

BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL NO. 705

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after “fees;” insert “altering certain fees;”; in line 8, after “fees;” insert “authorizing a certain credit to be apportioned among certain insurers under certain circumstances; specifying the maximum amount of the credit;”; in line 9, after “Fund;” insert “altering the method of funding for the Maryland Insurance Administration; authorizing certain insurers to file certain forms with the Commissioner that are effective on the date of the filing under certain circumstances;”; after line 20, insert:

“BY repealing and reenacting, with amendments,

Article - Health - General

Section 19-713

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)”;

in line 23, after “2-114,” insert “2-401, 2-402;” and in the same line, strike “6-303(a)” and substitute “6-202, 6-303(a), 12-203(d)”.

On page 2, after line 1, insert:

“BY repealing

Article - Insurance

Section 2-407

Annotated Code of Maryland

(1997 Volume)”;

in line 5, strike “Assessment Fee” and substitute “Regulation Assessment”; 6-104(c) and 14-126(e); after line 7, insert:

(Over)

“BY repealing and reenacting, without amendments,
Article - Insurance
Section 6-201
Annotated Code of Maryland
(1997 Volume)”;

in line 17, strike “and 7”; and after line 17, insert:

“BY repealing
Chapter 538 of the Acts of the General Assembly of 1993
Section 4”.

AMENDMENT NO. 2

On page 2, in line 22, after “5” insert “and § 2-112”; and after line 23, insert:

“19-713.

(a) Each health maintenance organization shall file with the Commissioner AND PAY THE APPLICABLE FILING FEE AS PROVIDED IN § 2-112 OF THE INSURANCE ARTICLE, before they become effective:

(1) All rates that the health maintenance organization charges subscribers or groups of subscribers; and

(2) The form and content of each contract between the health maintenance organization and its subscribers or groups of subscribers.

(b) Rates of a health maintenance organization may not be excessive, inadequate, or unfairly discriminatory in relation to the services offered.

(c) (1) If, at any time, a health maintenance organization wishes to amend any contract with its subscribers or change any rate charged, the health maintenance organization shall file with the Commissioner the number of copies of the amendment or rate change that the Commissioner requires.

(2) The Commissioner shall provide the Department with the number of copies it requires.

(d) The Commissioner shall coordinate the contract and related rate filing review under this section.

(e) (1) If within 60 days after a filing made pursuant to this section, the Commissioner finds the filing does not meet the requirements of subsection (f) of this section, the filer shall be sent notice of disapproval specifying in what respects the Commissioner finds that the filing fails to meet the requirements of this section and stating that the filing shall not become effective.

(2) The Commissioner may not issue a notice of disapproval of a filing under subsection (f) of this section without a statutory or regulatory basis for the disapproval and an explanation of the application of the statutory or regulatory basis which resulted in the disapproval.

(f) The Commissioner shall disapprove any form filed, or withdraw any previous approval, if the form:

(1) Is in any respect in violation or does not comply with this article or applicable regulations;

(2) Contains, or incorporates by reference, any inconsistent or inapplicable clauses, exceptions, or conditions which affect the risk purported to be assumed in the general coverage of the contract;

(3) Has any title, heading, or other indication of its provisions which is likely to mislead the subscriber or member;

(4) Includes provisions that are inequitable, or provisions that lack any substantial benefit to the subscriber or member;

(5) Is printed or otherwise reproduced in a manner as to render any provision of the form substantially illegible; or

(6) Provides benefits that are unreasonable in relation to the premium charged.

(g) [Unless] (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, UNLESS the Commissioner disapproves a filing under this section, the filing becomes effective 60 days after the office of the Commissioner receives the filing or on any other date that the Commissioner sets.

(2) THE COMMISSIONER MAY ADOPT REGULATIONS TO ALLOW A TYPE OR KIND OF FORM TO BE EFFECTIVE UPON RECEIPT OF THE FILING BY THE COMMISSIONER.

