

House Bill 404

By: Representative Channell of the 116th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 33 and 48 of the Official Code of Georgia Annotated, relating, respectively,
2 to insurance and revenue and taxation, so as to provide for additional exemptions for certain
3 health plans with respect to state and local insurance premium taxes; to provide for related
4 matters; to provide for a sales tax exemption for a limited period of time with respect to
5 certain sales of tangible personal property or services to a qualified small business; to provide
6 that the taxable net income of any taxpayer of this state shall not include premiums paid for
7 high deductible health plans established and used with a health savings account; to provide
8 for income tax credits with respect to certain qualified health insurance expenses or certain
9 contributions related thereto; to provide for an income tax credit with respect to qualified
10 health information technology expenses; to provide for procedures, conditions, and
11 limitations; to provide for powers, duties, and authority of the state revenue commissioner
12 with respect to the foregoing; to provide for the obtaining and maintaining of certain
13 creditable health insurance coverage as a condition of claiming certain exemptions and
14 receiving refunds; to require certain individuals to prove ability to pay for medical expenses;
15 to provide for escrow accounts for such individuals; to provide for alternate bonding
16 requirements; to provide for other matters relative to the foregoing; to provide effective
17 dates; to provide for applicability; to provide for an automatic repeals under certain
18 circumstances; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 style="text-align:center">**SECTION 1.**

21 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
22 adding a new subsection (c) in Code Section 33-8-4, relating to amount and method of
23 computing tax on insurance premiums generally, to read as follows:

24 "(c) Insurers shall be exempt from otherwise applicable state premium taxes as provided
25 for in subsection (a) of this Code section on premiums paid by Georgia residents for high

1 deductible health plans sold or maintained in connection with a health savings account
2 under the applicable provisions of Section 223 of the Internal Revenue Code."

3 **SECTION 2.**

4 Said title is further amended by adding a new subsection (a.1) in Code Section 33-8-8.2,
5 relating to amount and method of computing local insurance premium taxes on insurance
6 companies other than life insurance companies, to read as follows:

7 "(a.1) Insurers shall be exempt from otherwise applicable local premium taxes as provided
8 for in subsection (a) of this Code section on premiums paid by Georgia residents for high
9 deductible health plans sold or maintained in connection with a health savings account
10 under the applicable provisions of Section 223 of the Internal Revenue Code."

11 **SECTION 3.**

12 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
13 amended by adding a new paragraph in subsection (a) of Code Section 48-7-27, relating to
14 computation of taxable net income, to read as follows:

15 "(13.1) An amount equal to 100 percent of the premium paid by the taxpayer during the
16 taxable year for high deductible health plans established and used with a health savings
17 account under the applicable provisions of Section 223 of the Internal Revenue Code to
18 the extent the deduction has not been included in federal adjusted gross income, as
19 defined under the Internal Revenue Code of 1986, and the expenses have not been
20 included in itemized nonbusiness deductions;".

21 **SECTION 4.**

22 Said title is further amended by adding new Code sections to read as follows:

23 "48-7-29.13.

24 (a) As used in this Code section, the term:

25 (1) 'Qualified health insurance expense' means the expenditure of funds for health
26 insurance premiums for high deductible health plans that include, at a minimum,
27 catastrophic health care coverage which are established and used with a health savings
28 account under the applicable provisions of Section 223 of the Internal Revenue Code.

29 (2) 'Taxpayer' means an employer who employs directly, or who pays compensation to
30 individuals which compensation is reported on Form 1099, 25 or fewer persons.

31 (b) A taxpayer which does not provide health care coverage shall be allowed a credit
32 against the tax imposed by Code Section 48-7-20 or 48-7-21 for contributions to the health
33 savings account of an employee or compensated individual who incurs qualified health
34 insurance expenses in an amount not to exceed the actual amount contributed to all

1 participating employees or compensated individuals or \$500.00, whichever is less, if such
 2 contributions are made available to all of its employees and compensated individuals.

3 (c) In no event shall the total amount of the tax credit under this Code section for a taxable
 4 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
 5 taxpayer against succeeding years' tax liability. No such credit shall be allowed the
 6 taxpayer against prior years' tax liability.

7 (d) The commissioner shall be authorized to promulgate any rules and regulations
 8 necessary to implement and administer the provisions of this Code section.

9 48-7-29.14.

10 (a) As used in this Code section, the term:

11 (1) 'Qualified health insurance expense' means the expenditure of funds for health
 12 insurance premiums for high deductible health plans that include, at a minimum,
 13 catastrophic health care coverage, which are established and used with a health savings
 14 account under the applicable provisions of Section 223 of the Internal Revenue Code.

15 (2) 'Taxpayer' means an employee who is employed directly or a person who is paid
 16 compensation which is reported on Form 1099 at a business where 25 or fewer persons
 17 are employed or compensated by the employer.

18 (b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20
 19 for qualified health insurance expenses in an amount not to exceed the actual amount
 20 expended or \$250.00, whichever is less, if such health insurance is made available to all
 21 of the employees and compensated individuals of the employer.

22 (c) In no event shall the total amount of the tax credit under this Code section for a taxable
 23 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
 24 taxpayer against succeeding years' tax liability. No such credit shall be allowed the
 25 taxpayer against prior years' tax liability.

26 (d) The commissioner shall be authorized to promulgate any rules and regulations
 27 necessary to implement and administer the provisions of this Code section."

