

11133

I N A S S E M B L Y

May 19, 2010

Introduced by M. of A. CASTELLI -- read once and referred to the Committee on Aging

AN ACT to amend the elder law, the tax law and the state finance law, in relation to establishing various long term care savings plans and providing certain tax credits; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The elder law is amended by adding a new article 4 to read
2 as follows:

3 ARTICLE IV

4 LONG TERM CARE SAVINGS ACCOUNTS

5 SECTION 401. DEFINITIONS.

6 402. LONG TERM CARE SAVINGS ACCOUNT PROGRAM.

7 403. QUALIFIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM.

8 404. QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT PROGRAM.

9 405. OWNERSHIP.

10 406. WITHDRAWALS.

11 407. TAX TREATMENT.

12 408. DEATH OF THE ACCOUNT HOLDER.

13 409. CANCELLATION OR TRANSFER.

14 410. RULES AND REGULATIONS.

15 S 401. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING
16 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

17 1. "ACCOUNT ADMINISTRATOR" MEANS ANY OF THE FOLLOWING:

18 (A) A NATIONAL OR STATE CHARTERED BANK, A FEDERAL OR STATE CHARTERED
19 SAVINGS AND LOAN ASSOCIATION, A FEDERAL OR STATE CHARTERED SAVINGS BANK,
20 OR A FEDERAL OR STATE CHARTERED CREDIT UNION.

21 (B) A TRUST COMPANY AUTHORIZED TO ACT AS A FIDUCIARY.

22 (C) AN INSURANCE COMPANY LICENSED PURSUANT TO ARTICLE FORTY-ONE OR
23 FORTY-TWO OF THE INSURANCE LAW OR A HEALTH MAINTENANCE ORGANIZATION
24 CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

25 (D) A DEALER, SALESPERSON, OR INVESTMENT ADVISER REGISTERED PURSUANT
26 TO SECTION THREE HUNDRED FIFTY-NINE-E OF THE GENERAL BUSINESS LAW.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (E) AN ADMINISTRATOR LICENSED PURSUANT TO SECTION TWO THOUSAND ONE
2 HUNDRED THIRTY-SIX OF THE INSURANCE LAW.

3 (F) A CERTIFIED PUBLIC ACCOUNTANT LICENSED PURSUANT TO SECTION SEVEN-
4 TY-FOUR HUNDRED FOUR OF THE EDUCATION LAW.

5 (G) AN ATTORNEY ADMITTED TO PRACTICE LAW IN THIS STATE.

6 (H) AN EMPLOYER, IF THE EMPLOYER HAS A SELF-INSURED HEALTH PLAN PURSU-
7 ANT TO THE PROVISIONS OF THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY
8 ACT OF 1974.

9 (I) AN EMPLOYER THAT PARTICIPATES IN THE QUALIFIED LONG TERM CARE
10 SAVINGS ACCOUNT PROGRAM.

11 2. "ACCOUNT HOLDER" MEANS THE OWNER OF ANY ACCOUNT ESTABLISHED PURSU-
12 ANT TO THIS ARTICLE.

13 3. "ELIGIBLE LONG TERM CARE EXPENSE" MEANS ANY OF THE FOLLOWING:

14 (A) AN EXPENSE PAID BY THE ACCOUNT HOLDER FOR THE COST OF LONG TERM
15 CARE IN A LONG TERM CARE FACILITY FOR THE ACCOUNT HOLDER, THE ACCOUNT
16 HOLDER'S SPOUSE, THE ACCOUNT HOLDER'S PARENT OR ANOTHER PERSON FOR WHOM
17 THE ACCOUNT HOLDER HAS AN INSURABLE INTEREST;

18 (B) THE COST OF CARE PROVIDED IN AN INDIVIDUAL'S HOME WHEN THE ACCOUNT
19 HOLDER, THE ACCOUNT HOLDER'S SPOUSE, THE ACCOUNT HOLDER'S PARENT OR
20 ANOTHER PERSON FOR WHOM THE ACCOUNT HOLDER HAS AN INSURABLE INTEREST
21 RECEIVING THE CARE IS UNABLE TO PERFORM MULTIPLE BASIC LIFE FUNCTIONS
22 INDEPENDENTLY; OR

23 (C) AN EXPENSE PAID BY THE ACCOUNT HOLDER FOR THE COST OF QUALIFIED
24 LONG TERM CARE SERVICES AS SUCH TERM IS DEFINED IN SUBDIVISION (C) OF
25 SECTION 7702B OF THE INTERNAL REVENUE CODE.

26 4. "EMPLOYEE" MEANS THE INDIVIDUAL FOR WHOSE BENEFIT A QUALIFIED LONG
27 TERM CARE SAVINGS ACCOUNT IS ESTABLISHED PURSUANT TO SECTION FOUR
28 HUNDRED THREE OF THIS ARTICLE. "EMPLOYEE" INCLUDES A SELF-EMPLOYED INDI-
29 VIDUAL.

30 5. "HIGHER DEDUCTIBLE" MEANS A DEDUCTIBLE OF NOT LESS THAN ONE THOU-
31 SAND TWO HUNDRED DOLLARS AND NOT MORE THAN FIVE THOUSAND NINE HUNDRED
32 FIFTY DOLLARS FOR AN INDIVIDUAL AND NOT LESS THAN TWO THOUSAND FOUR
33 HUNDRED DOLLARS AND NOT MORE THAN ELEVEN THOUSAND NINE HUNDRED DOLLARS
34 FOR A FAMILY FOR THE YEAR TWO THOUSAND TEN. THIS MINIMUM AND MAXIMUM
35 SHALL BE INCREASED ANNUALLY BY THE SAME PERCENTAGE AS THE PERCENTAGE
36 INCREASE IN THE FEDERAL CONSUMER PRICE INDEX.

37 6. "LONG TERM CARE INSURANCE PREMIUMS" MEANS PREMIUMS PAID FOR A LONG
38 TERM CARE INSURANCE POLICY THAT OFFERS COVERAGE TO THE INDIVIDUAL, THE
39 INDIVIDUAL'S SPOUSE OR ANOTHER PERSON FOR WHOM THE TAXPAYER HAS AN
40 INSURABLE INTEREST.

