A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS by adding article 7 to chapter 5, Title 11 so as to ESTABLISH THE “INSURANCE SAVINGS PROGRAM,” TO EMPOWER INDIVIDUALS TO SAVE PRIVATE FUNDS TO PAY INSURANCE POLICY DEDUCTIBLES ON REAL PROPERTY, AND TO MAKE RENOVATIONS TO REAL PROPERTY THAT MAKE THE PROPERTY MORE INSURABLE SO AS TO REDUCE INSURANCE POLICY PREMIUMS AND DEDUCTIBLES; AND BY AMENDING SECTION 12-6-1140, RELATING TO DEDUCTIONS FROM INDIVIDUAL TAXABLE INCOME, SO AS TO DEDUCT AMOUNTS DEPOSITED INTO THE INSURANCE SAVINGS PROGRAM AND ANY EARNINGS THEREON.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 5, Title 11 of the S.C. Code is amended by adding:

Article 7

Insurance Savings Program

Section 11‑5‑700. There is established the “Insurance Savings Program.” The purpose of the Insurance Savings Program is to authorize the establishment of savings accounts empowering individuals to save private funds to pay insurance policy deductibles on real property and to make renovations to real property that make the property more insurable so as to reduce insurance policy premiums and deductibles on real property.

Section 11‑5‑710. As used in this article:

(1) “Account owner” means the person who enters into an insurance savings account agreement pursuant to the provisions of this article. The account owner also must be the designated beneficiary; however, a trustee, guardian, or conservator may be appointed as an account owner for a designated beneficiary who is a minor or lacks capacity to enter into an agreement. Also, the agent of the designated beneficiary acting under durable power of attorney may open and manage an account on behalf of and in the name of a designated beneficiary who lacks capacity.

(2) “Financial organization” means an organization authorized to do business in this State and is:

(a) licensed or chartered by the Director of Insurance;

(b) licensed or chartered by the State Commissioner of Banking;

(c) chartered by an agency of the federal government; or

(d) subject to the jurisdiction and regulation of the federal Securities and Exchange Commission.

(3) “Insurance savings account” or “account” means an individual savings account established in accordance with the provisions of this article.

(4) “Management contract” means a contract executed by the State Treasurer and a program manager selected to act as a depository or manager of the program, or both.

(5) “Nonqualified withdrawal” means a withdrawal from an account which is not:

(a) a qualified withdrawal; or

(b) a rollover distribution.

(6) “Program” means the Insurance Savings Program established pursuant to this article.

(7) “Program manager” means a financial organization or an agency or department of another state that has been designated to administer a qualified Insurance Savings Program selected by the State Treasurer to act as a depository or manager of the program, or both.

(8) “Qualified withdrawal” means a withdrawal from an account to pay the qualifying insurance expense of the designated beneficiary of the account.

(9) “Rollover distribution” means a rollover distribution as defined in Section 529A of the federal Internal Revenue Code of 1986, as amended.

(10) “Savings agreement” means an agreement between the program manager or the State Treasurer and the account owner.

Section 11‑5‑720. (A) The State Treasurer shall implement and administer the program under the terms and conditions established by this article. The State Treasurer has the authority and responsibility to:

(1) develop and implement the program in a manner consistent with the provisions of this article;

(2) engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;

(3) charge, impose, and collect administrative fees and service charges in connection with any agreement, contract, or transaction relating to the program;

(4) develop marketing plans and promotional materials;

(5) establish the methods by which the funds held in accounts must be dispersed;

(6) establish the method by which funds must be allocated to pay for administrative costs;

(7) do all things necessary and proper to carry out the purposes of this article;

(8) adopt rules and promulgate regulations necessary to effectuate the provisions of this article; and

(9) prepare an annual report of the Insurance Savings Program to the Governor, the Senate, and the House of Representatives.

(B) The State Treasurer shall consult with the Department of Insurance to determine the eligibility of qualifying expenses.

(C) The State Treasurer may contract with other states in developing the program.

Section 11‑5‑730. (A) The State Treasurer may implement the program through use of program managers as account depositories or managers, or both. The State Treasurer may solicit proposals from program managers to act as depositories or managers of the program, or both. Program managers submitting proposals shall describe the investment instruments to be held in accounts. The State Treasurer may select more than one program manager and investment instrument for the program. The State Treasurer may select as program depositories or managers the program managers, from among the bidding program managers, that demonstrate the most advantageous combination, both to potential program participants and this State, of the following factors:

(1) financial stability and integrity of the program manager;

(2) the safety of the investment instrument being offered;

(3) the ability of the program manager to satisfy recordkeeping and reporting requirements;

(4) the program manager’s plan for promoting the program and the investment the organization is willing to make to promote the program;

(5) the fees, if any, proposed to be charged to the account owners;

(6) the minimum initial deposit and minimum contributions that the financial organization requires;

(7) the ability of the program manager to accept electronic withdrawals, including payroll deduction plans; and

(8) other benefits to the State or its residents included in the proposal, including fees payable to the State to cover expenses of the operation of the program.

