

HOUSE BILL No. 4790

May 17, 2005, Introduced by Reps. Green, Vagnozzi, Van Regenmorter, Stahl, Taub, Proos, Hildenbrand, Zelenko and Vander Veen and referred to the Committee on Tax Policy.

A bill to permit the establishment and maintenance of long-term health care savings accounts; to provide for certain tax credits and deductions; to prescribe the requirements of and restrictions on long-term health care savings accounts; and to provide penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "long-
2 term health care savings account act".

3 Sec. 2. As used in this act:

4 (a) "Account administrator" means any of the following:

5 (i) A state chartered bank, savings and loan association,
6 credit union, or trust company authorized to act as fiduciary and
7 under the supervision of the financial institutions bureau of the

1 office of financial and insurance services; or a national banking
2 association or federal savings and loan association or credit union
3 authorized to act as fiduciary in this state.

4 (ii) A broker-dealer, commodity issuer, or investment advisor
5 registered pursuant to the uniform securities act, 1964 PA 265, MCL
6 451.501 to 451.818, or a federal investment company registered
7 under the investment company act of 1940, 15 USC 80a-1 to 80a-3 and
8 80a-4 to 80a-64.

9 (iii) A certified public accountant licensed to practice in this
10 state pursuant to article 7 of the occupational code, 1980 PA 299,
11 MCL 339.720 to 339.736.

12 (b) "Account holder" means the resident who is a taxpayer and
13 establishes a long-term health care savings account or for whose
14 benefit a long-term health care savings account is established.

15 (c) "Domicile" means a place where an individual has his or
16 her true, fixed, and permanent home and principal establishment, to
17 which, whenever absent, he or she intends to return. Domicile
18 continues until another permanent home or principal establishment
19 is established.

20 (d) "Eligible expense" means an expense paid by the taxpayer
21 for long-term health care costs allowed under this act or premiums
22 for a long-term health care policy, certificate, or rider issued by
23 an insurer pursuant to the insurance code of 1956, 1956 PA 218, MCL
24 500.100 to 500.8302, as determined by the department of treasury of
25 a taxpayer who has established an account under this act.

26 (e) "Long-term health care costs" means expenses paid by the
27 account holder or on behalf of the account holder for the use of

1 skilled nursing care, home health care, personal care, or
2 supportive services due to the loss of some capacity for self-care
3 based on a chronic illness or condition of the individual on whose
4 behalf the expenses were paid.

5 (f) "Long-term health care savings account" or "account" means
6 an account established in this state pursuant to this act to be
7 used to pay the eligible expenses of an account holder or his or
8 her spouse, parent, or child.

9 (g) "Resident" means an individual domiciled in this state.

10 Sec. 3. (1) For tax years that begin after December 31, 2004,
11 a resident may establish a long-term health care savings account
12 with an account administrator for himself or herself or for his or
13 her spouse, parent, or child if the account holder claims an
14 exemption under section 30(2) of the income tax act of 1967, 1967
15 PA 281, MCL 206.30, for the spouse, parent, or child.

16 (2) An individual may establish a joint account for the
17 benefit of himself or herself and his or her spouse. If a joint
18 account is established, each individual is considered to be the
19 account holder and the account shall be available to pay the
20 eligible expenses of either account holder.

21 (3) To establish an account, the taxpayer shall enter into an
22 agreement with an account administrator.

23 (4) Contributions to an account shall only be made in cash, by
24 check, by money order, by credit card, or by any other similar
25 method, but shall not be property.

26 Sec. 4. (1) An account administrator shall administer the
27 account from which the payments are made and has a fiduciary duty

1 to the person for whose benefit the account administrator
2 administers an account.

3 (2) The account administrator shall utilize the funds held in
4 an account solely for the purpose of paying the eligible expenses
5 of the account holder or the person for whose benefit the account
6 has been established.

7 (3) The account administrator shall pay the eligible expenses
8 of the person on whose behalf the account has been established
9 directly based on bills or other evidence of a debt or account due
10 or shall reimburse the account holder from the account holder's
11 account for eligible expenses paid by the account holder based on
12 documentation submitted to the account administrator.

13 Sec. 5. (1) Subject to subsection (2), if an account holder
14 withdraws money for any purpose other than a purpose described in
15 section 4(2), the administrator shall withhold from the amount of
16 the withdrawal and on behalf of the account holder shall pay a
17 penalty to the department of treasury equal to 10% of the amount of
18 the withdrawal.

19 (2) The amount of a disbursement of any assets of an account
20 pursuant to a filing for protection under title 11 of the United
21 States Code, 11 USC 101 to 1330, by an account holder or an account
22 holder's spouse is not considered a withdrawal for purposes of this
23 section.

24 (3) Upon the death of the account holder, the account
25 administrator shall distribute the principal and accumulated
26 interest of the account to the estate of the account holder.

27 Sec. 6. This act does not take effect unless Senate Bill No.

1 _____ or House Bill No. 4791(request no. 00852'05 a) of the
2 93rd Legislature is enacted into law.