28 SECTION 5.

29 Said title is further amended by adding a new Code section to read as follows:

30 "48-7-29.15.

31 (a) As used in this Code section, the term:

32 (1) 'Qualified health information technology expense' means the expenditure of funds by
 33 a taxpayer for health information technology hardware or software used directly in the
 34 establishment and maintenance of electronic medical records accessible at a website

1 established by the Department of Community Health pursuant to Code Section 26-4-80
2 or 31-33-9.

3 (2) 'Taxpayer' means a physician, pharmacy, hospital, ambulatory surgical center,
4 nursing home, or assisted living facility which incurs qualified health information
5 technology expenses.

6 (b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20
7 or 48-7-21 for qualified health information technology expenses in an amount not to exceed
8 the actual amount expended or \$5,000.00, whichever is less.

9 (c) In no event shall the total amount of the tax credit under this Code section for a taxable
10 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
11 taxpayer against succeeding years' tax liability. No such credit shall be allowed the
12 taxpayer against prior years' tax liability.

13 (d) The commissioner shall be authorized to promulgate any rules and regulations
14 necessary to implement and administer the provisions of this Code section.

15 (e) This Code section shall be repealed by operation of law on January 1, 2009."

16 SECTION 6.

17 Said title is further amended by adding a new Article 8 to Chapter 7 to read as follows:

18 "ARTICLE 8

19 48-7-190.

20 (a) Effective January 1, 2008, the following individuals who are over the age of 18 and
21 have not yet attained the age of 65 and whose annual gross income exceeds 300 percent of
22 the federal poverty level for the immediately preceding calendar year shall offer proof of
23 their ability to pay for medical care for themselves and their dependents:

24 (1) Residents of Georgia; or

25 (2) Within 63 days of establishing residency, individuals who become residents of
26 Georgia.

27 (b) Individuals subject to the requirement in subsection (a) of this Code section shall be
28 deemed to be in compliance with said requirement if they:

29 (1) Indicated coverage under any health benefit plan in accordance with Code
30 Section 33-62-13;

31 (2) Demonstrate proof of financial security in accordance with subsection (c) of this
32 Code section; or

33 (3) Demonstrate proof of coverage under a high deductible major medical health
34 insurance plan that provides a minimum of \$10,000.00 in benefits.

1 (c) Pursuant to paragraph (2) of subsection (b) of this Code Section, individuals electing
2 to demonstrate proof of financial security to pay for medical expenditures shall present to
3 the commissioner of revenue a bond in the amount of \$10,000.00 or shall deposit with the
4 commissioner of revenue \$10,000.00 in an escrow account that shall bear interest at a rate
5 established by the commissioner of revenue.

6 (d) If, in any tax year, an individual subject to the requirement in subsection (a) of this
7 Code section fails to comply with such requirement and is required to file a return under
8 Article 2 of this chapter, such individual shall not be allowed to claim and receive on such
9 return any personal exemptions specified under Code Section 48-7-26 nor shall such
10 individual be allowed to claim any medical expenses as itemized deductions on such return.

11 (e) With respect to any escrow account established in accordance with this Code section
12 by reason of an individual's making the election specified in subsection (c) of this Code
13 section:

14 (1) The amount deposited, retained, or collected shall not exceed \$10,000.00 in the
15 aggregate for any such individual;

16 (2) Nothing in this Code section shall be construed to authorize the commissioner of
17 revenue to retain any amount for such purposes that otherwise would be paid to a
18 claimant agency or agencies of the State of Georgia as debts;

19 (3) Moneys shall be disbursed by the commissioner of revenue only to pay for medical
20 claims for health care services provided to the individual during the period when the
21 individual was not in compliance with subsection (a) of this Code section;

22 (4) The commissioner of revenue shall close the account and remit the remaining funds
23 to the individual within 90 days of receiving notification that the individual has:

24 (A) Elected to comply with the requirement of subsection (a) of this Code section by
25 submitting proof of insurance coverage in accordance with paragraph (1) of
26 subsection (b) of this Code section; or

27 (B) Is no longer subject to subsection (a) of this Code section by reason of no longer
28 being a resident of this state; and

29 (5) If the commissioner of revenue determines that an individual for whom an account
30 has been established has not been a resident of this state for a consecutive period of 36
31 months or more, the commissioner of revenue shall close the account and remit the
32 remaining funds to the individual or, if the commissioner of revenue cannot locate the
33 individual, shall dispose of the funds in accordance with the provisions of law concerning
34 unclaimed property."

SECTION 7.

Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and use tax, by replacing "; or" at the end of paragraph (84) with a semicolon; by replacing the period at the end of paragraph (85) with "; or"; and by adding a new paragraph to read as follows:

"(86)(A) For the period commencing January 1, 2008, and ending on December 31, 2011, sales of tangible personal property or services to a qualified small business.

(B) As used in this paragraph, the term 'qualified small business' means any small business located in this state which qualifies for and receives the state income tax credit with respect to qualified health insurance expenses pursuant to Code Section 48-7-29.13.

(C) Any person making a sale of tangible personal property or services to a qualified small business shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property or services without paying the tax.

(D) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph."

SECTION 8.

This Act shall become effective on January 1, 2008, and Sections 4 and 5 of this Act shall be applicable to all taxable years beginning on or after January 1, 2008, and Section 6 of this Act shall be applicable to all taxable years beginning on and after January 1, 2009.

SECTION 9.

All laws and parts of laws in conflict with this Act are repealed.