SECOND REGULAR SESSION

SENATE BILL NO. 580

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3142S.03I

AN ACT

To amend chapters 143 and 191, RSMo, by adding thereto seven new sections relating to long-term care savings accounts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 143 and 191, RSMo, are amended by adding thereto seven new sections, to be known as sections 143.1160, 191.1601, 191.1603, 191.1604, 191.1605, 191.1606, and 191.1607, to read as follows:

143.1160. 1. As used in this section, the following terms mean:

(1) "Account holder", the same meaning as that term is defined in section 191.1603;

(2) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income for the tax year in which such deduction is claimed;

(3) "Eligible expenses", the same meaning as that term is defined in section 191.1603;

(4) "Long-term care savings account", the same meaning as that term is defined in section 191.1603;

(5) "Qualified beneficiary", the same meaning as that term is defined in section 191.1603;

(6) "Taxpayer", any individual who is a resident of this state and subject to the income tax imposed under this chapter, excluding withholding tax imposed under sections 143.191 to 143.265.

2. For all tax years beginning on or after January 1, 2021, a taxpayer shall be allowed a deduction of one hundred percent of a participating taxpayer's contributions to a long-term care savings account in the tax year of the contribution. Each taxpayer claiming the deduction under this section shall file an affidavit with the income tax

return verifying the amount of their contributions. The amount of the deduction claimed shall not exceed the amount of the taxpayer's Missouri adjusted gross income for the tax year that the deduction is claimed, and shall not exceed eight thousand dollars per taxpayer claiming the deduction, or sixteen thousand dollars if married filing combined.

3. Income earned or received as a result of assets in a long-term care savings account shall not be subject to state income tax imposed under this chapter. The exemption under this section shall apply only to income maintained, accrued, or expended pursuant to the requirements of sections 191.1601 to 191.1607, and no exemption shall apply to assets and income expended for any other purpose. The amount of the deduction claimed shall not exceed the amount of the taxpayer's Missouri adjusted gross income for the tax year the deduction is claimed.

4. If any deductible contributions to or earnings from any such programs referred to in this section are distributed and not used to pay for eligible expenses or are not held for the minimum length of time under subsection 2 of section 191.1605, the amount so distributed shall be added to the Missouri adjusted gross income of the account holder or, if the account holder is not living, the qualified beneficiary, in the year of distribution.

5. The department of revenue shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be invalid and void.

6. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after August 28, 2020, unless reauthorized by an act of the general

assembly;

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first six years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

191.1601. Section 143.1160 and sections 191.1601 to 191.1607 shall be known and may be cited as the "Long-Term Dignity Act".

191.1603. As used in sections 191.1601 to 191.1607, the following terms mean:

(1) "Account holder", an individual who establishes an account with a financial institution that is designated as a long-term care savings account in accordance with section 191.1604;

(2) "Department", the department of revenue;

(3) "Eligible expenses", the same meaning as "qualified long-term care services" in 26 U.S.C. Section 7702B(c);

(4) "Financial institution", any state bank, state trust company, savings and loan association, federally chartered credit union doing business in this state, credit union chartered by the state of Missouri, national bank, broker-dealer, mutual fund, insurance company, or other similar financial entity qualified to do business in this state;

(5) "Long-term care savings account" or "account", an account with a financial institution designated as such in accordance with subsection 1 of section 191.1604;

(6) "Qualified beneficiary", an individual designated by an account holder for whose eligible expenses the moneys in a long-term care savings account are or will be used; provided, that such individual meets the definition of a "chronically ill individual" in 26 U.S.C. Section 7702B(c)(2) at the time the moneys are used.

191.1604. 1. Beginning January 1, 2021, any individual may open an account with a financial institution and designate the account, in its entirety, as a long-term care savings account to be used to pay or reimburse a qualified beneficiary's eligible expenses. An individual may be the account holder of multiple accounts, and an individual may jointly own the account with another person if such persons file a

married filing combined income tax return. To be eligible for the tax deduction under section 143.1160, an account holder shall comply with the requirements of this section.

