

1 AN ACT concerning long term health care.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Elder Care Savings Fund Act.

6 Section 5. Declaration of purpose. It is declared (i)
7 that for the benefit of the people of the State of Illinois,
8 the conduct and increase of their commerce, the protection
9 and enhancement of their welfare, the development of
10 continued prosperity, and the improvement of their health and
11 living conditions, it is essential that this and future
12 generations be given the fullest opportunity to provide for
13 their long-term health care needs and (ii) that to achieve
14 these ends it is of the utmost importance that Illinois
15 residents be provided with investment alternatives to enhance
16 their financial access to long-term health care. It is the
17 intent of this Act to create a savings fund that will provide
18 residents of the State of Illinois with an investment option
19 that will earn the highest available rate of return while
20 managing risk and maintaining liquidity.

21 Section 10. Definitions. In this Act:

22 (a) "Assisted living establishment" or "establishment"
23 means a home, building, residence, or any other place where
24 sleeping accommodations are provided for at least 3 unrelated
25 adults, at least 80% of whom are 55 years of age or older,
26 and where the following are provided consistent with the
27 purposes of this Act:

28 (1) Services consistent with a social model that is
29 based on the premise that the resident's unit in assisted
30 living and shared housing is his or her own home.

1 (2) Community-based residential care for persons
2 who need assistance with activities of daily living,
3 including personal, supportive, and intermittent
4 health-related services available 24 hours per day, if
5 needed, to meet the scheduled and unscheduled needs of a
6 resident.

7 (3) Counseling for health, social services, and
8 nutrition by licensed personnel or case coordination
9 units under the Department on Aging and the area agencies
10 on aging.

11 (4) Mandatory services, whether provided directly
12 by the establishment or by another entity arranged for by
13 the establishment, with the consent of the resident or
14 resident's representative.

15 (5) A physical environment that is a homelike
16 setting that includes the following elements, as well as
17 other elements established by the Department in
18 conjunction with the Assisted Living and Shared Housing
19 Advisory Board: individual living units, each of which
20 must accommodate small kitchen appliances and contain
21 private bathing, washing, and toilet facilities, or
22 private washing and toilet facilities with a common
23 bathing room readily accessible to each resident. Units
24 must be maintained for single occupancy except in cases
25 in which 2 residents choose to share a unit. Sufficient
26 common space must exist to permit individual and group
27 activities.

28 "Assisted living establishment" or "establishment" does
29 not mean any of the following:

30 (1) A home, institution, or similar place operated
31 by the federal government or the State of Illinois.

32 (2) A long-term care facility licensed under the
33 Nursing Home Care Act. A long-term care facility may
34 convert distinct parts of the facility to assisted

1 living, however. If the long-term care facility elects
2 to do so, the facility shall retain the Certificate of
3 Need for its nursing beds that were converted.

4 (3) A hospital, sanitarium, or other institution,
5 the principal activity or business of which is the
6 diagnosis, care, and treatment of human illness and that
7 is required to be licensed under the Hospital Licensing
8 Act.

9 (4) A facility for child care as defined in the
10 Child Care Act of 1969.

11 (5) A community living facility as defined in the
12 Community Living Facilities Licensing Act.

13 (6) A nursing home or sanitarium operated solely by
14 and for persons who rely exclusively upon treatment by
15 spiritual means through prayer in accordance with the
16 creed or tenets of a well-recognized church or religious
17 denomination.

18 (7) A facility licensed by the Department of Human
19 Services as a community-integrated living arrangement as
20 defined in the Community-Integrated Living Arrangements
21 Licensure and Certification Act.

22 (8) A supportive residence licensed under the
23 Supportive Residences Licensing Act.

24 (9) A life care facility as defined in the Life
25 Care Facilities Act; a life care facility may apply under
26 this Act to convert sections of the community to assisted
27 living.

28 (10) A free-standing hospice facility.

29 (11) A shared housing establishment.

30 (12) A supportive living facility as described in
31 Section 5-5.01a of the Illinois Public Aid Code.

32 (b) "Authority" means the Elder Care Trust Authority.

33 (c) "Elder Care Savings Fund" means the fund that is
34 created and administered by the State Treasurer to supplement

1 and enhance the investment opportunities otherwise available
2 to Illinois residents seeking to save money to pay the costs
3 of long-term health care.

4 Section 15. Elder Care Savings Fund.

5 (a) In order to provide investors with investment
6 alternatives to enhance their financial access to long-term
7 health care, and in furtherance of the public policy of this
8 Act, the State Treasurer may establish and administer an
9 Elder Care Savings Fund.

