

# SENATE BILL 239

C3

(9lr0991)

## ENROLLED BILL

— Finance/Health and Government Operations —

Introduced by **Senator Feldman**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

#### 2 **Health Insurance – Individual Market Stabilization – Provider Fee**

3 FOR the purpose of clarifying that certain provisions of law apply to managed care  
4 organizations; requiring a managed care organization to pay a certain fee on a  
5 certain basis in certain calendar years; altering the purpose of certain provisions of  
6 law requiring that certain entities be subject to a certain assessment on all amounts  
7 used to calculate a certain premium tax liability or the amount of the entity's  
8 premium tax exemption value; requiring that certain entities be subject to certain  
9 assessments ~~for in certain calendar years in which the federal government makes an~~  
10 ~~assessment and for certain calendar years in which the federal government does not~~  
11 ~~make an assessment under a certain provision of federal law;~~ clarifying that certain  
12 assessments are for insurance products that are subject to a certain provision of  
13 federal law and may be subject to an assessment by the State; requiring that the  
14 calculation of the assessment be made without regard to certain threshold limits or  
15 a certain partial exclusion of net premiums; making a conforming change; providing

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 for the application of certain provisions of law; requiring the Maryland Health  
 2 Insurance Coverage Protection Commission to study a certain matter; providing that  
 3 certain provisions of this Act apply to stand-alone dental plan carriers and  
 4 stand-alone vision plan carriers; providing for the termination of a certain provision  
 5 of this Act, subject to a certain contingency; requiring the Maryland Insurance  
 6 Commissioner to forward a copy of a certain notice to the Department of Legislative  
 7 Services within a certain period of time and notify certain carriers; making a certain  
 8 provision of this Act subject to a certain contingency; and generally relating to the  
 9 stabilization of the individual market and the health insurance provider fee.

10 BY adding to

11 Article – Health – General  
 12 Section 15–102.3(g)  
 13 Annotated Code of Maryland  
 14 (2015 Replacement Volume and 2018 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Insurance  
 17 Section 6–102.1  
 18 Annotated Code of Maryland  
 19 (2017 Replacement Volume and 2018 Supplement)

20 BY repealing and reenacting, without amendments,

21 Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37  
 22 and 38 of the Acts of the General Assembly of 2018  
 23 Section 1(b)

24 BY repealing and reenacting, with amendments,

25 Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37  
 26 and 38 of the Acts of the General Assembly of 2018  
 27 Section 1(h)(1)

28 ~~BY repealing and reenacting, with amendments,~~

29 ~~Article – Insurance~~  
 30 ~~Section 6–102.1(a)~~  
 31 ~~Annotated Code of Maryland~~  
 32 ~~(2017 Replacement Volume and 2018 Supplement)~~

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 34 That the Laws of Maryland read as follows:

35 **Article – Health – General**

36 15–102.3.

37 **(G) (1) THE PROVISIONS OF § 6–102.1 OF THE INSURANCE ARTICLE**  
 38 **APPLY TO MANAGED CARE ORGANIZATIONS.**

1 (2) FOR EACH CALENDAR YEAR THAT THE INSURANCE  
 2 COMMISSIONER ASSESSES A HEALTH INSURANCE PROVIDER FEE UNDER § 6-102.1  
 3 OF THE INSURANCE ARTICLE, A MANAGED CARE ORGANIZATION SHALL PAY THE FEE  
 4 ON A QUARTERLY BASIS IN ACCORDANCE WITH A SCHEDULE ADOPTED BY THE  
 5 INSURANCE COMMISSIONER.

6 Article – Insurance

7 6-102.1.

8 (a) This section applies to:

9 (1) an insurer, a nonprofit health service plan, a health maintenance  
 10 organization, a dental plan organization, a fraternal benefit organization, and any other  
 11 person subject to regulation by the State that provides a product that:

12 (i) is subject to ~~the fee under~~ § 9010 of the Affordable Care Act; and

13 (ii) may be subject to an assessment by the State; and

14 (2) a managed care organization authorized under Title 15, Subtitle 1 of  
 15 the Health – General Article.

16 (b) The purpose of this section is to [recoup the aggregate amount of the] ASSIST  
 17 IN THE STABILIZATION OF THE INDIVIDUAL HEALTH INSURANCE MARKET BY  
 18 ASSESSING A health insurance provider fee [that otherwise would have been assessed  
 19 under § 9010 of the Affordable Care Act] that is attributable to State health risk for  
 20 calendar year 2019 [as a bridge to stability in the individual health insurance market] AND  
 21 ~~EACH CALENDAR YEAR THEREAFTER YEARS 2019 THROUGH 2023, BOTH INCLUSIVE,~~  
 22 AS PROVIDED FOR UNDER SUBSECTION (C) OF THIS SECTION.

23 (c) (1) ~~[In] FOR A~~ calendar year ~~[2019] IN WHICH THE FEDERAL~~  
 24 ~~GOVERNMENT DOES NOT MAKE AN ASSESSMENT UNDER § 9010 OF THE~~  
 25 ~~AFFORDABLE CARE ACT~~, in addition to the amounts otherwise due under this subtitle,  
 26 an entity subject to this section shall be subject to an assessment of 2.75% on all amounts  
 27 used to calculate the entity's premium tax liability under § 6-102 of this subtitle or the  
 28 amount of the entity's premium tax exemption value for ~~THE IMMEDIATELY PRECEDING~~  
 29 calendar year ~~[2018]~~.