(B) The State Treasurer may enter into contracts with program managers necessary to effectuate the provisions of this article. A management contract must include, at a minimum, terms requiring the program managers to:

(1) take action required to keep the program in compliance with requirements of this article;

(2) keep adequate records of each account, keep each account segregated, and provide the State Treasurer with the information necessary to prepare the statements required by Section 11‑5‑740;

(3) compile and total information contained in statements required to be prepared pursuant to Section 11‑5‑740 and provide compilations to the State Treasurer;

(4) if there is more than one program manager, provide the State Treasurer with information as is necessary to determine compliance pursuant to Section 11‑5‑740;

(5) provide the State Treasurer with access to the books and records of the program manager to the extent needed to determine compliance with the contract and this article;

(6) hold all accounts for the benefit of the account owner, owners, or the designated beneficiary;

(7) be audited at least annually by a firm of certified public accountants selected by the program manager, with the approval of the State Treasurer, and provide the results of the audit to the State Treasurer;

(8) provide the State Treasurer with copies of all regulatory filings and reports made by the program manager during the term of the management contract or while the program manager is holding any accounts, other than confidential filings or reports that are not part of the program. The program manager shall make available for review by the State Treasurer the results of the periodic examination of the manager by any state or federal banking, insurance, or securities commission, except to the extent that a report or reports may not be disclosed under law; and

(9) ensure that any description of the program, whether in writing or through the use of any media, is consistent with the marketing plan developed pursuant to the provisions of this article.

(C) The State Treasurer may:

(1) enter into contracts as he considers necessary and proper for the implementation of the program;

(2) require that an audit be conducted of the operations and financial position of the program depository and manager at any time if the State Treasurer has any reason to be concerned about the financial position, the recordkeeping practices, or the status of accounts of the program depository and manager; and

(3) terminate or not renew a management agreement. If the State Treasurer terminates or does not renew a management agreement, the State Treasurer shall take custody of accounts held by the program manager and shall seek to promptly transfer the accounts to another financial organization that is selected as a program manager or depository and into investment instruments as similar to the original instruments as possible.

(D) The State Treasurer and the Department of Insurance are authorized to exchange data regarding eligible expenses to carry out the purposes of this article.

Section 11‑5‑740. (A) An Insurance Savings account established pursuant to the provisions of this article must be opened by a designated beneficiary, a designated beneficiary’s agent under a durable power of attorney, a trustee holding funds for the benefit of a designated beneficiary, or a court‑appointed guardian or conservator of a designated beneficiary. Each designated beneficiary may have only one account. The State Treasurer may establish a nonrefundable application fee. An application for an account must be in the form prescribed by the State Treasurer and contain the following:

(1) name, address, and social security number of the account owner;

(2) name, address, and social security number of the designated beneficiary, if the account owner is the beneficiary’s trustee or guardian;

(3) certification relating to no excess contributions; and

(4) additional information as the State Treasurer may require.

(B) Contributions to an insurance savings account may be made only in cash. The State Treasurer or program manager shall reject or withdraw contributions promptly.

(C)(1) An account owner may:

(a) change the designated beneficiary of an account; and

(b) transfer all or a portion of an account to another insurance savings account.

(2) An account owner may not use an interest in an account as security for a loan. A pledge of an interest in an account is of no effect.

(D)(1) If there is any distribution from an account to an individual or for the benefit of an individual during a calendar year, the distribution must be reported to the federal Internal Revenue Service and each account owner, the designated beneficiary, or the distributee to the extent required by state or federal law.

(2) A statement must be provided to each account owner annually and at other increments established by the State Treasurer in the program guidelines. The statement must contain the information the State Treasurer requires to be reported to the account owner.

(3) A statement and information relating to an account must be prepared and filed to the extent required by this article and other state or federal law.

(E) Funds held in an insurance savings account are exempt from attachment, execution, or garnishment for claims of creditors of the contributor and the designated beneficiary.

(G) To the extent earnings in an insurance savings account and distributions from an insurance savings account are not subject to federal income tax, they will not be subject to state income tax.

Section 11‑5‑750. (A) Nothing in this article may create or be construed to create any obligation of the State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the benefit of an account owner or designated beneficiary with respect to the:

(1) return of principal;

(2) rate of interest or other return on an account; or

(3) payment of interest or other return on an account.

(B) The State Treasurer may adopt rules and promulgate regulations to provide that each contract, application, or other similar document that may be used in connection with opening an account clearly indicates that the account is not insured by the State and that the principal deposited and the investment return are not guaranteed by the State.

Section 11‑5‑760. (A) The Insurance Savings Program Trust Fund is established in the Office of the State Treasurer. The trust fund must be utilized if the State Treasurer elects to accept deposits from contributors rather than have deposits sent directly to the program manager. The trust fund must consist of any monies deposited by account owners and other contributors pursuant to the provisions of this article which are not deposited directly with the program manager. All interest derived from the deposit and investment of monies in the trust fund must be credited to the fund. At the end of each fiscal year, all unexpended and unencumbered monies in the trust fund must remain in the fund and not be credited or transferred to the state general fund or to another fund.

(B)(1) The Insurance Savings Expense Fund is established in the Office of the State Treasurer. The expense fund must consist of monies received from the Insurance Savings Program manager or managers, governmental or private grants, and state general fund appropriations, if any, for the program.

(2) All expenses incurred by the State Treasurer in developing and administering the Insurance Savings Program must be payable from the Insurance Savings Expense Fund.

SECTION 2. Section 12-6-1140 of the S.C. Code is amended by adding:

(15)(a) Contributions made to each investment trust account created pursuant to Article 7, Chapter 5, Title 11.

(b) Any interest, dividends, gains, property, or income accruing on the payments made to an investment trust agreement pursuant to Article 7, Chapter 5, Title 11, or on any account in the Palmetto ABLE Savings Expense Fund must be excluded from the gross income of any such account owner, contributor, or beneficiary for purposes of South Carolina income taxes, to the extent the amounts remain on deposit and are withdrawn pursuant to a qualified withdrawal.

(c) The earnings portion of any withdrawals from an account that are not qualified withdrawals must be included in the gross income of the resident recipient of the withdrawal for purposes of South Carolina income taxes in the year of the withdrawal. Withdrawals of the principal amount of contributions that are not qualified withdrawals must be recaptured into South Carolina income subject to tax to the extent the contributions were previously deducted from South Carolina taxable income.

SECTION 3. This act takes effect upon approval by the Governor.

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