

HOUSE BILL 231
EMERGENCY BILL

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2002 Regular Session
2r1040

By: **Delegates Pendergrass, Barkley, Bobo, Cadden, Clagett, Fulton,
Goldwater, Hubers, Love, Mandel, Nathan-Pulliam, Rosso, Rudolph,
Snodgrass, Sophocleus, and Turner**

Introduced and read first time: January 18, 2002

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Nonprofit Health Service Plans - Premium Tax**

3 FOR the purpose of requiring certain nonprofit health service plans to participate in
4 a certain program in order to qualify for a certain tax exemption; altering the
5 consequences of a certain determination by the Insurance Commissioner;
6 requiring that certain taxes collected be used to fund a certain prescription drug
7 plan; making this Act an emergency measure; and generally relating to
8 nonprofit health service plans.

9 BY repealing and reenacting, without amendments,

10 Article - Insurance

11 Section 6-101(b)

12 Annotated Code of Maryland

13 (1997 Volume and 2001 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article - Insurance

16 Section 14-106 and 14-107

17 Annotated Code of Maryland

18 (1997 Volume and 2001 Supplement)

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

21 **Article - Insurance**

22 6-101.

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

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

- 1 (2) a fraternal benefit society;
- 2 (3) a health maintenance organization authorized by Title 19, Subtitle 7
3 of the Health - General Article;
- 4 (4) a surplus lines broker, who is subject to taxation in accordance with
5 Title 3, Subtitle 3 of this article;
- 6 (5) an unauthorized insurer, who is subject to taxation in accordance
7 with Title 4, Subtitle 2 of this article; or
- 8 (6) the Short-Term Prescription Drug Subsidy Plan created under Title
9 15, Subtitle 6 of the Health - General Article.

10 14-106.

11 (a) It is the public policy of this State that the exemption from taxation for
12 nonprofit health service plans under § 6-101(b)(1) of this article is granted so that
13 funds which would otherwise be collected by the State and spent for a public purpose
14 shall be used in a like manner and amount by the nonprofit health service plan.

15 (b) This section does not apply to a nonprofit health service plan that insures
16 fewer than 10,000 covered lives in Maryland.

17 (c) By March 1 of each year or a deadline otherwise imposed by the
18 Commissioner for good cause, each nonprofit health service plan shall file with the
19 Commissioner a premium tax exemption report that:

20 (1) is in a form approved by the Commissioner; and

21 (2) demonstrates that the plan has used funds equal to the value of the
22 premium tax exemption provided to the plan under § 6-101(b) of this article, in a
23 manner that serves the public interest in accordance with subsection (d) of this
24 section.

25 (d) (1) Except as provided in subsection (e) of this section, a nonprofit health
26 service plan may satisfy the public service requirement in subsection (c)(2) of this
27 section by establishing that the plan has:

28 [(1)] (I) increased access to, or the affordability of, one or more health
29 care products or services by offering and selling health care products or services that
30 are not required or provided for by law; or

31 [(2)] (II) served the public interest by any method or practice approved
32 by the Commissioner.

33 (2) IN ORDER TO SATISFY THE PUBLIC SERVICE REQUIREMENT UNDER
34 SUBSECTION (C)(2) OF THIS SECTION, A NONPROFIT HEALTH SERVICE PLAN SHALL
35 PARTICIPATE IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM AS A MANAGED

1 CARE ORGANIZATION DEFINED UNDER § 15-101 OF THE HEALTH - GENERAL
2 ARTICLE.

3 (e) The Commissioner may not consider the fact that a nonprofit health
4 service plan offers a product through the substantial, available, affordable coverage
5 program when determining whether the plan has satisfied the requirements of
6 subsection (c)(2) of this section.

7 (f) Each report filed with the Commissioner under subsection (c) of this
8 section is a public record.

9 14-107.

10 (a) By November 1 of each year, the Commissioner shall issue an order
11 notifying each nonprofit health service plan that is required to file a report under §
12 14-106 of this subtitle of whether the plan has satisfied the requirements of § 14-106
13 of this subtitle.

14 (b) [(1)] If the Commissioner determines that a nonprofit health service plan
15 has not satisfied the requirements of § 14-106 of this subtitle, [the nonprofit health
16 service plan shall have 1 year from the date the Commissioner issued the order under
17 subsection (a) of this section to comply with the requirements of § 14-106 of this
18 subtitle.

19 (2) If after the time period provided under paragraph (1) of this
20 subsection the Commissioner determines that a nonprofit health service plan has not
21 satisfied the requirements of § 14-106 of this subtitle:

22 (i) the Commissioner shall report the determination to the House
23 Economic Matters Committee and the Senate Finance Committee, including the
24 reasons for the determination; and

25 (ii) if required by an act of the General Assembly,] the nonprofit
26 health service plan shall be subject to the premium tax under Title 6, Subtitle 1 of
27 this article.

28 (c) A nonprofit health service plan that fails to timely file the report required
29 under § 14-106 of this subtitle shall pay the penalties under § 14-121 of this subtitle.

30 (d) A party aggrieved by an order of the Commissioner issued under this
31 section has a right to a hearing in accordance with §§ 2-210 through 2-215 of this
32 article.

33 (E) NOTWITHSTANDING § 2-114 OF THIS ARTICLE, PREMIUM TAXES
34 COLLECTED FROM A NONPROFIT HEALTH SERVICE PLAN SUBJECT TO THE TAX AS A
35 RESULT OF A DETERMINATION BY THE COMMISSIONER IN ACCORDANCE WITH
36 SUBSECTION (B) OF THIS SECTION, SHALL BE USED TO FUND THE SHORT-TERM
37 PRESCRIPTION DRUG SUBSIDY PLAN UNDER TITLE 15, SUBTITLE 6 OF THE HEALTH -
38 GENERAL ARTICLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an
2 emergency measure, is necessary for the immediate preservation of the public health
3 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
4 members elected to each of the two Houses of the General Assembly, and shall take
5 effect from the date it is enacted.