30 (2) ~~FOR A CALENDAR YEAR IN WHICH THE FEDERAL GOVERNMENT~~  
 31 ~~MAKES AN ASSESSMENT UNDER § 9010 OF THE AFFORDABLE CARE ACT IN~~  
 32 CALENDAR YEARS 2020 THROUGH 2023, BOTH INCLUSIVE, IN ADDITION TO THE  
 33 AMOUNTS OTHERWISE DUE UNDER THIS SUBTITLE, AN ENTITY SUBJECT TO THIS  
 34 SECTION SHALL BE SUBJECT TO AN ASSESSMENT OF 1% ON ALL AMOUNTS USED TO

1 CALCULATE THE ENTITY'S PREMIUM TAX LIABILITY UNDER § 6-102 OF THIS  
 2 SUBTITLE OR THE AMOUNT OF THE ENTITY'S PREMIUM TAX EXEMPTION VALUE FOR  
 3 THE IMMEDIATELY PRECEDING CALENDAR YEAR.

4 (3) THE ASSESSMENTS REQUIRED IN PARAGRAPHS (1) AND (2) OF  
 5 THIS SUBSECTION ARE FOR PRODUCTS THAT:

6 (I) ARE SUBJECT TO § 9010 OF THE AFFORDABLE CARE ACT;  
 7 AND

8 (II) MAY BE SUBJECT TO AN ASSESSMENT BY THE STATE.

9 (4) THE CALCULATION OF THE ASSESSMENTS REQUIRED UNDER  
 10 PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL BE MADE WITHOUT REGARD  
 11 TO:

12 (I) THE THRESHOLD LIMITS ESTABLISHED IN § 9010(B)(2)(A)  
 13 OF THE AFFORDABLE CARE ACT; OR

14 (II) THE PARTIAL EXCLUSION OF NET PREMIUMS PROVIDED FOR  
 15 IN § 9010(B)(2)(B) OF THE AFFORDABLE CARE ACT.

16 [(2)] (D) Notwithstanding § 2-114 of this article, the assessment required  
 17 under this section shall be distributed by the Commissioner to the Maryland Health Benefit  
 18 Exchange Fund established under § 31-107 of this article.

19 Chapter 17 of the Acts of 2017, as amended by Chapters 37 and 38 of the Acts of  
 20 2018

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 22 That:

23 (b) There is a Maryland Health Insurance Coverage Protection Commission.

24 (h) (1) The Commission shall study and make recommendations for individual  
 25 and group health insurance market stability, including:

26 (i) the components of one or more waivers under § 1332 of the  
 27 Affordable Care Act to ensure market stability that may be submitted by the State;

28 (ii) whether to pursue a standard plan design that limits cost  
 29 sharing;

30 (iii) whether to merge the individual and small group health  
 31 insurance markets in the State for rating purposes;

1 (iv) whether to pursue a Basic Health Program;

2 (v) whether to pursue a Medicaid buy-in program for the individual  
3 market;

4 (vi) whether to provide subsidies that supplement premium tax  
5 credits or cost-sharing reductions described in § 1402(c) of the Affordable Care Act; [and]

6 (vii) whether to adopt a State-based individual health insurance  
7 mandate and how to use payments collected from individuals who do not maintain  
8 minimum essential coverage, including use of the payments to assist individuals in  
9 purchasing health insurance; AND

10 **(VIII) WHETHER THE STATE REINSURANCE PROGRAM SHOULD**  
11 **BE EXTENDED AFTER CALENDAR YEAR 2023 AND, IF SO, HOW IT WILL BE FUNDED.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
13 as follows:

14 **Article – Insurance**

15 6-102.1.

16 (a) **(1)** This section applies to:

17 **[(1)] (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
18 **SUBSECTION, an insurer, a nonprofit health service plan, a health maintenance**  
19 **organization, a dental plan organization, a fraternal benefit organization, and any other**  
20 **person subject to regulation by the State that provides a product that:**

21 **[(i)] 1.** is subject to the fee under § 9010 of the Affordable Care  
22 Act; and

23 **[(ii)] 2.** may be subject to an assessment by the State; and

24 **[(2)] (II) a managed care organization authorized under Title 15, Subtitle**  
25 **1 of the Health – General Article.**

26 **(2) THIS SECTION DOES NOT APPLY TO A STAND-ALONE DENTAL**  
27 **PLAN CARRIER OR A STAND-ALONE VISION PLAN CARRIER.**

28 SECTION 3. AND BE IT FURTHER ENACTED, That:

1           (a) The assessment established under § 6-102.1 of the Insurance Article, as  
 2 enacted by Section 1 of this Act, shall apply to stand-alone dental plan carriers and  
 3 stand-alone vision plan carriers.

4           (b) If the federal government confirms that under the rules that implement § 1903  
 5 of the Social Security Act, which requires health care related taxes to be broad-based and  
 6 uniform in order to apply to Medicaid providers, such as managed care organizations, that  
 7 the State can impose a 1% assessment on Medicaid managed care organizations if it is  
 8 imposing that fee on all commercial health insurance plans except dental and vision,  
 9 subsection (a) of this section, with no further action required by the General Assembly,  
 10 shall be abrogated and of no further force and effect.

11           (c) If the Maryland Insurance Commissioner receives notice of the confirmation  
 12 described in subsection (b) of this section, within 5 days after receiving notice of the  
 13 confirmation, the Commissioner shall:

14                   (1) forward a copy of the notice to the Department of Legislative Services,  
 15 90 State Circle, Annapolis, Maryland 21401; and

16                   (2) notify each stand-alone dental plan carrier and stand-alone vision plan  
 17 carrier.

18           SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
 19 effect contingent on the termination of Section 3(a) of this Act.

20           SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this  
 21 Act, this Act shall take effect October 1, 2019.

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.