

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 10

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Senator Kasemeyer” and substitute “Senators Kasemeyer, Astle, Bromwell, DeGrange, Della, Dorman, Exum, Hafer, Hollinger, Kelley, and Teitelbaum”; strike in their entirety lines 2 and 3 and substitute “Insurance Premiums Tax - Health Maintenance Organizations - Funding of Public Mental Health System Services”; in line 4, after “of” insert “imposing the insurance premiums tax on health maintenance organizations; providing that the premiums to be taxed include certain amounts paid to health maintenance organizations; requiring the revenue from a certain tax imposed on health maintenance organizations to be distributed annually to a certain fund; creating the Maryland Public Mental Health System Fund; specifying the purpose and uses of the Fund and that the Fund is a special, nonlapsing fund that is not subject to certain provisions of law;”; and strike beginning with “and” in line 8 down through “provider” in line 9 and substitute “providing for the termination of certain provisions of this Act; providing for the application of this Act; and generally relating to imposing the insurance premiums tax on health maintenance organizations and the funding of public mental health system services”.

AMENDMENT NO. 2

On page 1, after line 14, insert:

“BY repealing and reenacting, with amendments,

Article - Health - General

Section 19-727

Annotated Code of Maryland

(2000 Replacement Volume and 2001 Supplement)

BY repealing and reenacting, with amendments,

Article - Insurance

Section 6-101, 6-102(b), and 6-104(a)

(Over)

Annotated Code of Maryland
(2000 Replacement Volume and 2001 Supplement)

BY repealing and reenacting, without amendments,

Article - Insurance
Section 6-102(a) and 6-103
Annotated Code of Maryland
(1997 Volume and 2001 Supplement)

BY adding to

Article - Insurance
Section 6-103.2 and 6-103.3
Annotated Code of Maryland
(1997 Volume and 2001 Supplement)”.

AMENDMENT NO. 3

On page 2, after line 16, insert:

“19-727.

[(a) Except as provided in subsection (b) of this section, a] A health maintenance organization is not exempted from any State, county, or local taxes solely because of this subtitle.

[(b) (1) Each health maintenance organization that is authorized to operate under this subtitle is exempted from paying the premium tax imposed under Title 6, Subtitle 1 of the Insurance Article.

(2) Premiums received by an insurer under policies that provide health maintenance organization benefits are not subject to the premium tax imposed under Title 6, Subtitle 1 of the Insurance Article to the extent:

(i) Of the amounts actually paid by the insurer to a nonprofit health maintenance organization that operates only as a health maintenance organization; or

(ii) The premiums have been paid by that nonprofit health maintenance organization.]

Article - Insurance

6-101.

(a) The following persons are subject to taxation under this subtitle:

(1) a person engaged as principal in the business of writing insurance contracts, surety contracts, guaranty contracts, or annuity contracts;

(2) A HEALTH MAINTENANCE ORGANIZATION AUTHORIZED BY TITLE 19, SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE;

~~[(2)]~~ (3) an attorney in fact for a reciprocal insurer;

~~[(3)]~~ (4) the Maryland Automobile Insurance Fund; and

~~[(4)]~~ (5) a credit indemnity company.

(b) The following persons are not subject to taxation under this subtitle:

(1) a nonprofit health service plan corporation that meets the requirements established under §§ 14-106 and 14-107 of this article;

(2) a fraternal benefit society;

~~[(3)]~~ a health maintenance organization authorized by Title 19, Subtitle 7 of the Health - General Article;]

~~[(4)]~~ (3) a surplus lines broker, who is subject to taxation in accordance with Title 3, Subtitle 3 of this article;

~~[(5)]~~ (4) an unauthorized insurer, who is subject to taxation in accordance with Title 4, Subtitle 2 of this article; or

(Over)

[(6)] (5) the Short-Term Prescription Drug Subsidy Plan created under Title 15, Subtitle 6 of the Health - General Article.

6-102.

(a) A tax is imposed on all new and renewal gross direct premiums of each person subject to taxation under this subtitle that are:

- (1) allocable to the State; and
- (2) written during the preceding calendar year.

(b) Premiums to be taxed include:

- (1) the consideration for a surety contract, guaranty contract, or annuity contract;
- (2) SUBSCRIPTION CHARGES OR OTHER AMOUNTS PAID TO A HEALTH MAINTENANCE ORGANIZATION ON A PREDETERMINED PERIODIC RATE BASIS BY A PERSON OTHER THAN A PERSON SUBJECT TO THE TAX UNDER THIS SUBTITLE AS COMPENSATION FOR PROVIDING HEALTH CARE SERVICES TO MEMBERS;

[(2)] (3) dividends on life insurance policies that have been applied to buy additional insurance or to shorten the period during which a premium is payable; and

[(3)] (4) the part of the gross receipts of a title insurer that is derived from insurance business or guaranty business.

