

# SENATE BILL No. 15

January 14, 2009, Introduced by Senator HARDIMAN and referred to the Committee on Health 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 regulation; 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 (iv) An account holder.

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

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

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

27 (e) "Long-term health care costs" means expenses paid by the

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

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

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

11 Sec. 3. (1) For tax years that begin after December 31, 2008,  
12 a resident may establish a long-term health care savings account  
13 with an account administrator for himself or herself or for his or  
14 her spouse, parent, or child if the account holder claims an  
15 exemption under section 30(2) of the income tax act of 1967, 1967  
16 PA 281, MCL 206.30, for the spouse, parent, or child.

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

22 (3) To establish an account, the taxpayer shall enter into an  
23 agreement with an account administrator if the account holder is  
24 not the account administrator. If the account holder is the account  
25 administrator, the account holder may establish the account with a  
26 financial institution in this state.

27 (4) Contributions to an account shall only be made in cash, by

1 check, by money order, by credit card, or by any other similar  
2 method, but shall not be property.

3 Sec. 4. (1) An account administrator shall administer the  
4 account from which the payments are made and, if the account  
5 administrator is not the account holder, has a fiduciary duty to  
6 the person for whose benefit the account administrator administers  
7 an account.

8 (2) The account administrator shall utilize the funds held in  
9 an account solely for the purpose of paying the eligible expenses  
10 of the account holder or the person for whose benefit the account  
11 has been established.

12 (3) The account administrator shall pay the eligible expenses  
13 of the person on whose behalf the account has been established  
14 directly based on bills or other evidence of a debt or account due  
15 or shall reimburse the account holder from the account holder's  
16 account for eligible expenses paid by the account holder based on  
17 documentation submitted to the account administrator or in the  
18 possession of the account holder if the account holder is the  
19 account administrator.

20 Sec. 5. (1) Subject to subsection (2), if an account holder  
21 withdraws money for any purpose other than a purpose described in  
22 section 4(2), the account administrator shall withhold from the  
23 amount of the withdrawal and on behalf of the account holder shall  
24 pay a penalty to the department of treasury equal to 10% of the  
25 amount of the withdrawal.

26 (2) The amount of a disbursement of any assets of an account  
27 pursuant to a filing for protection under title 11 of the United

1 States Code, 11 USC 101 to 1532, by an account holder or an account  
2 holder's spouse is not considered a withdrawal for purposes of this  
3 section.

4 (3) Upon the death of the account holder, the account  
5 administrator shall distribute the principal and accumulated  
6 interest of the account to the estate of the account holder.

7 Sec. 6. This act does not take effect unless Senate Bill  
8 No. 16 of the 95th  
9 Legislature is enacted into law.