

SENATE BILL 119

C3

5lr0869

By: **Senators Brochin, Eckardt, and Hough**
Introduced and read first time: January 28, 2015
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Health Maintenance Organizations – Premium Tax and Transfer of Premium**
3 **Tax Exemption Value – Repeal**

4 FOR the purpose of repealing a certain tax on certain premiums of certain for-profit health
5 maintenance organizations; repealing certain provisions of law that require certain
6 nonprofit health maintenance organizations to transfer funds in an amount equal to
7 the value of a certain premium tax exemption to a certain Medical Assistance
8 Program Account, require the funds to be allocated in a certain manner, and require
9 the health maintenance organizations to file with the Maryland Insurance
10 Commissioner a certain report establishing transfer of the funds; altering the
11 contents of the Maryland Health Care Provider Rate Stabilization Fund to remove
12 revenue from a certain premium tax imposed on certain health maintenance
13 organizations; repealing a requirement that the Secretary of Health and Mental
14 Hygiene transfer to the Community Health Resources Commission Fund, at certain
15 times, certain money collected from a nonprofit health maintenance organization;
16 repealing certain provisions of law exempting, to a certain extent, certain premiums
17 received by an insurer from a certain premium tax; repealing a certain provision of
18 law that makes a certain tax on premiums applicable to certain subscription charges
19 or other amounts paid to a health maintenance organization; repealing a certain
20 provision of law that makes a certain tax exemption applicable to certain health
21 maintenance organizations; repealing certain definitions; making conforming
22 changes; providing for the application of this Act; and generally relating to premium
23 taxes and health maintenance organizations.

24 BY repealing and reenacting, with amendments,
25 Article – Health – General
26 Section 19–727
27 Annotated Code of Maryland
28 (2009 Replacement Volume and 2014 Supplement)

29 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Insurance
 2 Section 6–101, 6–102(b), 6–103, 19–802(c), and 19–807(b)
 3 Annotated Code of Maryland
 4 (2011 Replacement Volume and 2014 Supplement)

5 BY repealing and reenacting, without amendments,
 6 Article – Insurance
 7 Section 6–102(a) and 19–802(a) and (g)
 8 Annotated Code of Maryland
 9 (2011 Replacement Volume and 2014 Supplement)

10 BY repealing
 11 Article – Insurance
 12 Section 6–121
 13 Annotated Code of Maryland
 14 (2011 Replacement Volume and 2014 Supplement)

15 BY repealing and reenacting, with amendments,
 16 Chapter 5 of the Acts of the General Assembly of the Special Session of 2004
 17 Section 6 and 8

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

20 **Article – Health – General**

21 19–727.

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

25 [(b) (1) A nonprofit health maintenance organization that is exempt from
 26 taxation under § 501(c)(3) of the Internal Revenue Code is not subject to the insurance
 27 premium tax under Title 6, Subtitle 1 of the Insurance Article.

28 (2) Premiums received by an insurer under policies that provide health
 29 maintenance organization benefits are not subject to the premium tax imposed under Title
 30 6, Subtitle 1 of the Insurance Article to the extent:

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

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

35 **Article – Insurance**

1 6–101.

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

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

5 (2) a managed care organization authorized by Title 15, Subtitle 1 of the
6 Health – General Article;

7 (3) [a for–profit health maintenance organization authorized by Title 19,
8 Subtitle 7 of the Health – General Article;

9 (4)] an attorney in fact for a reciprocal insurer;

10 [(5)] (4) the Maryland Automobile Insurance Fund; and

11 [(6)] (5) a credit indemnity company.

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

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

15 (2) a fraternal benefit society;

16 (3) a surplus lines broker, who is subject to taxation in accordance with
17 Title 3, Subtitle 3 of this article;

18 (4) an unauthorized insurer, who is subject to taxation in accordance with
19 Title 4, Subtitle 2 of this article;

20 (5) the Maryland Health Insurance Plan established under Title 14,
21 Subtitle 5, Part I of this article;

22 (6) the Senior Prescription Drug Assistance Program established under
23 Title 14, Subtitle 5, Part II of this article;

24 (7) a [nonprofit] health maintenance organization authorized by Title 19,
25 Subtitle 7 of the Health – General Article [that is exempt from taxation under § 501(c)(3)
26 of the Internal Revenue Code]; and

27 (8) a qualified nonprofit health insurance issuer that is established under
28 § 1322 of the Affordable Care Act.

1 6–102.

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

4 (1) allocable to the State; and

5 (2) written during the preceding calendar year.

6 (b) Premiums to be taxed include:

7 (1) the consideration for a surety contract, guaranty contract, or annuity
8 contract;

9 (2) gross receipts received as a result of capitation payments, supplemental
10 payments, and bonus payments, made to a managed care organization for provider services
11 to an individual who is enrolled in a managed care organization;

12 (3) [subscription charges or other amounts paid to a for–profit health
13 maintenance organization on a predetermined periodic rate basis by a person other than a
14 person subject to the tax under this subtitle as compensation for providing health care
15 services to members;

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

18 [(5)] (4) the part of the gross receipts of a title insurer that is derived from
19 insurance business or guaranty business.

20 6–103.

21 The tax rate is:

22 (1) 0% for premiums for annuities; and

23 (2) 2% for all other premiums, including[:

24 (i)] gross receipts received as a result of capitation payments made
25 to a managed care organization, supplemental payments, and bonus payments[; and

26 (ii) subscription charges or other amounts paid to a for–profit health
27 maintenance organization].