(3) IF A HEALTH MAINTENANCE ORGANIZATION USES A FORM WHICH BECOMES EFFECTIVE IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION AND THE FORM WOULD BE SUBJECT TO DISAPPROVAL UNDER SUBSECTION (F) OF THIS SECTION, THE COMMISSIONER MAY:

(I) SUBSEQUENTLY DISAPPROVE THE FORM; AND

(II) FIND THE HEALTH MAINTENANCE ORGANIZATION TO BE IN VIOLATION OF § 19-729 OF THIS SUBTITLE AND IMPOSE A PENALTY AS PROVIDED IN § 19-730 OF THIS SUBTITLE.

(4) IF A HEALTH MAINTENANCE ORGANIZATION FILES A FORM WITH THE COMMISSIONER WHICH BECOMES EFFECTIVE IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, THE HEALTH MAINTENANCE ORGANIZATION SHALL PAY THE APPLICABLE FILING FEE PROVIDED IN § 2-112 OF THE INSURANCE ARTICLE.

Article - Insurance

12-203.

(d) (1) The Commissioner may order an exemption from this section for as long as the Commissioner considers proper for an insurance document or form or type of insurance document

or form if the Commissioner finds that:

[(1)] (I) this section is not practicably applicable; or

[(2)] (II) the filing and approval of the document or form or type of document or form are not desirable or necessary to protect the public.

(2) (I) THE COMMISSIONER MAY ADOPT REGULATIONS TO ALLOW A TYPE OR KIND OF FORM TO BE EFFECTIVE UPON RECEIPT OF THE FILING BY THE COMMISSIONER.

(II) IF AN INSURER USES A FORM WHICH BECOMES EFFECTIVE IN ACCORDANCE WITH THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE FORM WOULD BE SUBJECT TO DISAPPROVAL UNDER § 12-205(B) OF THIS SUBTITLE, THE COMMISSIONER MAY:

1. SUBSEQUENTLY DISAPPROVE THE FORM; AND

2. IMPOSE ON THE INSURER A PENALTY UNDER § 4-113 OF THIS ARTICLE.

(III) IF AN INSURER FILES A FORM WITH THE COMMISSIONER WHICH BECOMES EFFECTIVE IN ACCORDANCE WITH THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE INSURER SHALL PAY THE APPLICABLE FILING FEE PROVIDED IN § 2-112 OF THIS ARTICLE.

14-126.

(E) (1) THE COMMISSIONER MAY ADOPT REGULATIONS TO ALLOW A TYPE OR KIND OF FORM TO BE EFFECTIVE UPON RECEIPT OF THE FILING BY THE COMMISSIONER.

(2) IF A NONPROFIT HEALTH SERVICE PLAN USES A FORM WHICH BECOMES EFFECTIVE IN ACCORDANCE WITH THE PROVISIONS OF

(Over)

SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE FORM WOULD BE SUBJECT TO DISAPPROVAL UNDER SUBSECTION (B)(3) OF THIS SECTION, THE COMMISSIONER MAY:

(I) SUBSEQUENTLY DISAPPROVE THE FORM; AND

(II) IMPOSE ON THE NONPROFIT SERVICE PLAN A PENALTY UNDER § 4-113 OF THIS ARTICLE.

(3) IF A NONPROFIT HEALTH SERVICE PLAN FILES A FORM WITH THE COMMISSIONER WHICH BECOMES EFFECTIVE IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE NONPROFIT HEALTH SERVICE PLAN SHALL PAY THE APPLICABLE FILING FEE PROVIDED IN § 2-112 OF THIS ARTICLE.”.

AMENDMENT NO. 3

On page 2, after line 23, insert:

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

On pages 2 and 3, strike in their entirety the lines beginning with line 26 on page 2 through line 4 on page 3, inclusive and substitute:

“(A) THE FOLLOWING MONEYS SHALL BE CONSIDERED GENERAL FUNDS OF THE STATE:

(1) ALL REVENUE RECEIVED UNDER TITLE 6, SUBTITLE 1 OF THIS ARTICLE;

(2) ALL REVENUE RECEIVED UNDER §§ 3-324, 4-209, 6-303, AND 6-304 OF THIS ARTICLE; AND

(3) ALL PENALTIES IMPOSED BY THE COMMISSIONER, INCLUDING THE FOLLOWING PENALTIES IMPOSED UNDER:

(I) §§ 4-113(D), 4-212, 10-126(C), 11-232, 14-140, 23-208, 23-506, 26-502, 27-305, AND 27-408 OF THIS ARTICLE; AND

(II) § 19-730 OF THE HEALTH - GENERAL ARTICLE.”.

