

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2197

As Amended by House Committee of the Whole

Brief*

HB 2197, as amended, would amend provisions in the First-time Home Buyer Savings Account Act (Act) to clarify the process for the designation and determination of an account holder's payable on death beneficiary. The bill would also enact law supplemental to the Act to authorize the State Treasurer to market the First-time Home Buyers Savings Account Program (Program) to account holders and financial institutions.

[*Note:* This act permits savings accounts to be used to pay or reimburse a designated beneficiary's eligible expenses for the purchase or construction of a primary residence in the state. The accounts are subject to maximum contribution amounts per tax year and in aggregate.]

Program Marketing

The bill would grant non-exclusive authority to the State Treasurer for the purpose of marketing the Program to account holders and financial institutions throughout the state. The State Treasurer would be permitted to include these marketing initiatives in the office's annual report.

Designated Beneficiaries

The bill would also update the Act to:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Add a provision stating the naming of a designated beneficiary does not create a survivorship interest in the account for the named designated beneficiary. In the event of the account holder's death, the bill would provide the account balance must be paid to the payable on death beneficiary or, if there is no named payable on death beneficiary, in accordance with provisions of the Kansas probate code;
- Permit a financial institution to rely on its account records for the determination of a payable on death beneficiary for a first-time home buyer savings account;
 - If the payable on death beneficiary in the institution's account records conflicts with the designated beneficiary on any form required by the Secretary of Revenue, the bill would provide the payable on death beneficiary in such financial institution's account records shall control; and
- Update terminology applicable to beneficiaries within the Act from "transfer on death" to "payable on death."

The bill would also make technical changes.

Background

The bill was introduced by the House Committee on Financial Institutions and Pensions at the request of the Kansas Bankers Association (KBA).

House Committee on Financial Institutions and Pensions

In the House Committee hearing, representatives of the KBA and Kansas Association of Realtors (KAR) provided

proponent testimony, stating the use of the term “transfer on death” is generally used for investment accounts while the “payable on death” (POD) designation is used for bank accounts. By adding a POD beneficiary, when the account holder dies, any money in the account would bypass the estate process and automatically go to the POD beneficiary instead. The bill would also clarify the controlling document in the event of a conflict. The KAR representative indicated the amendments to the Act would make it easier for financial institutions to administer the savings accounts.

No other testimony was provided.

The House Committee amended the bill to assign non-exclusive account program marketing duties to the State Treasurer.

House Committee of the Whole

The House Committee of the Whole amended the bill to make a technical change to update an internal cross-reference.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue indicates the bill would have no fiscal effect.

Financial institutions; First-time Home Buyer Savings Account Act; account holder; designated beneficiary; State Treasurer