41 7. "PARTICIPANT" MEANS AN INDIVIDUAL WHO ESTABLISHES A LONG TERM CARE
42 SAVINGS ACCOUNT BY ENTERING INTO A PARTICIPATION AGREEMENT OR ESTABLISH-
43 ING AN ACCOUNT WITH A FINANCIAL INSTITUTION WITH WHICH THE COMMISSIONER
44 HAS AN AGREEMENT PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION
45 FOUR HUNDRED TWO OF THIS ARTICLE.

46 8. "QUALIFIED HIGHER DEDUCTIBLE HEALTH PLAN" MEANS A HEALTH COVERAGE
47 POLICY, CERTIFICATE OR CONTRACT THAT PROVIDES FOR PAYMENTS FOR COVERED
48 BENEFITS THAT EXCEED THE HIGHER DEDUCTIBLE AND THAT IS PURCHASED EITHER
49 BY AN EMPLOYER FOR THE BENEFIT OF AN EMPLOYEE FOR WHOM THE EMPLOYER
50 MAKES DEPOSITS INTO A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT OR BY A
51 SELF-EMPLOYED OR OTHER INDIVIDUAL WHO MAKES DEPOSITS INTO A QUALIFIED
52 LONG TERM CARE SAVINGS ACCOUNT.

53 9. "COMMISSIONER" MEANS THE COMMISSIONER OF THE STATE DEPARTMENT OF
54 HEALTH.

55 S 402. LONG TERM CARE SAVINGS ACCOUNT PROGRAM. 1. (A) THE COMMISSIONER
56 SHALL SELECT THE ADMINISTRATOR OF THE PLAN FROM SUBMITTED PROPOSALS. IF

1 THE COMMISSIONER RECEIVES NO ACCEPTABLE RESPONSES TO A REQUEST FOR
2 PROPOSALS FOR AN ADMINISTRATOR FOR THE PLAN BY DECEMBER THIRTY-FIRST,
3 TWO THOUSAND TEN, THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH
4 STATE-CHARTERED OR FEDERALLY CHARTERED BANKS, SAVINGS BANKS, BUILDING
5 AND LOAN ASSOCIATIONS, SAVINGS AND LOAN ASSOCIATIONS, OR CREDIT UNIONS,
6 OR A SUBSIDIARY OF ANY SUCH ENTITY, TO RECEIVE CONTRIBUTIONS IN THE FORM
7 OF ACCOUNT DEPOSITS. THE COMMISSIONER MAY ADOPT AND PROMULGATE RULES AND
8 REGULATIONS TO CARRY OUT HIS OR HER DUTIES UNDER THIS PARAGRAPH.

9 (B) IF AN ADMINISTRATOR IS SELECTED, PARTICIPANTS SHALL ENTER INTO
10 PARTICIPATION AGREEMENTS WITH THE COMMISSIONER. IF AN ADMINISTRATOR IS
11 NOT SELECTED, PARTICIPANTS MAY MAKE CONTRIBUTIONS TO AN ACCOUNT WITH A
12 FINANCIAL INSTITUTION WITH WHICH THE COMMISSIONER HAS AN AGREEMENT
13 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. A LIFETIME MAXIMUM OF ONE
14 HUNDRED SIXTY-FIVE THOUSAND DOLLARS MAY BE CONTRIBUTED BY A PARTICIPANT.
15 SUCH AMOUNT SHALL BE INCREASED ANNUALLY BY THE SAME PERCENTAGE AS THE
16 PERCENTAGE INCREASE IN THE FEDERAL CONSUMER PRICE INDEX.

17 2. (A) IF AN ADMINISTRATOR FOR THE LONG TERM CARE SAVINGS ACCOUNT
18 PROGRAM IS SELECTED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF THIS
19 SECTION, THE LONG TERM CARE SAVINGS ACCOUNT PROGRAM TRUST SHALL BE
20 CREATED PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW.

21 (B) THE COMMISSIONER SHALL BE THE TRUSTEE OF THE TRUST AND, AS SUCH,
22 RESPONSIBLE FOR THE ADMINISTRATION, OPERATION AND MAINTENANCE OF THE
23 PLAN AND SHALL HAVE ALL POWERS NECESSARY TO CARRY OUT AND EFFECTUATE THE
24 PURPOSES, OBJECTIVES AND PROVISIONS PERTAINING TO THE ADMINISTRATION,
25 OPERATION AND MAINTENANCE OF THE TRUST, EXCEPT AS PROVIDED IN PARAGRAPH
26 (C) OF THIS SUBDIVISION.

27 (C) THE COMPTROLLER SHALL HAVE FIDUCIARY RESPONSIBILITY TO MAKE ALL
28 DECISIONS REGARDING THE INVESTMENT OF THE MONEY IN THE TRUST, INCLUDING
29 THE SELECTION OF ALL INVESTMENT OPTIONS AND THE APPROVAL OF ALL FEES AND
30 OTHER COSTS CHARGED TO TRUST ASSETS EXCEPT COSTS FOR ADMINISTRATION,
31 OPERATION AND MAINTENANCE OF THE TRUST, PURSUANT TO THE DIRECTIONS,
32 GUIDELINES AND POLICIES ESTABLISHED BY THE COMMISSIONER.

33 3. A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION
34 FOUR OF THIS SECTION MAY MAKE WITHDRAWALS AS A PARTICIPANT IN THE LONG
35 TERM CARE SAVINGS ACCOUNT PROGRAM TO PAY OR REIMBURSE ELIGIBLE LONG TERM
36 CARE EXPENSES. A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (B) OF
37 SUBDIVISION FOUR OF THIS SECTION MAY MAKE WITHDRAWALS TO PAY OR REIM-
38 BURSE LONG TERM CARE INSURANCE PREMIUMS.