On page 3, in line 5, strike “(D)” and substitute “(B)”; in line 9, strike “AND”; and after line 9, insert:

“(2) ALL REVENUE RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF THE FEES SET FORTH IN § 2-112 OF THIS TITLE;

(3) ALL REVENUE RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF THE FRAUD PREVENTION FEE UNDER TITLE 6, SUBTITLE 2 OF THIS ARTICLE;

(4) ALL REVENUE RECEIVED THROUGH THE COLLECTION OF EXAMINATION EXPENSES UNDER § 2-208 OF THIS TITLE;

(5) EXCEPT AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, ALL OTHER FEES RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF FEES SET FORTH IN THIS ARTICLE; AND”;

and in line 10, strike “(2)” and substitute “(6)”.

AMENDMENT NO. 4

On page 3, after line 11, insert:

“2-401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Fraud Division" means the Insurance Fraud Division in the Administration.

(Over)

(c) ["Fund" means the Insurance Fraud Division Fund.

(d)] "Insurance fraud" means:

(1) a violation of Title 27, Subtitle 4 of this article;

(2) theft, as set out under Article 27, §§ 340 through 342 of the Code:

(i) from a person regulated under this article; or

(ii) by a person regulated under this article or an officer, director, agent, or employee of a person regulated under this article; or

(3) any other fraudulent activity set out under Article 27 of the Code that is committed by or against a person regulated under this article.

2-402.

[(a)] There is an Insurance Fraud Division in the Administration.

[(b)] Funding for the Fraud Division shall be as provided in the State budget.]

[2-407.

(a) There is an Insurance Fraud Division Fund.

(b) The purpose of the Fund is to pay all costs and expenses incurred by the administration related to the operation of the Fraud Division, including the costs of State employees specifically assigned to the Fraud Division by the Office of the Attorney General and Department of State Police.

(c) The Fund shall consist of:

(1) the fees collected and deposited in the Fund by the Commissioner under § 6-202 of this article; and

(2) income from investments that the State Treasurer makes for the Fund.

(d) (1) All costs and expenses of the Fraud Division shall be included in the State budget.

(2) Expenditures from the Fund to cover costs and expenses of the Fraud Division may only be made:

(i) pursuant to an appropriation approved by the General Assembly in the annual State budget; or

(ii) by the budget amendment procedure provided for in § 7-109 of the State Finance and Procurement Article.

(e) (1) The State Treasurer is the custodian of the Fund.

(2) The Fund shall be invested and reinvested in the same manner as State funds.

(3) The State Treasurer shall deposit payments received from the Commissioner into the Fund.

(f) (1) The Fund is a continuing, nonlapsing fund and is not subject to § 7-302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund.

(2) No part of the Fund may revert or be credited to:

(i) the General Fund of the State; or

(ii) a special fund of the State.]”.

AMENDMENT NO. 5

On page 3, before line 12, insert:

(Over)

“SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Insurance”;

in line 12, strike “ASSESSMENT FEE” and substitute “REGULATION ASSESSMENT”; strike beginning with “, EXCLUDING” in line 18 down through “DIVISION,” in line 19; in line 20, strike “TITLE” and substitute “ARTICLE”; in line 21, strike “30%” and substitute “40%”; and strike beginning with “, EXCLUDING” in line 22 down through “DIVISION” in line 23.

On page 4, strike beginning with “THE” in line 3 down through the second “TWO-THIRDS” in line 4 and substitute “45%”; strike beginning with “THE” in line 20 down through “TWO-THIRDS” in line 21 and substitute “27.5%”; after line 21, insert:

“(I) “MULTIPLE TYPE INSURER” MEANS AN INSURER THAT ENGAGES IN MORE THAN ONE OF THE FOLLOWING TYPES OF INSURANCE:

(1) LIFE;

(2) HEALTH; OR

(3) PROPERTY AND CASUALTY.”;

in lines 22, 29, and 34, strike “(I)”, “(J)”, and “(K)”, respectively, and substitute “(J)”, “(K)”, and “(L)”, respectively; and in line 35, strike “ONE-THIRD” and substitute “27.5%”.

