

SENATE BILL 10

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HB 1247/01 - APP

2002 Regular Session  
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(PRE-FILED)

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By: ~~Senator Kasemeyer~~ **Senators Kasemeyer, Astle, Bromwell, DeGrange,  
Della, Dorman, Exum, Hafer, Hollinger, Kelley, and Teitelbaum**

Requested: October 3, 2001  
Introduced and read first time: January 9, 2002  
Assigned to: Finance  
Re-referred to: Finance and Budget and Taxation, January 22, 2002

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 22, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Department of Health and Mental Hygiene - Mental Health Services - Cost~~  
3 ~~of Living Adjustment Insurance Premiums Tax - Health Maintenance~~  
4 ~~Organizations - Funding of Public Mental Health System Services~~

5 FOR the purpose of imposing the insurance premiums tax on health maintenance  
6 organizations; providing that the premiums to be taxed include certain amounts  
7 paid to health maintenance organizations; requiring the revenue from a certain  
8 tax imposed on health maintenance organizations to be distributed annually to  
9 a certain fund; creating the Maryland Public Mental Health System Fund;  
10 specifying the purpose and uses of the Fund and that the Fund is a special,  
11 nonlapsing fund that is not subject to certain provisions of law; requiring that  
12 beginning with a certain fiscal year, the fees paid by the Department of Health  
13 and Mental Hygiene to a community mental health services provider for  
14 providing certain mental health services be adjusted annually by a certain rate  
15 of change that may not exceed a certain maximum rate; defining certain terms;  
16 and generally relating to the Department of Health and Mental Hygiene and  
17 fees paid to a mental health services provider providing for the termination of  
18 certain provisions of this Act; providing for the application of this Act; and  
19 generally relating to imposing the insurance premiums tax on health  
20 maintenance organizations and the funding of public mental health system  
21 services.

22 BY adding to  
23 Article - Health - General  
24 Section 16-201.2

1 Annotated Code of Maryland  
2 (2000 Replacement Volume and 2001 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article - Health - General  
5 Section 19-727  
6 Annotated Code of Maryland  
7 (2000 Replacement Volume and 2001 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Article - Insurance  
10 Section 6-101, 6-102(b), and 6-104(a)  
11 Annotated Code of Maryland  
12 (2000 Replacement Volume and 2001 Supplement)

13 BY repealing and reenacting, without amendments,  
14 Article - Insurance  
15 Section 6-102(a) and 6-103  
16 Annotated Code of Maryland  
17 (1997 Volume and 2001 Supplement)

18 BY adding to  
19 Article - Insurance  
20 Section 6-103.2 and 6-103.3  
21 Annotated Code of Maryland  
22 (1997 Volume and 2001 Supplement)

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

25 **Article - Health - General**

26 16-201.2.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
28 INDICATED.

29 (2) "COMMUNITY MENTAL HEALTH SERVICES PROVIDER" MEANS A  
30 COMMUNITY-BASED MENTAL HEALTH PROGRAM APPROVED BY THE DEPARTMENT  
31 OR AN INDIVIDUAL PRACTITIONER WHO CONTRACTS WITH THE DEPARTMENT OR  
32 THE APPROPRIATE CORE SERVICE AGENCY.

33 (3) "CORE SERVICE AGENCY" HAS THE MEANING STATED IN § 10-1201 OF  
34 THIS ARTICLE.

1 (4) "ELIGIBLE INDIVIDUAL" MEANS A MEDICAID RECIPIENT OR AN  
 2 INDIVIDUAL WHO RECEIVES MENTAL HEALTH SERVICES SUBSIDIZED IN WHOLE OR  
 3 IN PART BY THE STATE.

4 (B) NOTWITHSTANDING THE PROVISIONS OF THIS SUBTITLE, THE  
 5 DEPARTMENT SHALL REIMBURSE A COMMUNITY MENTAL HEALTH SERVICES  
 6 PROVIDER FOR APPROVED SERVICES RENDERED TO AN ELIGIBLE INDIVIDUAL AS  
 7 PROVIDED IN THIS SECTION.