39 4. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED INDIVIDUAL" MEANS:

40 (A) A PERSON WHO INCURRED LONG TERM CARE EXPENSES DURING THE TAXABLE
41 YEAR; OR

42 (B) A PERSON WHO TURNED FIFTY YEARS OF AGE OR OLDER DURING THE TAXABLE
43 YEAR WHO MADE PAYMENTS FOR LONG TERM CARE INSURANCE PREMIUMS DURING THE
44 TAXABLE YEAR.

45 S 403. QUALIFIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM. 1. A QUALI-
46 FIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM INCLUDES ALL OF THE FOLLOW-
47 ING:

48 (A) THE PURCHASE BY AN EMPLOYER OR A SELF-EMPLOYED OR OTHER INDIVIDUAL
49 OF A QUALIFIED HIGHER DEDUCTIBLE HEALTH PLAN FOR THE BENEFIT OF AN
50 EMPLOYEE OR THE SELF-EMPLOYED OR OTHER INDIVIDUAL;

51 (B) EITHER: (1) IN THE CASE OF AN EMPLOYEE, THE CONTRIBUTION ON BEHALF
52 OF AN EMPLOYEE INTO A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT BY HIS OR
53 HER EMPLOYER OF ALL OR PART OF THE PREMIUM DIFFERENTIAL REALIZED BY THE
54 EMPLOYER BASED ON THE PURCHASE OF A QUALIFIED HIGHER DEDUCTIBLE HEALTH
55 PLAN FOR THE BENEFIT OF THE EMPLOYEE. AN EMPLOYER THAT DID NOT PREVI-
56 OUSLY PROVIDE A HEALTH COVERAGE POLICY, CERTIFICATE, OR CONTRACT FOR HIS

1 OR HER EMPLOYEES MAY CONTRIBUTE ALL OR PART OF THE DEDUCTIBLE OF THE
2 PLAN PURCHASED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION; OR

3 (2) IN THE CASE OF A SELF-EMPLOYED OR OTHER INDIVIDUAL, THE INDIVID-
4 UAL'S CONTRIBUTION INTO A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT OF
5 AMOUNTS TO PAY ELIGIBLE LONG TERM CARE EXPENSES; AND

6 (C) AN ACCOUNT ADMINISTRATOR TO ADMINISTER THE QUALIFIED LONG TERM
7 CARE SAVINGS ACCOUNT FROM WHICH PAYMENT OF CLAIMS IS MADE.

8 2. FOR TAX YEARS ENDING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOU-
9 SAND TEN, AN EMPLOYER, EXCEPT AS OTHERWISE PROVIDED BY STATUTE, CONTRACT
10 OR A COLLECTIVE BARGAINING AGREEMENT, MAY OFFER A QUALIFIED LONG TERM
11 CARE SAVINGS ACCOUNT PROGRAM TO THE EMPLOYER'S EMPLOYEES. FOR TAX YEARS
12 ENDING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, A SELF-EM-
13 PLOYED OR OTHER INDIVIDUAL MAY ESTABLISH A QUALIFIED LONG TERM CARE
14 SAVINGS ACCOUNT WITH AN ACCOUNT ADMINISTRATOR.

15 3. (A) THE ACCOUNT ADMINISTRATOR SHALL UTILIZE THE MONEYS HELD IN A
16 QUALIFIED LONG TERM CARE SAVINGS ACCOUNT FOR THE PURPOSE OF REIMBURSING
17 AN EMPLOYEE'S ELIGIBLE LONG TERM CARE EXPENSES.

18 (B) IF AN EMPLOYER MAKES CONTRIBUTIONS TO A QUALIFIED LONG TERM CARE
19 SAVINGS ACCOUNT PROGRAM ON A PERIODIC INSTALLMENT BASIS, THE EMPLOYER
20 MAY ADVANCE TO AN EMPLOYEE, INTEREST FREE, AN AMOUNT NECESSARY TO COVER
21 LONG TERM CARE EXPENSES INCURRED THAT EXCEED THE AMOUNT IN THE EMPLOY-
22 EE'S QUALIFIED LONG TERM CARE SAVINGS ACCOUNT WHEN THE EXPENSE IS
23 INCURRED IF THE EMPLOYEE AGREES TO REPAY THE ADVANCE FROM FUTURE
24 INSTALLMENTS OR WHEN HE OR SHE CEASES TO BE AN EMPLOYEE OF THE EMPLOYER.

25 S 404. QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT PROGRAM. 1.
26 AN INDIVIDUAL WHO HAS BEEN REFUSED COVERAGE FOR LONG TERM CARE INSURANCE
27 MAY ESTABLISH A QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT,
28 SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

29 2. A QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT IS A SAVINGS
30 ACCOUNT APPROVED BY THE COMMISSIONER FOR AN INDIVIDUAL WHO HAS BEEN
31 SUBJECT TO DENIAL OF LONG TERM CARE INSURANCE COVERAGE. AS USED IN THIS
32 ARTICLE, DENIAL OF LONG TERM CARE INSURANCE COVERAGE SHALL MEAN THAT:

33 (A) THE INDIVIDUAL HAS APPLIED FOR AND BEEN DENIED COVERAGE BY AT
34 LEAST TWO LONG TERM CARE INSURANCE PLANS WHICH HAVE BEEN APPROVED BY THE
35 INSURANCE DEPARTMENT FOR OPERATION IN THIS STATE, OR

36 (B) THE INDIVIDUAL HAS BEEN CERTIFIED BY A PHYSICIAN TO BE UNINSURABLE
37 FOR LONG TERM CARE INSURANCE COVERAGE BY REASON OF HAVING A CONDITION,
38 DISEASE OR DISABILITY THAT PRECLUDES ANY CONSIDERATION FOR ISSUANCE OF
39 LONG TERM CARE INSURANCE COVERAGE.

40 3. THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN A LIST OF SUCH
41 DISQUALIFYING CONDITIONS, DISEASES AND DISABILITIES. AN INDIVIDUAL SHALL
42 PROVIDE PROOF OF DENIAL OF LONG TERM CARE INSURANCE COVERAGE OR SUCH
43 CERTIFICATION FROM A PHYSICIAN IN A FORM AND MANNER SATISFACTORY TO THE
44 COMMISSIONER.