2. An account holder shall designate, no later than April fifteenth of the year following the tax year during which the account was established, a qualified beneficiary of the long-term care savings account. The account holder may designate himself or herself as the qualified beneficiary. The account holder may change the designated qualified beneficiary at any time, but no long-term care savings account shall have more than one qualified beneficiary at any time. No account holder shall have multiple accounts with the same qualified beneficiary, but an individual may be designated as the qualified beneficiary of multiple accounts.

3. Moneys may remain in a long-term care savings account for an unlimited duration without the interest or income being subject to recapture or penalty.

4. The account holder shall not use moneys in an account to pay expenses of administering the account, except that a service fee may be deducted from the account by a financial institution. The account holder shall be responsible for maintaining documentation for the long-term care savings account and for the qualified beneficiary's eligible expenses.

191.1605. 1. For purposes of the tax benefit conferred under the long-term care savings account act, the moneys in a long-term care savings account may be:

(1) Used for a qualified beneficiary's eligible expenses;

(2) Transferred to another newly created long-term care savings account; and

(3) Used to pay a service fee that is deducted by the financial institution.

2. Moneys withdrawn from a long-term care savings account shall be subject to recapture in the tax year in which they are withdrawn if:

(1) At the time of the withdrawal, it has been less than a year since the first deposit in the long-term care savings account; or

(2) The moneys are used for any purpose other than those specified under subsection 1 of this section.

The recapture shall be an amount equal to the moneys withdrawn and

shall be added to the Missouri adjusted gross income of the account holder or, if the account holder is not living, the qualified beneficiary.

3. If any moneys are subject to recapture under subsection 2 of this section, the account holder shall pay to the department a penalty in the same tax year as the recapture. If the withdrawal was made ten or fewer years after the first deposit in the long-term care savings account, the penalty shall be equal to five percent of the amount subject to recapture, and, if the withdrawal was made more than ten years after the first deposit in the account, the penalty shall be equal to ten percent of the amount subject to recapture. These penalties shall not apply if the withdrawn moneys are from a long-term care savings account for which the qualified beneficiary died, and the account holder does not designate a new qualified beneficiary during the same tax year.

4. If the account holder dies or, if the long-term care account is jointly owned, the account holders die and the account does not have a surviving transfer-on-death beneficiary, then all of the moneys in the account that were used for a tax deduction under section 143.1160 shall be subject to recapture in the tax year of the death or deaths, but no penalty shall be due to the department.

191.1606. 1. The department shall establish forms for an account holder to annually report information about a long-term care savings account including, but not limited to, how the moneys withdrawn from the fund are used, and shall identify any supporting documentation that is required to be maintained. To be eligible for the tax deduction under section 143.1160, an account holder shall annually file with the account holder's state income tax return all forms required by the department under this section, the 1099 form for the account issued by the financial institution, and any other supporting documentation the department requires.

2. The department may promulgate rules and regulations necessary to administer the provisions of sections 191.1601 to 191.1607. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of

the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be invalid and void.

191.1607. 1. No financial institution shall be required to:

(1) Designate an account as a long-term care savings account or designate the beneficiaries of an account in the financial institution's account contracts or systems or in any other way;

(2) Track the use of moneys withdrawn from a long-term care savings account; or

(3) Report any information to the department or any other governmental agency that is not otherwise required by law.

2. No financial institution shall be responsible or liable for:

(1) Determining or ensuring that an account holder is eligible for a tax deduction under section 143.1160;

(2) Determining or ensuring that moneys in the account are used for eligible expenses; or

(3) Reporting or remitting taxes or penalties related to use of moneys in a long-term care savings account.

3. In implementing sections 143.1160 and 191.1601 to 191.1607, the department shall not establish any administrative, reporting, or other requirements on financial institutions that are outside the scope of normal account procedures.

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