

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

HOUSE BILL 1892

5 By: Representatives Love, Jett, M. Hodges  
6

## For An Act To Be Entitled

8 AN ACT TO ESTABLISH THE ARKANSAS DREAM DOWN PAYMENT  
9 ACT; AND FOR OTHER PURPOSES.  
10

## Subtitle

11 TO ESTABLISH THE ARKANSAS DREAM DOWN  
12 PAYMENT ACT.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code Title 18 is amended to add an additional  
20 chapter to read as follows:  
21

### CHAPTER 18

### ARKANSAS DREAM DOWN PAYMENT ACT

#### 18-18-101. Title.

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25 This chapter shall be known and may be cited as the "Arkansas Dream  
26 Down Payment Act".  
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#### 18-18-102. Legislative findings and intent.

##### (a) The General Assembly finds that:

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31 (1) Loan companies and government programs do not require a down  
32 payment of twenty percent (20%) of the total mortgage loan before a borrower  
33 can purchase a principal residence;

34 (2) However, a down payment of at least twenty percent (20%) of  
35 the total mortgage loan is beneficial to a borrower to reduce monthly  
36 mortgage loan payments; and



1           (3) A borrower who has the opportunity to save up to twenty  
2 thousand dollars (\$20,000) toward a down payment on a principal residence  
3 could reduce monthly mortgage loan payments and increase first-time  
4 homeownership in this state.

5           (b) It is the intent of the General Assembly to establish the Arkansas  
6 Dream Down Payment Program that is exempt from taxation for potential  
7 borrowers who are first-time homebuyers to afford a down payment on a  
8 principal residence that leads to affordable monthly mortgage loan payments.

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10       18-18-103. Definitions.

11       As used in this chapter:

12           (1) "Cash contribution" means a monetary contribution to a  
13 qualified down payment program account by an eligible individual or on behalf  
14 of a designated beneficiary that:

15                   (A) Is in cash;

16                   (B) Does not result in a qualified down payment program  
17 account balance exceeding twenty thousand dollars (\$20,000); and

18                   (C) Provides a separate accounting for each designated  
19 beneficiary;

20           (2)(A) "Designated beneficiary" means an individual designated  
21 at the commencement of participation in the Arkansas Dream Down Payment  
22 Program as the beneficiary of amounts paid or to be paid to the Arkansas  
23 Dream Down Payment Program and is the owner of the qualified down payment  
24 program account.

25                   (B) "Designated beneficiary" includes a spouse;

26           (3) "Eligible individual" means an individual who for a taxable  
27 year makes cash contributions to a qualified down payment program account;

28           (4) "Investment direction" means instructions for the investment  
29 of any cash contributions to the Arkansas Dream Down Payment Program or any  
30 earnings generated;

31           (5) "Nonqualified distribution" means a distribution from a  
32 qualified down payment program account that is not used to pay qualified down  
33 payment expenses;

34           (6) "Principal residence" means a principal residence within the  
35 meaning of 26 U.S.C. § 121, as it existed on January 1, 2021;

36           (7) "Qualified down payment expenses" means amounts, including

1 closing costs, paid or incurred to purchase a principal residence located in  
 2 this state; and

3 (8) "Qualified down payment program account" means an account  
 4 that is:

5 (A) Established by an eligible individual;

6 (B) Owned by a designated beneficiary; and

7 (C) Maintained under this chapter.

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 9 18-18-104. Arkansas Dream Down Payment Program – Creation –  
 10 Administration – Authority – Powers.

11 (a) The Arkansas Dream Down Payment Program is established under this  
 12 chapter.

13 (b) The program shall be administered by the Treasurer of State, or  
 14 his or her designee.

15 (c) The Treasurer of State shall:

16 (1) Develop, implement, manage, and maintain the program in a  
 17 manner consistent with this chapter;

18 (2) Provide office space, staff, and materials for the program;

19 (3) Conduct outreach and engage in financial educational  
 20 activities with individuals within the community to encourage homeownership;

21 (4)(A) Make and enter into contracts, agreements, or  
 22 arrangements and retain, employ, and contract for the services of financial  
 23 institutions, depositories, consultants, broker-dealers, investment advisors  
 24 or managers, third-party plan administrators, and research, technical, and  
 25 other services necessary or desirable for carrying out the purposes of this  
 26 chapter.

27 (B) Contracts entered into by the Treasurer of State for  
 28 the program may be for a term of one (1) to ten (10) years; and

29 (5) Perform other services necessary to implement this chapter.