10 (b) The Treasurer, in administering the Elder Care
11 Savings Fund, may receive moneys from Illinois residents into
12 the fund and invest moneys within the fund on their behalf.
13 The Treasurer may invest the moneys constituting the Elder
14 Care Savings Fund in the same manner and in the same types of
15 investments and subject to the same limitations provided for
16 the investment of moneys in the State treasury.

17 The Treasurer shall develop, publish, and implement an
18 investment policy covering the management of moneys in the
19 Elder Care Savings Fund. The policy shall be published at
20 least once each year in at least one newspaper of general
21 circulation in both Springfield and Chicago, and each year as
22 part of the audit of the Elder Care Savings Fund by the
23 Auditor General, which shall be distributed to all
24 participants in the fund. The Treasurer shall notify all
25 participants in writing, and the Treasurer shall publish in a
26 newspaper of general circulation in both Chicago and
27 Springfield any changes to the previously published
28 investment policy at least 30 calendar days before
29 implementing the policy. Any investment policy adopted by
30 the Treasurer shall be reviewed, and updated if necessary,
31 within 90 days following the installation of a new Treasurer.

32 (c) A portion of the administrative expenses of the
33 Elder Care Savings Fund shall be paid from the earnings of

1 the fund. No more than 0.005% of the assets of the fund may
2 be used to pay administrative expenses. The Treasurer must
3 seek an appropriation for any administrative expenses that
4 are not paid from the earnings of the fund. As soon as the
5 Elder Care Savings Fund reaches an asset level that equals or
6 exceeds \$200,000,000, the administration expenses of the fund
7 shall be paid solely from its earnings. Interest earnings in
8 excess of administrative expenses shall be credited or paid
9 monthly to the several participants in the fund in a manner
10 that equitably reflects the differing amounts of their
11 respective investments in the fund and the differing periods
12 of time for which the amounts were in the custody of the
13 fund.

14 (d) The Treasurer shall adopt rules as he or she deems
15 necessary for the efficient administration of the Elder Care
16 Savings Fund, including specification of minimum and maximum
17 amounts that may be deposited, minimum and maximum periods of
18 time for which deposits may be retained in the fund, and
19 conditions under which penalties will be assessed for refunds
20 of earnings that are not used for long-term health care
21 expenses defined in Section 10 of this Act.

22 (e) Upon creating an Elder Care Savings Fund the State
23 Treasurer shall give bond with 2 or more sufficient sureties,
24 payable to and for the benefit of the participants in the
25 Elder Care Savings Fund, in the penal sum of \$500,000,
26 conditioned upon the faithful discharge of his or her duties
27 in relation to the fund.

28 Section 20. Exemption from taxation. As provided in
29 this Act, the investment in the Elder Care Savings Fund is in
30 all respects for the benefit of the People of the State of
31 Illinois, the conduct and increase of their commerce, the
32 protection and enhancement of their welfare, the development
33 of continued prosperity, and the improvement of their health

1 and living conditions and is for public purposes. In
2 consideration of those facts, income derived from investments
3 in the Elder Care Savings Fund and financial incentives
4 received under the grant program described in Section 25 of
5 this Act shall be free from all taxation by the State or its
6 political subdivisions, except for estate, transfer, and
7 inheritance taxes.

8 Section 25. Grant program.

9 (a) The Governor and the Director of the Bureau of the
10 Budget shall provide for a grant program of additional
11 financial incentives to be provided to participants in the
12 Elder Care Savings Program to encourage the use of the Elder
13 Care Savings Fund and the income derived from the fund for
14 one or more of the following purposes:

15 (1) Care in a facility licensed under the Nursing
16 Home Care Act.

17 (2) Home health nursing services or home health
18 aide services provided by a home health agency licensed
19 under the Home Health Agency Licensing Act.

20 (3) Respite care as defined in the Respite Program
21 Act.

22 (4) Custodial care services.

23 (5) Care in a hospice licensed under the Hospice
24 Program Licensing Act.

25 (6) Long-term health care services for the aged,
26 the disabled, or persons diagnosed as infected with HIV
27 or having AIDS or a related condition. These services
28 include, without limitation, chore-housekeeping services,
29 a personal care attendant, adult day care, assistive
30 equipment, home renovation, home-delivered meals, and
31 emergency response systems. As used in this paragraph,
32 "AIDS" means acquired immunodeficiency syndrome; "HIV"
33 means the Human Immunodeficiency Virus or any other

1 identified causative agent of AIDS.

