

1 AN ACT concerning civil procedure.

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

4 Section 5. The State Treasurer Act is amended by changing
5 Section 16.5 as follows:

6 (15 ILCS 505/16.5)

7 Sec. 16.5. College Savings Pool. The State Treasurer may
8 establish and administer a College Savings Pool to supplement
9 and enhance the investment opportunities otherwise available
10 to persons seeking to finance the costs of higher education.
11 The State Treasurer, in administering the College Savings Pool,
12 may receive moneys paid into the pool by a participant and may
13 serve as the fiscal agent of that participant for the purpose
14 of holding and investing those moneys.

15 "Participant", as used in this Section, means any person
16 who has authority to withdraw funds, change the designated
17 beneficiary, or otherwise exercise control over an account.

18 "Donor", as used in this Section, means any person who makes
19 investments in the pool. "Designated beneficiary", as used in
20 this Section, means any person on whose behalf an account is
21 established in the College Savings Pool by a participant. Both
22 in-state and out-of-state persons may be participants, donors,
23 and designated beneficiaries in the College Savings Pool.

1 New accounts in the College Savings Pool shall be processed
2 through participating financial institutions. "Participating
3 financial institution", as used in this Section, means any
4 financial institution insured by the Federal Deposit Insurance
5 Corporation and lawfully doing business in the State of
6 Illinois and any credit union approved by the State Treasurer
7 and lawfully doing business in the State of Illinois that
8 agrees to process new accounts in the College Savings Pool.
9 Participating financial institutions may charge a processing
10 fee to participants to open an account in the pool that shall
11 not exceed \$30 until the year 2001. Beginning in 2001 and every
12 year thereafter, the maximum fee limit shall be adjusted by the
13 Treasurer based on the Consumer Price Index for the North
14 Central Region as published by the United States Department of
15 Labor, Bureau of Labor Statistics for the immediately preceding
16 calendar year. Every contribution received by a financial
17 institution for investment in the College Savings Pool shall be
18 transferred from the financial institution to a location
19 selected by the State Treasurer within one business day
20 following the day that the funds must be made available in
21 accordance with federal law. All communications from the State
22 Treasurer to participants and donors shall reference the
23 participating financial institution at which the account was
24 processed.

25 The Treasurer may invest the moneys in the College Savings
26 Pool in the same manner, in the same types of investments, and

1 subject to the same limitations provided for the investment of
2 moneys by the Illinois State Board of Investment. To enhance
3 the safety and liquidity of the College Savings Pool, to ensure
4 the diversification of the investment portfolio of the pool,
5 and in an effort to keep investment dollars in the State of
6 Illinois, the State Treasurer shall make a percentage of each
7 account available for investment in participating financial
8 institutions doing business in the State. The State Treasurer
9 shall deposit with the participating financial institution at
10 which the account was processed the following percentage of
11 each account at a prevailing rate offered by the institution,
12 provided that the deposit is federally insured or fully
13 collateralized and the institution accepts the deposit: 10% of
14 the total amount of each account for which the current age of
15 the beneficiary is less than 7 years of age, 20% of the total
16 amount of each account for which the beneficiary is at least 7
17 years of age and less than 12 years of age, and 50% of the total
18 amount of each account for which the current age of the
19 beneficiary is at least 12 years of age. The State Treasurer
20 shall adjust each account at least annually to ensure
21 compliance with this Section. The Treasurer shall develop,
22 publish, and implement an investment policy covering the
23 investment of the moneys in the College Savings Pool. The
24 policy shall be published (i) at least once each year in at
25 least one newspaper of general circulation in both Springfield
26 and Chicago and (ii) each year as part of the audit of the

1 College Savings Pool by the Auditor General, which shall be
2 distributed to all participants. The Treasurer shall notify all
3 participants in writing, and the Treasurer shall publish in a
4 newspaper of general circulation in both Chicago and
5 Springfield, any changes to the previously published
6 investment policy at least 30 calendar days before implementing
7 the policy. Any investment policy adopted by the Treasurer
8 shall be reviewed and updated if necessary within 90 days
9 following the date that the State Treasurer takes office.

10 Participants shall be required to use moneys distributed
11 from the College Savings Pool for qualified expenses at
12 eligible educational institutions. "Qualified expenses", as
13 used in this Section, means the following: (i) tuition, fees,
14 and the costs of books, supplies, and equipment required for
15 enrollment or attendance at an eligible educational
16 institution and (ii) certain room and board expenses incurred
17 while attending an eligible educational institution at least
18 half-time. "Eligible educational institutions", as used in
19 this Section, means public and private colleges, junior
20 colleges, graduate schools, and certain vocational
21 institutions that are described in Section 481 of the Higher
22 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to
23 participate in Department of Education student aid programs. A
24 student shall be considered to be enrolled at least half-time
25 if the student is enrolled for at least half the full-time
26 academic work load for the course of study the student is

1 pursuing as determined under the standards of the institution
2 at which the student is enrolled. Distributions made from the
3 pool for qualified expenses shall be made directly to the
4 eligible educational institution, directly to a vendor, or in
5 the form of a check payable to both the beneficiary and the
6 institution or vendor. Any moneys that are distributed in any
7 other manner or that are used for expenses other than qualified
8 expenses at an eligible educational institution shall be
9 subject to a penalty of 10% of the earnings unless the
10 beneficiary dies, becomes disabled, or receives a scholarship
11 that equals or exceeds the distribution. Penalties shall be
12 withheld at the time the distribution is made.

