those covered under most property casualty insurance policies but obtainable by purchasing wind, wind and hail, storm or windstorm coverage, or all.]
  - (b) [Floods.]
  - (c) [Wildfires.]
  - (d) [Earthquakes.]
  - (e) [Extreme heat or cold.]
  - (f) [Other catastrophic event the Commissioner of Insurance determines is appropriate [after consultation with the [Department of Revenue, the State Emergency Management Agency and other stakeholders]]].
- (5) **"Qualified catastrophe recovery expenses"** means expenses:
- (a) Paid or incurred by reason of a major catastrophic event that:
    - (i) Has been declared by the Governor to be an emergency by executive order; or
    - (ii) [Meets the necessary expense qualifications for a disaster resilience account established under federal law]
  - (b) Qualified catastrophe recovery expenses include qualified deductibles.
- (6) **"Qualified deductible"** means a deductible for the individual's homeowners' policy for a taxpayer's legal residence.

(C) Mitigation savings accounts definitions.

- (1) **"Mitigation approved program"** means a set of mitigation steps meeting an established standard and satisfying one of the following:
- (a) [Designed to meet or exceed a "FORTIFIED" designated roof standard of the Insurance Institute for Business and Home Safety; or]
  - (b) [Designed to meet or exceed the "Wildfire Prepared Home" or "Wildfire Prepared Home Plus" standards of the Insurance Institute for Business and Home Safety; or]
  - (c) [Designed to meet or exceed established standards for an effective mitigation program which the Commissioner of Insurance determines is appropriate and adequate to mitigate a risk of future damage from natural disaster [after consultation with the [Department of Revenue], the [State Emergency Management Agency], and other stakeholders].]
- (2) **"Mitigation approved special activity"** means:
- (a) Mitigation steps for:

- [(i) Flood mitigation activity which
  - aa. Elevates structures and utilities above base flood elevation; or
  - bb. Uses flood resistant building materials.]
- [(ii) Hurricane or wind mitigation activity which
  - aa. Protects openings with impact-resistant windows, impact-resistant doors, and impact-resistant garage doors, provided that the materials used are labeled as impact resistant or have an impact-resistance rating;
  - bb. Reinforces roof-to-wall and floor-to-wall connections for wind activity
  - cc. Improves the strength of roof-deck attachments;
  - dd. Includes a secondary water barrier for the roof; or
  - ee. Covers roofs for impact, fire, or high wind resistance.]
- [(iii) Tornado mitigation and safety activity in which tornado safe rooms are manufactured or constructed in accordance with
  - aa. [The most current version of FEMA guidance on tornado shelters manufactured or constructed in accordance with the most current National Storm Shelter/International Code Council standard.]
- [(iv) Seismic mitigation activity which
  - aa. Uses bolted reinforced cripple and shear walls to resist seismic activity
  - bb. Reinforces roof-to-wall and floor-to-wall connections for seismic activity]
- [(v) Fire mitigation activity which
  - aa. Uses fire resistant exterior wall assemblies/systems
  - bb. Uses lightening protection systems
- [(vi) Wildfire mitigation activity which accomplishes all of the following:
  - aa. Creates sound defensible space around structures by:
    - 1) Within Zone 1 of 0-5 feet from the home and other structures establish a noncombustible buffer area...
    - 2) Within Zone 2 of 5-30 feet from the home and other structures ...
    - 3) Within Zone 3 of 30-100 feet from the home ...
  - bb. ...
- [(vii) Power loss mitigation activity that is for
  - aa. Whole home standby generators
- [(viii) Additional or revised mitigation approved special activity the Commissioner of Insurance determines is appropriate and adequate to mitigate a risk of future damage from [natural disaster] [the natural disaster of hurricane, earthquake, flood, hail, lightening, tornado, wildfire, and other natural disasters] [after consultation with the [Department of Revenue, the State Emergency Management Agency and other stakeholders]].
- (b) Notwithstanding any individually listed mitigation approved activity in this definition, the Commissioner may require any of the following:
  - (i) A set of some or all of the improvements be made as a condition for qualifying as a mitigation approved special activity;
  - (ii) An inspection or other certification that some or all of the work has been satisfactorily completed.
  - (iii) Other requirements as the Commissioner deems appropriate.

*Drafting Note: A state may select the most applicable mitigation approved activities and/or may specify certain counties or other geographical area most susceptible to a risk.*

- (3) **“Mitigation savings account”** means an account at a financial institutions that meets the mitigation savings account conditions and is one of the following:

- (a) A regular savings account;
  - (b) A money market account;
  - (c) Other accounts as designated by the Department of Revenue, considering: the stability and administration of such accounts; changes in laws and regulations; input from the Commissioner of Insurance and other stakeholders; and other relevant factors; or
  - (d) [A savings account established under federal law that provides income tax incentives for the purpose of encouraging individuals to save money to pay for disaster mitigation.]
- (7) **“Mitigation savings account conditions”** means the all the following requirements which must be satisfied in order to qualify as a mitigation savings account:
- (a) The account holder must:
    - (i) Be an income taxpayer in this state who establishes this account for the sole purpose of paying a qualified mitigation expense.
    - (ii) Have no more than one mitigation savings account at any time.
  - (b) The account must:
    - (ii) Be labeled as a “mitigation savings account.”
    - (iii) Specify that the purpose of the account is to pay a qualified mitigation expense.
- (5) **“Mitigation savings account maximum contribution”** means the total amount that may be contributed annually to a mitigation savings account:
- (a) In the case of the [year of passage] taxable year, the amount shall not exceed [\$10,000].
  - (b) In the case of a taxable year after [year of passage], the amount in paragraph (a) of this definition shall be increased by an amount equal to
    - (i) Such dollar amount, multiplied by
    - (ii) The cost of living adjustment as announced by the Department of Revenue.
- (6) **“Qualified mitigation expenses”** means expenses:
- (a) For a mitigation approved program under this Act;
  - (b) For a mitigation approved special activity under this Act; or
  - (c) [For mitigation programs or activities meeting the requirements of a federal law and any corresponding regulation that provides tax deductible savings accounts to incentivize mitigation.]

## **Section 7            Effective Date**

This Act shall take effect immediately.