

1 AN ACT concerning civil law.

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

4 Section 5. The Probate Act of 1975 is amended by changing
5 Sections 4a-5 and 4a-10 as follows:

6 (755 ILCS 5/4a-5)

7 Sec. 4a-5. Definitions. As used in this Article:

8 (1) "Caregiver" means a person who voluntarily, or in
9 exchange for compensation, has assumed responsibility for all
10 or a portion of the care of another person who needs assistance
11 with activities of daily living. "Caregiver" includes a
12 caregiver's spouse, cohabitant, child, or employee.
13 "Caregiver" does not include a family member of the person
14 receiving assistance.

15 (2) "Family member" means a spouse, civil union partner,
16 child, grandchild, sibling, aunt, uncle, niece, nephew, first
17 cousin, or parent of the person receiving assistance.

18 (3) "Transfer instrument" means the legal document
19 intended to effectuate a transfer effective on or after the
20 transferor's death and includes, without limitation, a will,
21 trust, transfer on death instrument, deed, form designated as
22 payable on death, contract, or other beneficiary designation
23 form.

1 (4) "Transferee" means a legatee, a beneficiary of a trust,
2 a grantee of a deed, or any other person designated in a
3 transfer instrument to receive a nonprobate transfer.

4 (5) "Transferor" means a testator, settlor, grantor of a
5 deed, or a decedent whose interest is transferred pursuant to a
6 nonprobate transfer.

7 (Source: P.A. 98-1093, eff. 1-1-15.)

8 (755 ILCS 5/4a-10)

9 Sec. 4a-10. Presumption of void transfer.

10 (a) In any civil action in which a transfer instrument is
11 being challenged, there is a rebuttable presumption, except as
12 provided in Section 4a-15, that the transfer instrument is void
13 if the transferee is a caregiver and the fair market value of
14 the transferred property exceeds \$20,000.

15 (b) Unless a shorter limitations period is required by
16 Section 8-1 or 18-12 of this Act, any action under this Section
17 shall be filed within 2 years of the date of death of the
18 transferor.

19 (c) If the property in question is an interest in real
20 property, a bona fide purchaser or mortgagee for value shall
21 take the subject property free and clear of the action
22 challenging the transfer instrument if the transfer to the bona
23 fide purchaser or mortgagee for value occurs prior to the
24 recordation of a lis pendens for an action under this Section.

25 (d) If the holder of property subject to this Article is a

1 financial institution, trust company, trustee, or similar
2 entity or person, including a subsidiary or affiliate thereof,
3 it is not liable for distributing or releasing the property to
4 the transferee, if:

5 (1) in the case of funds in an account maintained by
6 the holder, the distribution or release occurs prior to the
7 date the holder imposes a prompt administrative freeze of
8 the account after the holder's registered agent for service
9 of process has first received actual written notice that a
10 complaint has been filed challenging the transfer
11 instrument, which notice must include a copy of the
12 complaint; or

13 (2) in the case of any other property, the distribution
14 or release occurs prior to the date the holder's registered
15 agent for service of process receives actual written notice
16 that a complaint has been filed challenging the transfer
17 instrument, which notice must include a copy of the
18 complaint with sufficient time for the holder to act upon
19 the notice.

20 (e) The administrative freeze of an account described in
21 paragraph (1) of subsection (d) shall be implemented promptly.
22 In determining whether the administrative freeze was
23 implemented promptly, the Court shall take into consideration
24 the manner, time, and place of service and other factors
25 reasonably affecting the financial institution's ability to
26 promptly freeze the account.

1 (Source: P.A. 98-1093, eff. 1-1-15.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.