On page 5, strike beginning with the second “FOR” in line 6 down through “INSURER” in line 7; strike beginning with the second “FOR” in line 12 down through “INSURER” in line 13; in line 19, strike “FOR EACH PROPERTY AND CASUALTY INSURER”; after line 24, insert:

“(C) FOR THE PURPOSE OF CALCULATING THE ASSESSMENT FEE IN SUBSECTION (B) OF THIS SECTION, A MULTIPLE TYPE INSURER SHALL BE CONSIDERED EITHER A HEALTH INSURER, A LIFE INSURER, OR A PROPERTY AND

CASUALTY INSURER BASED ON THE MAJORITY OF PREMIUM TYPE WRITTEN.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE MINIMUM ASSESSMENT SHALL BE \$300 FOR EACH AUTHORIZED INSURER.”;

in line 26, before the first “THE” insert “BEGINNING ON APRIL 1, 1999,”; in lines 31 and 32, strike “AUGUST 31” and substitute “JULY 1”; and in lines 34 and 37, in each instance, strike “AUGUST 31” and substitute “JULY 1”.

On page 6, in lines 1 and 5, in each instance, strike “AUGUST 31” and substitute “JULY 1”; in lines 13 and 14, strike “FEES FOR FORM AND RATE FILINGS” and substitute “A REDUCTION IN SPECIFIED AGENT FEES”.

AMENDMENT NO. 6

On page 6, in line 22, strike “AND”; after line 22, insert:

“(2) ALL REVENUE RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF THE FEES SET FORTH IN § 2-112 OF THIS TITLE;

(3) ALL REVENUE RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF THE FRAUD PREVENTION FEE UNDER TITLE 6, SUBTITLE 2 OF THIS ARTICLE;

(4) ALL REVENUE RECEIVED THROUGH THE COLLECTION OF EXAMINATION EXPENSES UNDER § 2-208 OF THIS TITLE;

(5) EXCEPT AS PROVIDED IN § 2-114(A) OF THIS TITLE, ALL OTHER FEES RECEIVED THROUGH THE IMPOSITION AND COLLECTION OF FEES SET FORTH IN THIS ARTICLE; AND”;

in line 23, strike “(2)” and substitute “(6)”; in line 25, strike “SUPPLEMENT EXPENDITURES FOR” and substitute “PAY ALL THE COSTS AND EXPENSES INCURRED BY”; in line 29, after “(C)” insert:

(Over)

“(1) ALL THE COSTS AND EXPENSES OF THE ADMINISTRATION SHALL BE INCLUDED IN THE STATE BUDGET.”;

and in lines 29 and 35, strike “(1)” and “(2)”, respectively, and substitute “(2)” and “(3)”, respectively.

AMENDMENT NO. 7

On page 7, after line 35, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Insurance

6-104.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ANY INSURER THAT HAS ITS HOME OFFICE IN THIS STATE SHALL BE ENTITLED TO A CREDIT AGAINST THE TOTAL AMOUNT OF THE TAXES PAYABLE BY THE INSURER UNDER THIS SUBTITLE EQUAL TO THE AMOUNT OF ALL RETALIATORY TAXES IMPOSED ON THE INSURER IN OTHER STATES AS A RESULT OF ITS PAYMENT OF THE ASSESSMENT FEE REQUIRED UNDER TITLE 2, SUBTITLE 5 OF THIS ARTICLE.

(2) THE AGGREGATE TOTAL AMOUNT THAT MAY BE CREDITED TO ALL QUALIFYING INSURERS UNDER THIS SECTION MAY NOT EXCEED \$1 MILLION IN ANY FISCAL YEAR.