6-103.

The tax rate is:

- (1) 0% for premiums for annuities; and

(2) 2% for all other premiums.

6-104.

(a) Subject to subsection (b) of this section, in computing the tax under this section, the following deductions from gross direct premiums allocable to the State are allowed:

(1) returned premiums, not including surrender values;

(2) dividends that are:

(i) paid or credited to policyholders; or

(ii) applied to buy additional insurance or to shorten the period during which premiums are payable; AND

(3) returns or refunds made or credited to policyholders because of retrospective ratings or safe driver rewards[; and]

[(4) premiums received by a person subject to taxation under this subtitle under policies providing health maintenance organization benefits to the extent:

(i) of the amounts actually paid by the person to a nonprofit health maintenance organization authorized by Title 19, Subtitle 7 of the Health - General Article that operates only as a health maintenance organization that is exempt from taxes under § 19-727(b) of the Health - General Article; or

(ii) that the premiums have been paid by a health maintenance organization that is exempt from taxes under § 19-727(b) of the Health - General Article].

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

(Over)

Article - Insurance

6-103.2.

NOTWITHSTANDING § 2-114 OF THIS ARTICLE, THE REVENUE FROM THE TAX IMPOSED ON HEALTH MAINTENANCE ORGANIZATIONS SHALL BE DISTRIBUTED ANNUALLY TO THE MARYLAND PUBLIC MENTAL HEALTH SYSTEM FUND CREATED UNDER § 6-103.3 OF THIS SUBTITLE.

6-103.3.

(A) (1) IN THIS SUBSECTION, "FUND" MEANS THE MARYLAND PUBLIC MENTAL HEALTH SYSTEM FUND.

(2) THERE IS A MARYLAND PUBLIC MENTAL HEALTH SYSTEM FUND.

(3) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDS TO THE MENTAL HYGIENE ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO FUND THE DEFICIT AND SERVICES IN THE PUBLIC MENTAL HEALTH SYSTEM AS PROVIDED IN THIS SECTION.

(4) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL ADMINISTER THE FUND.

(5) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(II) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(6) THE FUND CONSISTS OF ANY REVENUE RECEIVED FROM THE TAX IMPOSED ON HEALTH MAINTENANCE ORGANIZATIONS UNDER THIS SUBTITLE.

(7) ANY INTEREST OR OTHER INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED AND PAID INTO THE FUND.

(8) THE FUND MAY BE USED ONLY TO PROVIDE FUNDS TO THE MENTAL HYGIENE ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO FUND:

(I) THE DEFICIT INCURRED PRIOR TO FISCAL YEAR 2003 IN THE PUBLIC MENTAL HEALTH SYSTEM;

(II) THE ANNUAL FEE ADJUSTMENTS FOR COMMUNITY MENTAL HEALTH SERVICES PROVIDERS REQUIRED UNDER § 16-201.2 OF THE HEALTH - GENERAL ARTICLE; AND

(III) ANY ADDITIONAL CHANGES MADE BY THE GENERAL ASSEMBLY WITH RESPECT TO OFF-SITE COMMUNITY-BASED MENTAL HEALTH CENTERS UNDER § 15-105 OF THE HEALTH - GENERAL ARTICLE;

(9) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS ANY OTHER STATE MONEY MAY BE INVESTED.

(10) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2002. It shall remain effective for a period of 4 years and, at the end of June 30, 2006, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That upon the termination of Section 2 of this Act, any funds remaining in the Maryland Public Mental Health System Fund created under Section 2 of this Act shall be transferred to the General Fund of the State.

SECTION 5. AND BE IT FURTHER ENACTED, That notwithstanding any other provision of law, and except as otherwise provided in this section, this Act applies to premiums written for all

(Over)

policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after July 1, 2002. This section does not apply to premiums written for health benefit plans issued, delivered, or renewed in the State before July 1, 2002. Any health benefit plan in effect before July 1, 2002 shall comply with the provisions of this Act no later than July 1, 2003.

SECTION 6. AND BE IT FURTHER ENACTED, That in taxable years beginning after December 31, 2002, the exemption under § 10-104 of the Tax - General Article shall apply to a health maintenance organization authorized by Title 19, Subtitle 5 of the Health - General Article.”.

AMENDMENT NO. 4

On page 2, in line 17, strike “2.” and substitute “7.”; and in the same line, after “That” insert “, except as provided in Section 2 of this Act.”.