45 4. THE OWNER OF SUCH ACCOUNT MAY ANNUALLY CONTRIBUTE, OR HAVE CONTRIB-
46 UTED ON HIS OR HER BEHALF, AN AMOUNT OF UP TO TEN THOUSAND DOLLARS TO A
47 QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT. SUCH AMOUNT SHALL BE
48 INCREASED ANNUALLY BY THE SAME PERCENTAGE AS THE PERCENTAGE INCREASE IN
49 THE FEDERAL CONSUMER PRICE INDEX.

50 S 405. OWNERSHIP. 1. THE EMPLOYEE OR INDIVIDUAL WHO CONTRIBUTES OR ON
51 WHOSE BEHALF MONIES ARE CONTRIBUTED TO A LONG TERM CARE SAVINGS ACCOUNT,
52 QUALIFIED LONG TERM CARE SAVINGS ACCOUNT OR QUALIFIED LONG TERM CARE
53 FLEXIBLE SPENDING ACCOUNT IS THE OWNER OF SUCH ACCOUNT.

54 2. ANY OTHER PROVISION OF LAW OR OF THIS ARTICLE TO THE CONTRARY
55 NOTWITHSTANDING, THE AMOUNTS A LONG TERM CARE SAVINGS ACCOUNT, QUALIFIED
56 LONG TERM CARE SAVINGS ACCOUNT OR QUALIFIED LONG TERM CARE FLEXIBLE

1 SPENDING ACCOUNT SHALL NOT BE DEEMED A COUNTABLE ASSET PURSUANT TO THIS
2 ARTICLE OF THE OWNER OF SUCH ACCOUNT.

3 S 406. WITHDRAWALS. 1. (A) AN ACCOUNT HOLDER MAY MAKE WITHDRAWALS FROM
4 HIS OR HER ACCOUNT ESTABLISHED PURSUANT TO THIS ARTICLE TO PAY OR REIM-
5 BURSE ELIGIBLE LONG TERM CARE EXPENSES. IN THE CASE OF A LONG TERM
6 SAVINGS PLAN PROGRAM, A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (B)
7 OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED TWO OF THIS ARTICLE MAY MAKE
8 WITHDRAWALS TO PAY OR REIMBURSE LONG TERM CARE INSURANCE PREMIUMS.

9 (B) THE ACCOUNT HOLDER SHALL SUBMIT DOCUMENTATION TO THE ACCOUNT
10 ADMINISTRATOR OF SUCH LONG TERM CARE EXPENSES OR INSURANCE PREMIUMS DUE
11 OR PAID BY THE ACCOUNT HOLDER IN THE TAX YEAR AND THE ACCOUNT ADMINIS-
12 TRATOR SHALL PAY SUCH EXPENSES OR PREMIUMS OR REIMBURSE THE ACCOUNT
13 HOLDER FROM THE ACCOUNT HOLDER'S ACCOUNT FOR SUCH ELIGIBLE LONG TERM
14 CARE EXPENSES OR PREMIUMS.

15 2. (A) NOTWITHSTANDING PARAGRAPH (B) OF THIS SUBDIVISION AND SUBJECT
16 TO PARAGRAPH (C) OF THIS SUBDIVISION, AN ACCOUNT HOLDER MAY WITHDRAW
17 MONEY FROM HIS OR HER ACCOUNT ESTABLISHED PURSUANT TO THIS ARTICLE FOR
18 ANY PURPOSE OTHER THAN TO PAY OR REIMBURSE ELIGIBLE LONG TERM CARE
19 EXPENSES OR LONG TERM CARE INSURANCE PREMIUMS ONLY ON THE LAST BUSINESS
20 DAY OF THE ACCOUNT ADMINISTRATOR'S BUSINESS YEAR. NOT MORE THAN THIRTY
21 DAYS AFTER AN ACCOUNT ADMINISTRATOR BEGINS TO ADMINISTER AN ACCOUNT, THE
22 ADMINISTRATOR SHALL NOTIFY IN WRITING EACH ACCOUNT HOLDER OF THE DATE OF
23 THE LAST BUSINESS DAY OF THE ADMINISTRATOR'S BUSINESS YEAR.

24 (B) SUBJECT TO PARAGRAPH (C) OF THIS SUBDIVISION, IF AN ACCOUNT HOLDER
25 WITHDRAWS MONEY FOR ANY PURPOSE OTHER THAN TO PAY OR REIMBURSE ELIGIBLE
26 LONG TERM CARE EXPENSES OR LONG TERM CARE INSURANCE PREMIUMS, ALL OF THE
27 FOLLOWING APPLY:

28 (I) THE AMOUNT OF THE WITHDRAWAL IS INCOME FOR PURPOSES OF SECTION SIX
29 HUNDRED TWELVE OF THE TAX LAW.

30 (II) THE ADMINISTRATOR SHALL WITHHOLD AND ON BEHALF OF THE ACCOUNT
31 HOLDER SHALL PAY A PENALTY TO THE DEPARTMENT OF TAXATION AND FINANCE
32 EQUAL TO TEN PERCENT OF THE AMOUNT OF THE WITHDRAWAL.

33 (III) INTEREST EARNED ON THE ACCOUNT DURING THE TAXABLE YEAR IN WHICH
34 A WITHDRAWAL UNDER THIS SECTION IS MADE IS INCOME FOR PURPOSES OF
35 SECTION SIX HUNDRED TWELVE OF THE TAX LAW.

36 (C) THE AMOUNT OF A DISBURSEMENT OF ANY ASSETS OF AN ACCOUNT ESTAB-
37 LISHED PURSUANT TO THIS ARTICLE AS A RESULT OF A FILING FOR PROTECTION
38 UNDER TITLE ELEVEN OF THE UNITED STATES CODE BY AN ACCOUNT HOLDER IS NOT
39 CONSIDERED A WITHDRAWAL FOR PURPOSES OF THIS SECTION AND PARAGRAPH (B)
40 OF THIS SUBDIVISION SHALL NOT APPLY.