(3) IF THE CREDIT AVAILABLE TO INSURERS UNDER PARAGRAPH (2) OF THIS SUBSECTION IS INSUFFICIENT TO OFFSET THE RETALIATORY TAXES ATTRIBUTABLE TO THE IMPOSITION OF THE ASSESSMENT FEE UNDER TITLE 2, SUBTITLE 5 OF THIS ARTICLE, THE AVAILABLE CREDIT SHALL BE APPORTIONED AMONG THOSE INSURERS CLAIMING THE CREDIT BASED ON THE RATIO OF GROSS DIRECT WRITTEN PREMIUM ALLOCABLE TO THIS STATE OF THE INSURER CLAIMING

THE CREDIT TO THE TOTAL AMOUNT OF GROSS DIRECT WRITTEN PREMIUM
ALLOCABLE TO THIS STATE WRITTEN BY ALL INSURERS CLAIMING THE CREDIT.”.

On page 8, after line 10, insert:

“6-201.

(a) The Commissioner shall collect a fraud prevention fee as provided in this subtitle.

(b) The fraud prevention fee is in addition to any fees, penalties, charges, or premium taxes imposed under this article.

6-202.

(a) The Commissioner shall collect the fraud prevention fee.

(b) The total amount of the fraud prevention fee collected by the Commissioner shall be deposited in the Insurance [Fraud Division] REGULATION Fund [for the sole purpose of funding the activities of the Insurance Fraud Division] AS PROVIDED IN § 2-505 OF THIS ARTICLE.”.

AMENDMENT NO. 8

On page 10, in line 3, strike “2.” and substitute “5”.

On page 11, in line 27, strike “\$25” and substitute “\$15”; and in line 28, strike “\$25” and substitute “\$5”.

On page 12, in lines 20 and 22, in each instance, strike the bracket; in line 21, strike “\$100” and substitute “\$125”; in line 25, strike the brackets; in the same line, strike “(A)(11)”; and in line 27, strike “3.” and substitute “6”.

On page 14, in line 22, strike “\$25” and substitute “\$15”; and in line 23, strike “\$25” and substitute “\$5”.

(Over)

On page 16, in lines 4 and 6, in each instance, strike the bracket; in line 4, strike “(17)” and substitute “(13)”; in line 5, strike “\$100” and substitute “\$125”; in line 6, strike “(18)”; in the same line, strike “(13)” and substitute “(14)”; in line 9, strike “(13)” and substitute “(14)”; and in line 11, strike “4.” and substitute “7.”.

AMENDMENT NO. 9

On page 16, strike in their entirety lines 19 through 23, inclusive, and substitute:

“SECTION 8. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 538 of the Acts of 1993

[SECTION 4. AND BE IT FURTHER ENACTED, That the fees and charges required under Article 48A, Sections 41 and 205(b) of the Code as enacted by this Act shall be used solely for the administration and operation of the Insurance Administration.]

SECTION 9. AND BE IT FURTHER ENACTED, That the balance remaining in the Insurance Fraud Division Fund at the end of June 30, 1999 be transferred to the Insurance Regulation Fund, as provided in § 2-505 of the Insurance Article, as enacted by this Act.

SECTION 10. AND BE IT FURTHER ENACTED, That the Insurance Commissioner shall:

(a) conduct a study to determine the conditions under which property and casualty insurance forms may be used upon filing with the Commissioner without the prior approval of the Commissioner; and

(b) on or before January 1, 1999, submit a report on the results of the study, including any recommendations, to the House Economic Matters Committee and the Senate Finance Committee.”;

in lines 24, 26, 30, and 32, strike “5.”, “6.”, “7.”, and “8.”, respectively, and substitute “11.”, “13.”, “14.”, and “16.”, respectively; in line 25, strike “1999” and substitute “1998”; after line 25, insert:

“SECTION 12. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take

effect April 1, 1999.”;

and after line 31, insert:

“SECTION 15. AND BE IT FURTHER ENACTED, That Sections 7 and 10 of this Act shall take effect June 1, 1998.”;

in lines 26 and 28, in each instance, strike “2” and substitute “5”; in line 30, strike “3” and substitute “6”; in line 33, strike “5, 6, and 7” and substitute “11, 12, 13, 14, and 15”; and in the same line, strike “June 1, 1998” and substitute “July 1, 1999”.