

House Bill 117 (AS PASSED HOUSE AND SENATE)

By: Representative Crawford of the 16th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 31 and 48 of the Official Code of Georgia Annotated, relating, respectively,
2 to health and revenue and taxation, so as to provide for state sales and use taxation of certain
3 health care services for a limited period of time; to provide for definitions, exclusions,
4 procedures, conditions, and limitations; to provide for accrual of such taxes based upon
5 certain circumstances; to establish a segregated account within the Indigent Care Trust Fund;
6 to provide for the crediting of certain proceeds and investment thereof; to provide for
7 conditional appropriations; to provide for automatic repeal of certain provisions of this Act;
8 to provide that the person listed on the closing statement as the seller shall be treated as the
9 seller and shall be subject to the withholding and documentation requirements; to provide for
10 related matters; to provide for effective dates; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 PART I
14 SECTION 1-1.

15 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
16 a new Code section to read as follows:

17 "31-8-152.1.

18 (a) There is established within the trust fund a segregated account for revenues raised
19 through the sales and use tax on charges defined in subparagraph (H) of paragraph (31) of
20 Code Section 48-8-2. An amount equal to the amount of state sales and use tax proceeds
21 on such charges which have been collected and remitted to the state revenue commissioner
22 shall be credited by the state revenue commissioner on a monthly basis to the segregated
23 account within the trust fund and shall be invested in the same manner as authorized for
24 investing other moneys in the state treasury.

25 (b) The department shall make application to the federal Department of Health and Human
 26 Services for state plan amendments for the 2012 fiscal year that will improve the delivery
 27 of long-term care through the use of enhanced case management services and establishing
 28 a new base year for nursing home facility cost reports.

29 (c) Notwithstanding any other provision of this chapter, the General Assembly is
 30 authorized to appropriate as state funds to the department for use in any fiscal year all
 31 revenues dedicated and deposited into the segregated account. Such appropriations shall
 32 be authorized to be made for the sole purpose of obtaining federal financial participation
 33 for medical assistance payments for long-term care services, including nursing home
 34 services, that are referred by a SOURCE Case Management Provider, as defined in
 35 paragraph (34.1) of Code Section 48-8-2. Any appropriation from the segregated account
 36 for any purpose other than such medical assistance payments shall be void.

37 (d) Revenues appropriated to the department pursuant to this Code section shall be used
 38 to match federal funds that are available for the purpose for which such trust funds have
 39 been appropriated.

40 (e) Appropriations from the segregated account to the department shall not lapse to the
 41 general fund at the end of the fiscal year.

42 (f) This Code section shall stand automatically repealed on the date the state treasurer
 43 certifies in writing to the commissioner that federal matching funds have ceased to be
 44 available or on June 30, 2014, whichever date is earlier.

45 (g) The department is authorized to adopt rules and regulations to implement this Code
 46 section."

47 **SECTION 1-2.**

48 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 49 amended in Code Section 48-8-2, relating to definitions applicable to sales and use tax, by
 50 revising paragraph (31) by deleting "or" at the end of subparagraph (F), by replacing the
 51 period with "; or" at the end of subparagraph (G), and by adding a new subparagraph to read
 52 as follows:

53 "(H)(i) Charges made for services by a person which are the subject of a referral from
 54 a SOURCE Case Management Provider.

55 (ii) This subparagraph shall stand automatically repealed on the date the state
 56 treasurer certifies in writing to the commissioner that federal matching funds have
 57 ceased to be available or on June 30, 2014, whichever date is earlier."

58 **SECTION 1-3.**

59 Said title is further amended in said Code section by adding two new paragraphs to read as
60 follows:

61 "(30.1) 'Referral from a SOURCE Case Management Provider' means the authorization
62 of, arrangement for, or coordination of long-term care services, including nursing home
63 services by a SOURCE Case Management Provider. This subparagraph shall stand
64 automatically repealed on the date the state treasurer certifies in writing to the
65 commissioner that federal matching funds have ceased to be available or on June 30,
66 2014, whichever date is earlier.

67 "(34.1) 'SOURCE Case Management Provider' means an entity that has successfully
68 completed the Georgia Medicaid Enhanced Case Management Application and
69 enrollment process, including any related required training, and has entered into a
70 contract with the Department of Community Health, Division of Medical Assistance to
71 provide enhanced case management services. This subparagraph shall stand
72 automatically repealed on the date the state treasurer certifies in writing to the
73 commissioner that federal matching funds have ceased to be available or on June 30,
74 2014, whichever date is earlier."

75 **SECTION 1-4.**

76 Said title is further amended in subsection (f) of Code Section 48-8-30, relating to imposition
77 of tax, rates, and collection, by adding a new paragraph to read as follows:

78 "(3)(A) Assessments of the state sales and use tax under this article on the charges
79 described in subparagraph (H) of paragraph (31) of Code Section 48-8-2 shall accrue
80 commencing on July 1, 2011; provided, however, that collection of such state sales and
81 use tax upon such charges shall not commence until the commissioner of community
82 health has provided written notification to the state revenue commissioner that until
83 such time as the Centers for Medicare and Medicaid Services of the United States
84 Department of Health and Human Services has approved the state plan amendments
85 described in subsection (b) of Code Section 31-8-152.1. In the event that such approval
86 is not obtained or is reversed, or that the federal financial participation is not available
87 with respect to revenues derived from such state sales and use tax, all accrued amounts
88 of such tax shall lapse, and the charges described in subparagraph (H) of paragraph (31)
89 of Code Section 48-8-2 shall not constitute sales for purposes of this article.

90 (B)(i) The charges for services described in subparagraph (H) of paragraph (31) of
91 Code Section 48-8-2 shall be subject to state sales and use tax only and shall in no
92 event be subject to any local sales and use tax.

93 (ii) For purposes of this subparagraph, the term 'local sales and use tax' means any
 94 sales tax, use tax, or local sales and use tax which is levied and imposed in an area
 95 consisting of less than the entire state, however authorized, including, but not limited
 96 to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant
 97 to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,
 98 the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or pursuant to
 99 any article of this chapter other than Article 1 of this chapter.
 100 (C) This paragraph shall stand automatically repealed on the date the state treasurer
 101 certifies in writing to the commissioner that federal matching funds have ceased to be
 102 available or on June 30, 2014, whichever date is earlier."

103 **PART II**

104 **SECTION 2-1.**

105 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 106 amended in subsection (b) of Code Section 48-7-128, relating to withholding tax on sale or
 107 transfer of real property and associated tangible personal property by nonresidents, by adding
 108 a new paragraph to read as follows:

109 "(3) The person or entity identified as the seller on the settlement statement shall be
 110 considered the seller for all purposes regarding this Code section, including, but not
 111 limited to, executing and delivering to the buyer or transferee all forms or other
 112 documents incident to determining the appropriate amount of tax to be withheld or the
 113 appropriate amount exempt from withholding requirements."

114 **PART III**

115 **SECTION 3-1.**

116 (a) This part and Part II of this Act shall become effective upon its approval by the Governor
 117 or upon its becoming law without such approval.
 118 (b) Part I of this Act shall become effective on July 1, 2011.

119 **SECTION 3-2.**

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