41 S 407. TAX TREATMENT. 1. EXCEPT AS PROVIDED IN SECTION FOUR HUNDRED
42 SIX OF THIS ARTICLE, PRINCIPAL CONTRIBUTED TO AN ACCOUNT ESTABLISHED
43 PURSUANT TO THIS ARTICLE AND MONEY PAID OR REIMBURSED TO AN OWNER OF
44 SUCH AN ACCOUNT FOR ELIGIBLE LONG TERM CARE EXPENSES SHALL BE EXEMPT
45 FROM TAXATION.

46 2. ANY INDIVIDUAL WHO CONTRIBUTES TO A QUALIFIED LONG TERM CARE FLEXI-
47 BLE SPENDING ACCOUNT, IRRESPECTIVE OF WHETHER SUCH INDIVIDUAL IS THE
48 ACCOUNT HOLDER, SHALL BE ELIGIBLE FOR THE LONG TERM CARE INSURANCE CRED-
49 IT PURSUANT TO SECTION ONE HUNDRED NINETY OR SIX HUNDRED SIX OF THE TAX
50 LAW.

51 S 408. DEATH OF THE ACCOUNT HOLDER. UPON THE DEATH OF AN ACCOUNT HOLD-
52 ER, THE FOLLOWING SHALL APPLY:

53 1. IF THE SURVIVING SPOUSE OF THE ACCOUNT HOLDER OR A CHRONICALLY ILL
54 INDIVIDUAL AS PROVIDED IN THIS ARTICLE ACQUIRES SUCH ACCOUNT HOLDER'S
55 INTEREST IN SUCH ACCOUNT BY REASON OF BEING THE DESIGNATED BENEFICIARY
56 OF THE ACCOUNT AT THE DEATH OF THE ACCOUNT HOLDER, SUCH ACCOUNT SHALL BE

1 TREATED AS IF THE SPOUSE OR SUCH CHRONICALLY ILL INDIVIDUAL WAS THE
2 OWNER OF SUCH ACCOUNT;

3 2. IF A PERSON WHO IS NOT THE SURVIVING SPOUSE OF THE ACCOUNT HOLDER
4 OR WHO IS NOT CHRONICALLY ILL ACQUIRES THE INTEREST OF THE ACCOUNT HOLD-
5 ER IN AN ACCOUNT ESTABLISHED PURSUANT TO THIS ARTICLE, SUCH ACCOUNT
6 SHALL CEASE TO BE A LONG TERM CARE SAVINGS ACCOUNT, QUALIFIED LONG TERM
7 CARE SAVINGS ACCOUNT OR QUALIFIED LONG TERM CARE FLEXIBLE SPENDING
8 ACCOUNT AS OF THE DATE OF THE DEATH OF THE OWNER OF SUCH ACCOUNT, AND:

9 (A) IF SUCH PERSON IS NOT THE ESTATE OF SUCH BENEFICIARY, AN AMOUNT
10 EQUAL TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH ACCOUNT ON SUCH
11 DATE SHALL BE INCLUDIBLE IN SUCH PERSON'S GROSS INCOME FOR THE TAXABLE
12 YEAR WHICH INCLUDES SUCH DATE, PROVIDED HOWEVER THAT SUCH INCLUDIBLE
13 AMOUNT SHALL BE REDUCED BY DISTRIBUTIONS TO PAY FOR LONG TERM CARE
14 SERVICES PERMITTED PURSUANT TO THIS ARTICLE WHICH WERE INCURRED BY THE
15 DECEDENT BEFORE THE DATE OF THE DECEDENT'S DEATH AND PAID BY SUCH PERSON
16 WITHIN ONE YEAR AFTER SUCH DATE, OR

17 (B) IF SUCH PERSON IS THE ESTATE OF SUCH BENEFICIARY, AN AMOUNT EQUAL
18 TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH ACCOUNT ON SUCH DATE
19 SHALL BE INCLUDIBLE IN SUCH BENEFICIARY'S GROSS INCOME FOR THE LAST
20 TAXABLE YEAR OF SUCH BENEFICIARY, PROVIDED HOWEVER THAT SUCH FAIR MARKET
21 VALUE SHALL BE REDUCED BY DISTRIBUTIONS TO PAY FOR LONG TERM CARE
22 SERVICES PERMITTED PURSUANT TO THIS ARTICLE WHICH WERE INCURRED BY THE
23 DECEDENT BEFORE THE DATE OF THE DECEDENT'S DEATH AND PAID BY SUCH PERSON
24 WITHIN ONE YEAR AFTER SUCH DATE.

25 S 409. CANCELLATION OR TRANSFER. 1. (A) EACH ACCOUNT ESTABLISHED OR
26 MAINTAINED UNDER THIS ARTICLE MAY BE CANCELED OR TRANSFERRED TO A SPOUSE
27 UPON THE TERMS AND CONDITIONS SET BY THE COMMISSIONER. IF THE ACCOUNT IS
28 CANCELED OR TERMINATED, THE ACCOUNT HOLDER MAY RECEIVE THE PRINCIPAL
29 AMOUNT OF ALL CONTRIBUTIONS MADE BY THE ACCOUNT HOLDER OR ON BEHALF OF
30 THE ACCOUNT HOLDER PLUS THE ACTUAL INVESTMENT EARNINGS ON THE CONTRIB-
31 UTIONS, LESS ANY LOSSES INCURRED ON THE CONTRIBUTIONS. AN ACCOUNT HOLDER
32 SHALL NOT RECEIVE MORE THAN THE FAIR MARKET VALUE OF HIS OR HER ACCOUNT
33 ON THE APPLICABLE LIQUIDATION DATE.