28 [6–121.

29 (a) (1) In this section the following words have the meanings indicated.

1 (2) “Nonprofit health maintenance organization” means a health
2 maintenance organization authorized by Title 19, Subtitle 7 of the Health – General Article
3 that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

4 (3) “Premium tax exemption value” means the amount of premium taxes
5 that a nonprofit health maintenance organization would have been required to pay if the
6 nonprofit health maintenance organization were not exempt from taxation under §
7 6–101(b)(7) of this subtitle.

8 (b) (1) A nonprofit health maintenance organization shall transfer funds in an
9 amount equal to the premium tax exemption value of the nonprofit health maintenance
10 organization to the Medical Assistance Program Account established under Title 19,
11 Subtitle 8 of this article to be used to support the provision of health care to eligible
12 individuals.

13 (2) Notwithstanding the allocation provided under § 19–803(b) of this
14 article, the amount transferred to the Medical Assistance Program Account by a nonprofit
15 health maintenance organization under paragraph (1) of this subsection:

16 (i) shall be allocated directly to the Medical Assistance Program
17 Account; and

18 (ii) shall be counted towards the total allocation required to the
19 Medical Assistance Program Account under § 19–803(b)(3)(ii)2, (iii)2, (iv)2, (v)2, (vi), and
20 (vii) of this article.

21 (3) Beginning in fiscal year 2008 and annually thereafter, the amount
22 under paragraph (2) of this subsection that is counted towards the total allocation under §
23 19–803(b)(3)(iv)2, (v)2, (vi), and (vii) of this article that exceeds the amount needed to
24 increase both fee–for–service health care provider rates paid by the Medical Assistance
25 Program and managed care organization health care provider rates to a level of rates paid
26 to similar providers for the same services under the federal Medicare fee schedule shall be
27 transferred, unless otherwise provided in the State budget, to the Community Health
28 Resources Commission Fund under Title 19, Subtitle 22 of the Health – General Article for
29 the purpose of supporting office–based specialty care, diagnostic testing, and laboratory
30 tests for individuals with family income that does not exceed 200% of the federal poverty
31 level.

32 (c) A nonprofit health maintenance organization shall transfer to the Medical
33 Assistance Program Account:

34 (1) on or before August 1, 2005, an amount equal to the premium tax
35 exemption value of the nonprofit health maintenance organization for the last 6 months of
36 fiscal year 2005; and

1 (2) within 30 days following the end of each calendar quarter, an amount
2 equal to the premium tax exemption value of the nonprofit health maintenance
3 organization for the quarter.

4 (d) On or before March 1 of each year, a nonprofit health maintenance
5 organization shall file a report with the Commissioner establishing that the nonprofit
6 health maintenance organization transferred funds equal to its premium tax exemption
7 value during the preceding calendar year as required by this section.]

8 19–802.

9 (a) There is a Maryland Health Care Provider Rate Stabilization Fund.

10 (c) The Fund shall consist of:

11 (1) the revenue from the tax imposed on [health maintenance
12 organizations and] managed care organizations under § 6–102 of this article;

13 (2) interest or other income earned on the moneys in the Fund; and

14 (3) any other money from any other source accepted for the benefit of the
15 Fund.

16 (g) The Fund comprises:

17 (1) the Rate Stabilization Account from which disbursements shall be
18 made to pay for health care provider rate subsidies; and

19 (2) the Medical Assistance Program Account from which disbursements
20 shall be made to:

21 (i) provide an increase in fee–for–service health care provider rates
22 paid by the Maryland Medical Assistance Program;

23 (ii) provide an increase for managed care organization health care
24 providers consistent with fee–for–service health care provider rate increases;

25 (iii) provide an increase in capitation payments to managed care
26 organizations participating in the Maryland Medical Assistance Program consistent with §
27 15–103(b)(18) of the Health – General Article; and

28 (iv) after fiscal year 2009, maintain rates for health care providers
29 and generally to support the operations of the Maryland Medical Assistance Program.

30 19–807.

1 (b) [(1)] The Commissioner shall disburse money from the Medical Assistance
2 Program Account to the Secretary.

3 [(2)] The Secretary shall transfer to the Community Health Resources
4 Commission Fund established under § 19–2201 of the Health – General Article, within 30
5 days following the end of each quarter during fiscal year 2008 and each fiscal year
6 thereafter, the money collected from a nonprofit health maintenance organization in
7 accordance with § 6–121(b)(3) of this article.]

8 **Chapter 5 of the Acts of the Special Session of 2004**

9 SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding any other
10 provision of law, the premium tax imposed under § 6–102 of the Insurance Article, as
11 enacted by Section 1 of this Act, shall be applicable to[:

12 (1)] capitation payments, supplemental payments, and bonus payments,
13 made to managed care organizations on or after January 1, 2005[; and

14 (2) subscription charges or other amounts paid to a health maintenance
15 organization on or after January 1, 2005, regardless of when the policy, contract, or health
16 benefit plan as to which the payment was made was issued, delivered, or renewed].

17 SECTION 8. AND BE IT FURTHER ENACTED, That, for taxable years beginning
18 after December 31, 2004, the exemption under § 10–104 of the Tax – General Article is
19 applicable to managed care organizations [and health maintenance organizations] that are
20 subject to the insurance premium tax under Title 6 of the Insurance Article.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2015, and shall be applicable to all taxable years beginning after December 31, 2014.