8 (C) BEGINNING IN FISCAL YEAR 2004 AND EACH FISCAL YEAR THEREAFTER:

9 (1) THE FEES PAID BY THE DEPARTMENT TO A COMMUNITY MENTAL  
 10 HEALTH SERVICES PROVIDER FOR APPROVED SERVICES RENDERED TO AN ELIGIBLE  
 11 INDIVIDUAL SHALL BE ADJUSTED ANNUALLY BY THE RATE OF CHANGE IN THE  
 12 MEDICAL COMPONENT OF THE "CONSUMER PRICE INDEX FOR ALL URBAN  
 13 CONSUMERS" PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE  
 14 WASHINGTON-BALTIMORE METROPOLITAN AREA; AND

15 (2) THE ANNUAL RATE OF CHANGE MAY NOT EXCEED A MAXIMUM RATE  
 16 OF 5%.

17 19-727.

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

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

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

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

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

32 **Article - Insurance**

33 6-101.

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

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

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

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

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

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

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

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

9           (2)    a fraternal benefit society;

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

12          ~~[(4)]~~   (3)    a surplus lines broker, who is subject to taxation in accordance  
 13 with Title 3, Subtitle 3 of this article;

14          ~~[(5)]~~   (4)    an unauthorized insurer, who is subject to taxation in  
 15 accordance with Title 4, Subtitle 2 of this article; or

16          ~~[(6)]~~   (5)    the Short-Term Prescription Drug Subsidy Plan created under  
 17 Title 15, Subtitle 6 of the Health - General Article.

18 6-102.

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

21          (1)    allocable to the State; and

22          (2)    written during the preceding calendar year.

23       (b)    Premiums to be taxed include:

24          (1)    the consideration for a surety contract, guaranty contract, or annuity  
 25 contract;

26          (2)    SUBSCRIPTION CHARGES OR OTHER AMOUNTS PAID TO A HEALTH  
 27 MAINTENANCE ORGANIZATION ON A PREDETERMINED PERIODIC RATE BASIS BY A  
 28 PERSON OTHER THAN A PERSON SUBJECT TO THE TAX UNDER THIS SUBTITLE AS  
 29 COMPENSATION FOR PROVIDING HEALTH CARE SERVICES TO MEMBERS;

30          ~~[(2)]~~   (3)    dividends on life insurance policies that have been applied to  
 31 buy additional insurance or to shorten the period during which a premium is payable;  
 32 and



1 ANNUALLY TO THE MARYLAND PUBLIC MENTAL HEALTH SYSTEM FUND CREATED  
2 UNDER § 6-103.3 OF THIS SUBTITLE.

3 6-103.3.

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

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

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

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

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

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

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

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

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

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

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

29 (III) ANY ADDITIONAL CHANGES MADE BY THE GENERAL ASSEMBLY  
30 WITH RESPECT TO OFF-SITE COMMUNITY-BASED MENTAL HEALTH CENTERS UNDER  
31 § 15-105 OF THE HEALTH - GENERAL ARTICLE;

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

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

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

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

9     SECTION 5. AND BE IT FURTHER ENACTED, That notwithstanding any  
10 other provision of law, and except as otherwise provided in this section, this Act  
11 applies to premiums written for all policies, contracts, and health benefit plans  
12 issued, delivered, or renewed in the State on or after July 1, 2002. This section does  
13 not apply to premiums written for health benefit plans issued, delivered, or renewed  
14 in the State before July 1, 2002. Any health benefit plan in effect before July 1, 2002  
15 shall comply with the provisions of this Act no later than July 1, 2003.

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

20     SECTION 2-7. AND BE IT FURTHER ENACTED, That, except as provided in  
21 Section 2 of this Act, this Act shall take effect July 1, 2002.