34 (B) THE TRANSFER OF THE INTEREST OF THE ACCOUNT HOLDER TO SUCH OWNER'S
35 SPOUSE OR FORMER SPOUSE UNDER A DIVORCE OR SEPARATION INSTRUMENT SHALL
36 NOT BE CONSIDERED A TAXABLE TRANSFER MADE BY SUCH ACCOUNT HOLDER
37 NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR OF THIS ARTICLE, AND THE
38 INTEREST SHALL, AFTER SUCH TRANSFER, BE TREATED AS AN ACCOUNT ESTAB-
39 LISHED UNDER THIS ARTICLE WITH RESPECT TO WHICH SUCH SPOUSE IS THE OWNER
40 OF SUCH ACCOUNT.

41 2. IN THE CASE OF A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM,
42 IF (A) AN EMPLOYEE IS NO LONGER EMPLOYED BY AN EMPLOYER THAT PARTIC-
43 IPATES IN A QUALIFIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM, (B) THE
44 EMPLOYEE, NOT MORE THAN ONE HUNDRED EIGHTY DAYS AFTER HIS OR HER FINAL
45 DAY OF EMPLOYMENT, TRANSFERS THE ACCOUNT TO A NEW ACCOUNT ADMINISTRATOR
46 OR REQUESTS IN WRITING TO THE FORMER EMPLOYER'S ACCOUNT ADMINISTRATOR
47 THAT THE ACCOUNT REMAIN WITH THAT ADMINISTRATOR, AND (C) THAT ACCOUNT
48 ADMINISTRATOR AGREES TO RETAIN THE ACCOUNT, THEN THE MONEY IN THE QUALI-
49 FIED LONG TERM CARE SAVINGS ACCOUNT MAY BE UTILIZED FOR THE BENEFIT OF
50 THE EMPLOYEE SUBJECT TO THIS ARTICLE AND REMAINS EXEMPT FROM TAXATION
51 PURSUANT TO THIS ARTICLE. NOT MORE THAN THIRTY DAYS AFTER THE EXPIRATION
52 OF THE ONE HUNDRED EIGHTY DAYS, IF AN ACCOUNT ADMINISTRATOR HAS NOT
53 ACCEPTED THE FORMER EMPLOYEE'S ACCOUNT, THE EMPLOYER SHALL MAIL A CHECK
54 TO THE FORMER EMPLOYEE, AT THE EMPLOYEE'S LAST KNOWN ADDRESS, FOR AN
55 AMOUNT EQUAL TO THE AMOUNT IN THE ACCOUNT ON THAT DAY, AND THAT AMOUNT
56 IS SUBJECT TO TAXATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF

1 SECTION FOUR HUNDRED SIX OF THIS ARTICLE BUT IS NOT SUBJECT TO THE
2 PENALTY UNDER SUBPARAGRAPH (II) OF SUCH PARAGRAPH. IF AN EMPLOYEE
3 BECOMES EMPLOYED WITH A DIFFERENT EMPLOYER THAT PARTICIPATES IN A QUALI-
4 FIED LONG TERM CARE SAVINGS ACCOUNT PROGRAM, THE EMPLOYEE MAY TRANSFER
5 HIS OR HER QUALIFIED LONG TERM CARE SAVINGS ACCOUNT TO THAT NEW EMPLOY-
6 ER'S ACCOUNT ADMINISTRATOR. A SELF-EMPLOYED OR OTHER INDIVIDUAL MAY
7 TRANSFER HIS OR HER QUALIFIED LONG TERM CARE SAVINGS ACCOUNT TO ANOTHER
8 ACCOUNT ADMINISTRATOR; THE MONEY IN THE ACCOUNT REMAINS EXEMPT FROM
9 TAXATION PURSUANT TO THIS ARTICLE.

10 S 410. RULES AND REGULATIONS. THE COMMISSIONER, AFTER CONSULTATION
11 WITH THE COMPTROLLER WHEN RELEVANT, SHALL ESTABLISH APPROPRIATE RULES
12 AND REGULATIONS TO GOVERN ACCOUNTS ESTABLISHED PURSUANT TO THIS ARTICLE,
13 INCLUDING BUT NOT LIMITED TO ELIGIBILITY AND APPROVAL, USE OF PROCEEDS
14 AND MANNERS OF PROOF.

15 S 2. Subdivision 1 of section 190 of the tax law, as amended by
16 section 17 of part B of chapter 58 of the laws of 2004, is amended to
17 read as follows:

18 1. General. A taxpayer shall be allowed a credit against the tax
19 imposed by this article, other than the taxes and fees imposed by
20 sections one hundred eighty and one hundred eighty-one of this article,
21 equal to:

22 (A) twenty percent of the premium paid during the taxable year for
23 long-term care insurance. In order to qualify for such credit, the
24 taxpayer's premium payment must be for the purchase of or for continuing
25 coverage under a long-term care insurance policy that qualifies for such
26 credit pursuant to section one thousand one hundred seventeen of the
27 insurance law; OR

28 (B) THE LESSER OF ONE THOUSAND FIVE HUNDRED DOLLARS OR TWENTY PERCENT
29 OF THE AMOUNT CONTRIBUTED TO A QUALIFIED LONG TERM CARE FLEXIBLE SPEND-
30 ING ACCOUNT PURSUANT TO ARTICLE FOUR OF THE ELDER LAW.

31 S 3. Subsection (aa) of section 606 of the tax law, as amended by
32 section 1 of part P of chapter 61 of the laws of 2005, is amended to
33 read as follows:

34 (aa) Long-term care insurance credit. (1) Residents. A taxpayer shall
35 be allowed a credit against the tax imposed by this article equal to:

36 (A) twenty percent of the premium paid during the taxable year for
37 long-term care insurance. In order to qualify for such credit, the
38 taxpayer's premium payment must be for the purchase of or for continuing
39 coverage under a long-term care insurance policy that qualifies for such
40 credit pursuant to section one thousand one hundred seventeen of the
41 insurance law; OR

42 (B) THE LESSER OF ONE THOUSAND FIVE HUNDRED DOLLARS OR TWENTY PERCENT
43 OF THE AMOUNT CONTRIBUTED TO A QUALIFIED LONG TERM CARE FLEXIBLE SPEND-
44 ING ACCOUNT ESTABLISHED PURSUANT TO ARTICLE FOUR OF THE ELDER LAW.