2 (7) Care in an assisted living establishment.

3 (b) The grant program of financial incentives shall be
4 administered by the State Treasurer pursuant to
5 administrative rules adopted by the Treasurer. The financial
6 incentives shall be in forms determined by the Governor and
7 the Director of the Bureau of the Budget and may include,
8 among others, supplemental payments to the participants in
9 the Elder Care Savings Fund to be applied to costs of care or
10 services specified in items (1) through (6) of subsection
11 (a). The Treasurer may establish, by rule, administrative
12 procedures and eligibility criteria for the grant program;
13 those rules must be consistent with the purposes of this Act.
14 The Treasurer may require participants in the Elder Care
15 Savings Fund, providers of long-term health care services,
16 and other necessary parties to assist in determining
17 eligibility for financial incentives under the grant program.

18 (c) All grants shall be subject to annual appropriation
19 of moneys for that purpose by the General Assembly.
20 Financial incentives shall be provided only if, in the sole
21 judgment of the Director of the Bureau of the Budget, the
22 total incentives offered in a given year will not exceed the
23 balance of the Elder Care Savings Fund on the day the
24 incentives are offered by more than 0.5%.

25 Section 30. Education program. The State Treasurer, in
26 cooperation with the Department on Aging and area agencies on
27 aging, shall develop and implement an education program and
28 marketing strategies designed to inform residents of this
29 State about the options available for financing long-term
30 health care and the need to accumulate the financial
31 resources necessary to pay for that care. The Treasurer
32 shall report to the General Assembly on the program developed
33 and its operation before May 1, 2004. The Treasurer shall

1 adopt rules with respect to his or her powers and duties
2 under this Act.

3 Section 35. Elder Care Trust Authority.

4 (a) The Elder Care Trust Authority is created. The
5 Authority shall consist of 11 members, 7 of whom shall be
6 appointed as follows: the Speaker and Minority Leader of the
7 House of Representatives and the President and Minority
8 Leader of the Senate shall each appoint one member, and the
9 Governor shall appoint 3 members. The State Treasurer, the
10 Director of the Bureau of the Budget, the Director of Public
11 Health, and the Director of the Illinois Economic and Fiscal
12 Commission, or their respective designees, shall each be a
13 member ex officio. The Governor and legislative leaders
14 shall give consideration to selecting members that include
15 representatives from the following categories: (i) a
16 director, officer, or employee of an entity that provides
17 long-term health care services; (ii) a person having a
18 favorable reputation for skill, knowledge, and experience in
19 the field of portfolio management; and (iii) a person
20 experienced in and having a favorable reputation for skill,
21 knowledge, and experience in the long-term health care
22 savings field.

23 The State Treasurer or the Treasurer's designee shall
24 serve as the chairperson of the Authority.

25 The appointed members of the Authority first appointed
26 shall serve for terms expiring on June 30 in 2004, 2005,
27 2006, 2007, 2008, 2009, and 2010, respectively, or until
28 their respective successors have been appointed and have
29 qualified. The initial term of each of those members shall
30 be determined by lot. Upon the expiration of the term of any
31 member, the member's successor shall be appointed for a term
32 of 6 years and until his or her successor has been appointed
33 and has qualified.

1 Any vacancy shall be filled in the manner of the original
2 appointment for the remainder of the unexpired term.

3 Any member of the Authority may be removed by the
4 appointing authority for misfeasance, malfeasance, or wilful
5 neglect of duty or other cause after notice and a public
6 hearing, unless that notice and hearing are expressly waived
7 by the member in writing.

8 Members are entitled to be compensated from moneys
9 appropriated to the State Treasurer for their reasonable
10 expenses actually incurred in performing their duties.

11 Staff assistance shall be provided to the Authority by
12 the State Treasurer.

13 The Authority shall meet at least once each year.

14 (b) The Authority has the following responsibilities:

15 (1) To make recommendations to the Elder Care
16 Savings Fund staff regarding the marketing of the fund to
17 ensure the use of the fund by participants throughout the
18 State for long-term health care purposes.

19 (2) To advise the Elder Care Savings Fund staff on
20 an effective advertising campaign to inform the general
21 public about the fund and its availability.

22 (3) To advise the Elder Care Savings Fund staff
23 regarding the investment portfolio of the fund.

24 (4) After the creation of the Elder Care Savings
25 Fund, to assess the effectiveness of the program and
26 recommend constructive changes to the Bureau of the
27 Budget.

28 (5) To make recommendations to the General Assembly
29 regarding statutory changes that the Authority deems
30 necessary or desirable.

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.