13 The Treasurer shall limit the contributions that may be
14 made on behalf of a designated beneficiary based on an
15 actuarial estimate of what is required to pay tuition, fees,
16 and room and board for 5 undergraduate years at the highest
17 cost eligible educational institution. The contributions made
18 on behalf of a beneficiary who is also a beneficiary under the
19 Illinois Prepaid Tuition Program shall be further restricted to
20 ensure that the contributions in both programs combined do not
21 exceed the limit established for the College Savings Pool. The
22 Treasurer shall provide the Illinois Student Assistance
23 Commission each year at a time designated by the Commission, an
24 electronic report of all participant accounts in the
25 Treasurer's College Savings Pool, listing total contributions
26 and disbursements from each individual account during the

1 previous calendar year. As soon thereafter as is possible
2 following receipt of the Treasurer's report, the Illinois
3 Student Assistance Commission shall, in turn, provide the
4 Treasurer with an electronic report listing those College
5 Savings Pool participants who also participate in the State's
6 prepaid tuition program, administered by the Commission. The
7 Commission shall be responsible for filing any combined tax
8 reports regarding State qualified savings programs required by
9 the United States Internal Revenue Service. The Treasurer shall
10 work with the Illinois Student Assistance Commission to
11 coordinate the marketing of the College Savings Pool and the
12 Illinois Prepaid Tuition Program when considered beneficial by
13 the Treasurer and the Director of the Illinois Student
14 Assistance Commission. The Treasurer's office shall not
15 publicize or otherwise market the College Savings Pool or
16 accept any moneys into the College Savings Pool prior to March
17 1, 2000. The Treasurer shall provide a separate accounting for
18 each designated beneficiary to each participant, the Illinois
19 Student Assistance Commission, and the participating financial
20 institution at which the account was processed. No interest in
21 the program may be pledged as security for a loan. Moneys held
22 in an account invested in the Illinois College Savings Pool
23 shall be exempt from all claims of the creditors of the
24 participant, donor, or designated beneficiary of that account,
25 except for the non-exempt College Savings Pool transfers to or
26 from the account as defined under subsection (j) of Section

1 12-1001 of the Code of Civil Procedure (735 ILCS 5/12-1001(j)).

2 The assets of the College Savings Pool and its income and
3 operation shall be exempt from all taxation by the State of
4 Illinois and any of its subdivisions. The accrued earnings on
5 investments in the Pool once disbursed on behalf of a
6 designated beneficiary shall be similarly exempt from all
7 taxation by the State of Illinois and its subdivisions, so long
8 as they are used for qualified expenses. Contributions to a
9 College Savings Pool account during the taxable year may be
10 deducted from adjusted gross income as provided in Section 203
11 of the Illinois Income Tax Act. The provisions of this
12 paragraph are exempt from Section 250 of the Illinois Income
13 Tax Act.

14 The Treasurer shall adopt rules he or she considers
15 necessary for the efficient administration of the College
16 Savings Pool. The rules shall provide whatever additional
17 parameters and restrictions are necessary to ensure that the
18 College Savings Pool meets all of the requirements for a
19 qualified state tuition program under Section 529 of the
20 Internal Revenue Code (26 U.S.C. 529). The rules shall provide
21 for the administration expenses of the pool to be paid from its
22 earnings and for the investment earnings in excess of the
23 expenses and all moneys collected as penalties to be credited
24 or paid monthly to the several participants in the pool in a
25 manner which equitably reflects the differing amounts of their
26 respective investments in the pool and the differing periods of

1 time for which those amounts were in the custody of the pool.
2 Also, the rules shall require the maintenance of records that
3 enable the Treasurer's office to produce a report for each
4 account in the pool at least annually that documents the
5 account balance and investment earnings. Notice of any proposed
6 amendments to the rules and regulations shall be provided to
7 all participants prior to adoption. Amendments to rules and
8 regulations shall apply only to contributions made after the
9 adoption of the amendment.

10 Upon creating the College Savings Pool, the State Treasurer
11 shall give bond with 2 or more sufficient sureties, payable to
12 and for the benefit of the participants in the College Savings
13 Pool, in the penal sum of \$1,000,000, conditioned upon the
14 faithful discharge of his or her duties in relation to the
15 College Savings Pool.

16 (Source: P.A. 92-16, eff. 6-28-01; 92-439, eff. 8-17-01;
17 92-626, eff. 7-11-02; 93-812, eff. 1-1-05.)