45 If the amount of the credit allowable under this subsection for any
46 taxable year shall exceed the taxpayer's tax for such year, the excess
47 may be carried over to the following year or years and may be deducted
48 from the taxpayer's tax for such year or years.

49 (2) Nonresidents and part-year residents. In the case of a nonresident
50 taxpayer or a part-year resident taxpayer, the credit determined under
51 this subsection shall be limited to the amount determined by multiplying
52 the amount of such credit by the New York source fraction as set forth
53 in paragraph three of subsection (e) of section six hundred one of this
54 [article] PART. The credit as so limited shall be applied as provided
55 in paragraph one of this subsection.

1 S 4. Subsection (c) of section 612 of the tax law is amended by adding
2 two new paragraphs 39 and 40 to read as follows:

3 (39) CONTRIBUTIONS MADE DURING THE TAXABLE YEAR BY OR ON BEHALF OF THE
4 OWNER OF AN ACCOUNT ESTABLISHED PURSUANT TO ARTICLE FOUR OF THE ELDER
5 LAW DURING SUCH OWNER'S LIFETIME TO SUCH AN ACCOUNT, AND SUBJECT TO THE
6 RULES ESTABLISHED FOR SUCH ACCOUNTS BY THE COMMISSIONER OF HEALTH, TO
7 THE EXTENT NOT DEDUCTIBLE OR ELIGIBLE FOR CREDIT FOR FEDERAL INCOME TAX
8 PURPOSES, PROVIDED, HOWEVER, THE EXCLUSION PROVIDED FOR IN THIS PARA-
9 GRAPH SHALL NOT EXCEED TEN THOUSAND DOLLARS FOR AN INDIVIDUAL.

10 (40) DISTRIBUTIONS FROM AN ACCOUNT ESTABLISHED PURSUANT TO ARTICLE
11 FOUR OF THE ELDER LAW ON BEHALF OF THE OWNER OF SUCH ACCOUNT DURING SUCH
12 OWNER'S LIFETIME, SUBJECT TO THE RULES ESTABLISHED FOR SUCH ACCOUNTS BY
13 THE COMMISSIONER OF HEALTH, TO THE EXTENT INCLUDIBLE IN GROSS INCOME FOR
14 FEDERAL INCOME TAX PURPOSES.

15 S 5. The tax law is amended by adding a new section 31 to read as
16 follows:

17 S 31. RULES CONCERNING LONG TERM CARE ACCOUNTS. A TAXPAYER MAY ESTAB-
18 LISH A LONG TERM CARE SAVINGS ACCOUNT, A QUALIFIED LONG TERM CARE
19 SAVINGS ACCOUNT OR A QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT
20 PURSUANT TO ARTICLE FOUR OF THE ELDER LAW. A TAXPAYER WHO ESTABLISHES
21 SUCH AN ACCOUNT SHALL BE THE OWNER OF SUCH ACCOUNT. SUCH ACCOUNT SHALL
22 BE SUBJECT TO THE FOLLOWING RULES:

23 1. A QUALIFIED LONG TERM CARE FLEXIBLE SPENDING ACCOUNT SHALL BE
24 ELIGIBLE FOR CREDITS PURSUANT TO SECTIONS ONE HUNDRED NINETY AND SIX
25 HUNDRED SIX OF THIS CHAPTER AND ANY ACCOUNT ESTABLISHED PURSUANT TO
26 ARTICLE FOUR OF THE ELDER LAW SHALL BE ELIGIBLE FOR DEDUCTIONS PURSUANT
27 TO SUBSECTION (C) OF SECTION SIX HUNDRED TWELVE OF THIS CHAPTER. ANY
28 INDIVIDUAL WHO CONTRIBUTES TO A QUALIFIED LONG TERM CARE FLEXIBLE SPEND-
29 ING ACCOUNT, IRRESPECTIVE OF WHETHER SUCH INDIVIDUAL IS THE OWNER OF
30 SUCH ACCOUNT, SHALL BE ELIGIBLE FOR THE LONG TERM CARE INSURANCE CREDITS
31 PURSUANT TO SECTIONS ONE HUNDRED NINETY AND SIX HUNDRED SIX OF THIS
32 CHAPTER.

33 2. THE PROCEEDS OF AN ACCOUNT ESTABLISHED PURSUANT TO ARTICLE FOUR OF
34 THE ELDER LAW MAY BE USED TO PAY FOR ANY LONG TERM CARE EXPENSES PERMIT-
35 TED PURSUANT TO SUCH ARTICLE IN FULFILLMENT OF A PLEDGE BY THE OWNER OF
36 SUCH ACCOUNT PURSUANT TO RULES PROMULGATED BY THE COMMISSIONER OF
37 HEALTH. DISTRIBUTIONS FROM THE QUALIFIED LONG TERM CARE SAVINGS ACCOUNT
38 TO PAY FOR SERVICES OR ITEMS NOT PERMITTED PURSUANT TO ARTICLE FOUR OF
39 THE ELDER LAW AND THE REGULATIONS PROMULGATED BY THE COMMISSIONER OF
40 HEALTH SHALL BE SUBJECT TO A PENALTY OF TEN PERCENT OF EVERY DOLLAR SO
41 EXPENDED DURING THE LIFETIME OF THE OWNER OF SUCH ACCOUNT. SUCH PENALTY
42 SHALL BE LEVIED ONLY AGAINST THE OWNER OF SUCH ACCOUNT.