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 31 18-18-105. Rules.

32 (a) The Treasurer of State shall adopt rules necessary to administer  
 33 this chapter.

34 (b) Rules adopted under this chapter shall:

35 (1)(A) Ensure that a designated beneficiary is limited to one  
 36 (1) qualified down payment program account.

1 (B) The program is limited to first-time homebuyers;

2 (2) Ensure that a qualified down payment program account may be  
 3 established only for a designated beneficiary who is a resident of Arkansas  
 4 or who plans to buy a principal residence located in the state as a first-  
 5 time homebuyer;

6 (3) Address how to fairly administer a qualified down payment  
 7 program account for a designated beneficiary who has left the state;

8 (4) Address impermissible investments for qualified down payment  
 9 program accounts;

10 (5) Establish permissible fees, including the maximum amount of  
 11 overall fees and commissions, that may be charged in association with a  
 12 qualified down payment program account;

13 (6) Establish minimum required disclosures to designated  
 14 beneficiaries, including disclosures related to any possible losses that  
 15 could be incurred in a qualified down payment program account; and

16 (7) Ensure that other requirements of this chapter are met.

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 18 18-18-106. Investment direction.

19 (a) Except as provided in subsection (b) of this section, a designated  
 20 beneficiary may provide investment direction:

21 (1) No more than two (2) times in any calendar year; and

22 (2) Subject to the rules established under this chapter.

23 (b) If a balance in a qualified down payment program account reaches  
 24 twenty thousand dollars (\$20,000), then the funds of the qualified down  
 25 payment program account shall be transferred to investments in United States  
 26 Treasury securities.

27  
 28 18-18-107. Qualified down payment program accounts – Fees.

29 (a)(1)(A) An eligible individual may establish a qualified down  
 30 payment program account by:

31 (i) Making an initial cash contribution to a  
 32 qualified down payment program account;

33 (ii) Signing an application form approved by the  
 34 Treasurer of State; and

35 (iii) Naming the designated beneficiary.

36 (B) If the cash contributor is not the designated

1 beneficiary, the designated beneficiary shall also sign the application form.

2 (2) An Arkansas resident person may make a cash contribution to  
3 a qualified down payment program account after the qualified down payment  
4 program account is opened.

5 (3) A cash contribution to a qualified down payment program  
6 account shall be made only in cash.

7 (b)(1) The total balance of a qualified down payment program account  
8 shall not exceed twenty thousand dollars (\$20,000).

9 (2) The Treasurer of State shall establish maximum annual cash  
10 contribution limits applicable to a qualified down payment program account.

11 (c)(1) Separate records and accounting shall be required by the  
12 Arkansas Dream Down Payment Program for each qualified down payment program  
13 account.

14 (2) An annual report shall be made to the designated  
15 beneficiary.

16 (d)(1) The program may collect application fees, account fees, or  
17 administrative fees to defray the costs of the program.

18 (2) The application fees, account fees, or administrative fees  
19 shall be approved by the Treasurer of State.

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21 18-18-108. Transfers of qualified down payment program accounts.

22 Unless prohibited by federal law, upon the death of a designated  
23 beneficiary, proceeds from a qualified down payment program account may be  
24 transferred to:

25 (1) The estate of a designated beneficiary; or

26 (2) An account for another eligible individual specified by the  
27 designated beneficiary or the estate of the designated beneficiary.

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29 18-18-109. Prohibitions.

30 (a) Total cash contributions to a qualified down payment program  
31 account established on behalf of a particular designated beneficiary in  
32 excess of twenty thousand dollars (\$20,000) are prohibited.

33 (b)(1) A qualified down payment program account or a legal or  
34 beneficial interest in a qualified down payment program account shall not be  
35 assignable, pledged, or otherwise used to secure or obtain a loan or other  
36 advancement.

1           (2) A qualified down payment program account or a legal or  
 2 beneficial interest in a qualified down payment program account is not  
 3 subject to attachment, levy, or execution by a creditor of a designated  
 4 beneficiary.

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 6           18-18-110. Funds exempt from tax.