18 Section 10. The Code of Civil Procedure is amended by
19 changing Section 12-1001 as follows:

20 (735 ILCS 5/12-1001) (from Ch. 110, par. 12-1001)

21 Sec. 12-1001. Personal property exempt. The following
22 personal property, owned by the debtor, is exempt from
23 judgment, attachment, or distress for rent:

24 (a) The necessary wearing apparel, bible, school

1 books, and family pictures of the debtor and the debtor's
2 dependents;

3 (b) The debtor's equity interest, not to exceed \$4,000
4 in value, in any other property;

5 (c) The debtor's interest, not to exceed \$2,400 in
6 value, in any one motor vehicle;

7 (d) The debtor's equity interest, not to exceed \$1,500
8 in value, in any implements, professional books, or tools
9 of the trade of the debtor;

10 (e) Professionally prescribed health aids for the
11 debtor or a dependent of the debtor;

12 (f) All proceeds payable because of the death of the
13 insured and the aggregate net cash value of any or all life
14 insurance and endowment policies and annuity contracts
15 payable to a wife or husband of the insured, or to a child,
16 parent, or other person dependent upon the insured, whether
17 the power to change the beneficiary is reserved to the
18 insured or not and whether the insured or the insured's
19 estate is a contingent beneficiary or not;

20 (g) The debtor's right to receive:

21 (1) a social security benefit, unemployment
22 compensation, or public assistance benefit;

23 (2) a veteran's benefit;

24 (3) a disability, illness, or unemployment
25 benefit; and

26 (4) alimony, support, or separate maintenance, to

1 the extent reasonably necessary for the support of the
2 debtor and any dependent of the debtor.

3 (h) The debtor's right to receive, or property that is
4 traceable to:

5 (1) an award under a crime victim's reparation law;

6 (2) a payment on account of the wrongful death of
7 an individual of whom the debtor was a dependent, to
8 the extent reasonably necessary for the support of the
9 debtor;

10 (3) a payment under a life insurance contract that
11 insured the life of an individual of whom the debtor
12 was a dependent, to the extent reasonably necessary for
13 the support of the debtor or a dependent of the debtor;

14 (4) a payment, not to exceed \$15,000 in value, on
15 account of personal bodily injury of the debtor or an
16 individual of whom the debtor was a dependent; and

17 (5) any restitution payments made to persons
18 pursuant to the federal Civil Liberties Act of 1988 and
19 the Aleutian and Pribilof Island Restitution Act, P.L.
20 100-383.

21 For purposes of this subsection (h), a debtor's right
22 to receive an award or payment shall be exempt for a
23 maximum of 2 years after the debtor's right to receive the
24 award or payment accrues; property traceable to an award or
25 payment shall be exempt for a maximum of 5 years after the
26 award or payment accrues; and an award or payment and

1 property traceable to an award or payment shall be exempt
2 only to the extent of the amount of the award or payment,
3 without interest or appreciation from the date of the award
4 or payment.

5 (i) The debtor's right to receive an award under Part
6 20 of Article II of this Code relating to crime victims'
7 awards.

8 (j) Moneys held in an account invested in the Illinois
9 College Savings Pool of which the debtor is a participant
10 or donor, except the following non-exempt contributions:

11 (1) any contribution to such account by the debtor
12 as participant or donor that is made with the actual
13 intent to hinder, delay, or defraud any creditor of the
14 debtor;

15 (2) any contributions to such account by the debtor
16 as participant during the 365 day period prior to the
17 date of filing of the debtor's petition for bankruptcy
18 that, in the aggregate during such period, exceed the
19 amount of the annual gift tax exclusion under Section
20 2503(b) of the Internal Revenue Code of 1986, as
21 amended, in effect at the time of contribution; or

22 (3) any contributions to such account by the debtor
23 as participant during the period commencing 730 days
24 prior to and ending 366 days prior to the date of
25 filing of the debtor's petition for bankruptcy that, in
26 the aggregate during such period, exceed the amount of

1 the annual gift tax exclusion under Section 2503(b) of
2 the Internal Revenue Code of 1986, as amended, in
3 effect at the time of contribution.

4 For purposes of this subsection (j), "account"
5 includes all accounts for a particular designated
6 beneficiary, of which the debtor is a participant or donor.

7 Money due the debtor from the sale of any personal property
8 that was exempt from judgment, attachment, or distress for rent
9 at the time of the sale is exempt from attachment and
10 garnishment to the same extent that the property would be
11 exempt had the same not been sold by the debtor.

12 If a debtor owns property exempt under this Section and he
13 or she purchased that property with the intent of converting
14 nonexempt property into exempt property or in fraud of his or
15 her creditors, that property shall not be exempt from judgment,
16 attachment, or distress for rent. Property acquired within 6
17 months of the filing of the petition for bankruptcy shall be
18 presumed to have been acquired in contemplation of bankruptcy.

19 The personal property exemptions set forth in this Section
20 shall apply only to individuals and only to personal property
21 that is used for personal rather than business purposes. The
22 personal property exemptions set forth in this Section shall
23 not apply to or be allowed against any money, salary, or wages
24 due or to become due to the debtor that are required to be
25 withheld in a wage deduction proceeding under Part 8 of this
26 Article XII.

1 (Source: P.A. 94-293, eff. 1-1-06.)