43 3. ANY OTHER PROVISION OF LAW TO THE CONTRARY NOTWITHSTANDING, THE
44 PROVISIONS OF THIS SECTION RELATING TO CREDITS, DEDUCTIONS, CONTRIB-
45 UTIONS OR DISTRIBUTIONS FROM ACCOUNTS ESTABLISHED PURSUANT TO ARTICLE
46 FOUR OF THE ELDER LAW SHALL NOT APPLY IF THE DISTRIBUTION FROM THE
47 ACCOUNT IS MADE AFTER THE DEATH OF THE OWNER OF SUCH ACCOUNT, PROVIDED
48 HOWEVER THAT:

49 (A) IF THE SURVIVING SPOUSE OF THE OWNER OF SUCH ACCOUNT OR A CHRON-
50 ICALLY ILL INDIVIDUAL AS PROVIDED BY ARTICLE FOUR OF THE ELDER LAW
51 ACQUIRES SUCH OWNER'S INTEREST IN SUCH ACCOUNT BY REASON OF BEING THE
52 DESIGNATED BENEFICIARY OF THE ACCOUNT AT THE DEATH OF THE OWNER, SUCH
53 ACCOUNT SHALL BE TREATED AS IF THE SPOUSE OR SUCH CHRONICALLY ILL INDI-
54 VIDUAL WERE THE OWNER OF SUCH ACCOUNT.

55 (B) IF A PERSON WHO IS NOT THE SURVIVING SPOUSE OF THE BENEFICIARY OR
56 WHO IS NOT CHRONICALLY ILL ACQUIRES THE INTEREST OF THE OWNER OF AN

1 ACCOUNT ESTABLISHED PURSUANT TO ARTICLE FOUR OF THE ELDER LAW, SUCH
2 ACCOUNT SHALL CEASE TO BE A LONG TERM CARE SAVINGS ACCOUNT, QUALIFIED
3 LONG TERM CARE SAVINGS ACCOUNT OR QUALIFIED LONG TERM CARE FLEXIBLE
4 SPENDING ACCOUNT AS OF THE DATE OF THE DEATH OF THE OWNER OF SUCH
5 ACCOUNT, AND:

6 (I) IF SUCH PERSON IS NOT THE ESTATE OF SUCH BENEFICIARY, AN AMOUNT
7 EQUAL TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH ACCOUNT ON SUCH
8 DATE SHALL BE INCLUDIBLE IN SUCH PERSON'S GROSS INCOME FOR THE TAXABLE
9 YEAR WHICH INCLUDES SUCH DATE, PROVIDED HOWEVER THAT SUCH INCLUDIBLE
10 AMOUNT SHALL BE REDUCED BY DISTRIBUTIONS TO PAY FOR LONG TERM CARE
11 SERVICES PERMITTED PURSUANT TO THIS SECTION WHICH WERE INCURRED BY THE
12 DECEDENT BEFORE THE DATE OF THE DECEDENT'S DEATH AND PAID BY SUCH PERSON
13 WITHIN ONE YEAR AFTER SUCH DATE, OR

14 (II) IF SUCH PERSON IS THE ESTATE OF SUCH BENEFICIARY, AN AMOUNT EQUAL
15 TO THE FAIR MARKET VALUE OF THE ASSETS IN SUCH ACCOUNT ON SUCH DATE
16 SHALL BE INCLUDIBLE IN SUCH BENEFICIARY'S GROSS INCOME FOR THE LAST
17 TAXABLE YEAR OF SUCH BENEFICIARY, PROVIDED HOWEVER THAT SUCH FAIR MARKET
18 VALUE SHALL BE REDUCED BY DISTRIBUTIONS TO PAY FOR LONG TERM CARE
19 SERVICES PERMITTED PURSUANT TO THIS SECTION WHICH WERE INCURRED BY THE
20 DECEDENT BEFORE THE DATE OF THE DECEDENT'S DEATH AND PAID BY SUCH PERSON
21 WITHIN ONE YEAR AFTER SUCH DATE.

22 (C) THE TRANSFER OF THE INTEREST OF THE OWNER OF SUCH ACCOUNT TO SUCH
23 OWNER'S SPOUSE OR FORMER SPOUSE UNDER A DIVORCE OR SEPARATION INSTRUMENT
24 SHALL NOT BE CONSIDERED A TAXABLE TRANSFER MADE BY SUCH OWNER OF SUCH
25 ACCOUNT NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR OF THIS ARTICLE,
26 AND SUCH INTEREST SHALL, AFTER SUCH TRANSFER, BE TREATED AS AN ACCOUNT
27 CREATED PURSUANT TO ARTICLE FOUR OF THE ELDER LAW WITH RESPECT TO WHICH
28 SUCH SPOUSE IS THE OWNER OF SUCH ACCOUNT.

29 S 6. The state finance law is amended by adding a new section 99-t to
30 read as follows:

31 S 99-T. LONG-TERM CARE SAVINGS ACCOUNT PROGRAM TRUST. 1. THERE IS
32 HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
33 COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT IN THE MISCELLANEOUS
34 SPECIAL REVENUE FUND TO BE KNOWN AS THE "LONG-TERM CARE SAVINGS ACCOUNT
35 PROGRAM TRUST".

36 2. THE LONG-TERM CARE SAVINGS ACCOUNT PROGRAM TRUST SHALL CONSIST OF
37 ALL MONEYS RECEIVED BY THE STATE PURSUANT TO SECTION FOUR HUNDRED TWO OF
38 THE ELDER LAW.

39 3. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE MONEYS IN
40 SUCH ACCOUNT SHALL BE EXPENDED SOLELY FOR THE PURPOSE DEFINED PURSUANT
41 TO SECTION FOUR HUNDRED TWO OF THE ELDER LAW. UNDER NO CIRCUMSTANCES
42 SHALL THE MONEYS IN SUCH ACCOUNT BE COMMINGLED WITH ANY OTHER MONEYS.

43 S 7. If any clause, sentence, paragraph, section or part of this act
44 shall be adjudged by any court of competent jurisdiction to be invalid,
45 such judgment shall not affect, impair or invalidate the remainder there-
46 of, but shall be confined in its operation to the clause, sentence,
47 paragraph, section or part thereof directly involved in the controversy
48 in which such judgment shall have been rendered.

49 S 8. This act shall take effect on the ninetieth day after it shall
50 have become a law and shall expire December 31, 2020 when upon such date
51 the provisions of this act shall be deemed repealed.