7           (a) The amount of a cash contribution to a qualified down payment  
 8 program account:

9                   (1) For purposes of an eligible individual:

10                           (A) Shall not exceed twenty thousand dollars (\$20,000);

11                           (B) May be deducted from the eligible individual's net  
 12 income for purposes of the Income Tax Act of 1929, § 26-51-101 et seq.; and

13                           (C) The deduction for a taxable year may be carried over  
 14 to the next-succeeding taxable year and annually thereafter for a total  
 15 period of five (5) years or until the amount of the deduction has been  
 16 exhausted or absorbed by the taxable income of any succeeding year, whichever  
 17 is earlier; and

18                   (2) For purposes of a designated beneficiary:

19                           (A) Is considered a completed gift to the designated  
 20 beneficiary; and

21                           (B) Is not taxable as income to the designated beneficiary  
 22 under the Income Tax Act of 1929, § 26-51-101 et seq.

23           (b) Except as otherwise indicated in this chapter, interest,  
 24 dividends, and capital gains from funds invested in the Arkansas Dream Down  
 25 Payment Program are not taxable as income to the designated beneficiary under  
 26 the Income Tax Act of 1929, § 26-51-101 et seq.

27           (c)(1) A qualified distribution from a qualified down payment program  
 28 account established under this chapter is not taxable income under the Income  
 29 Tax Act of 1929, § 26-51-101 et seq.

30           (2) A nonqualified distribution from a qualified down payment  
 31 program account established under this chapter is taxable under the Income  
 32 Tax Act of 1929, § 26-51-101 et seq.

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 34           18-18-111. Limitation on liability.

35           Neither the Arkansas Dream Down Payment Program, the Treasurer of State  
 36 or his or her designee, nor the state shall:

1           (1) Insure any qualified down payment program account or  
2 guarantee any rate of return or any interest rate on any cash contribution;

3           (2) Be liable for any loss incurred by any person as a result of  
4 participating in the program under this chapter; or

5           (3) Be deemed to be a guarantor of a positive return on a cash  
6 contribution under this chapter.

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8           18-18-112. Reports.

9           (a) An officer or employee having control of a qualified down payment  
10 program or his or her designee shall make a report regarding the Arkansas  
11 Dream Down Payment Program to the Treasurer of State and to designated  
12 beneficiaries, including:

13           (1) Cash contributions;

14           (2) Distributions; and

15           (3) Other matters the Treasurer of State may require.

16           (b) The Treasurer of State shall report to the Senate Committee on  
17 Insurance and Commerce and the House Committee on Insurance and Commerce, as  
18 requested:

19           (1) The number of qualified down payment program accounts in  
20 existence in this state during the time specified in the report;

21           (2) The number of qualified down payment program accounts that  
22 have been established in this state over the life of the Arkansas Dream Down  
23 Payment Program;

24           (3) A summary of the account balances held in qualified down  
25 payment program accounts in this state;

26           (4) The race and gender distribution of designated  
27 beneficiaries;

28           (5) The income distribution of the designated beneficiaries of  
29 qualified down payment program accounts in this state;

30           (6) The number of distributions for qualified down payment  
31 expenses that have been made in this state since the previous report; and

32           (7) Any information the Treasurer of State shall determine is  
33 required to assess whether or not qualified down payment program accounts  
34 have contributed to facilitating access to affordable first-time  
35 homeownership in this state, particularly among young individuals, low-income  
36 and moderate-income individuals, and individuals from communities with

1 historically low rates of homeownership.

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 3 SECTION 2. Arkansas Code § 26-51-403(b), concerning the items  
 4 deducting from an individual's gross income to calculate the individual's  
 5 adjusted gross income, is amended to add an additional subdivision to read as  
 6 follows:

7 (18) Deductions for contributions to a qualified down payment  
 8 program account under § 18-18-110 not to exceed twenty thousand dollars  
 9 (\$20,000) per taxpayer.

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 11 SECTION 3. EFFECTIVE DATE.

12 This act becomes effective on and after January 1, 2023.

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 14 SECTION 4. DO NOT CODIFY. Rules.

15 (a) When adopting the initial rules under this act, the Treasurer of  
 16 State shall file the final rules with the Secretary of State for adoption  
 17 under § 25-15-204(f):

18 (1) On or before January 1, 2023; or

19 (2) If approval under § 10-3-309 has not occurred by January 1,  
 20 2023, as soon as practicable after approval under § 10-3-309.

21 (b) The Treasurer of State shall file the proposed rules with the  
 22 Legislative Council under § 10-3-309(c) sufficientl in advance of January 1,  
 23 2023, so that the Legislative Council may consider the rules for approval  
 24 before January 1, 2023.