

LEGISLATIVE BILL 698

Approved by the Governor March 3, 2010

Introduced by Louden, 49.

FOR AN ACT relating revenue and taxation; to amend sections 77-908 and 77-912, Reissue Revised Statutes of Nebraska, and sections 44-32,180 and 44-4726, Revised Statutes Cumulative Supplement, 2008; to eliminate certain insurance premium tax provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-32,180, Revised Statutes Cumulative Supplement, 2008, is amended to read:

44-32,180 (1) Any health maintenance organization subject to the Health Maintenance Organization Act shall also be subject to (a) the premium taxation provisions of Chapter 77, article 9, to the extent that the direct writing premiums are not otherwise subject to taxation under such article and (b) the retaliatory taxation provisions of section 44-150.

(2) ~~Except as provided in subsection (3) of this section,~~ any Any capitation payment made in accordance with the Medical Assistance Act shall be excluded from computation of any tax obligation imposed by subsection (1) of this section.

~~(3) Upon approval by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services of federal financial participation based upon the changes made by Laws 2002, LB 9, Ninety-seventh Legislature, Second Special Session, any capitation payment made in accordance with the Medical Assistance Act shall be included in the computation of any tax obligation imposed by subsection (1) of this section.~~

Sec. 2. Section 44-4726, Revised Statutes Cumulative Supplement, 2008, is amended to read:

44-4726 (1) The same taxes provided for in section 44-32,180 shall be imposed upon each prepaid limited health service organization, and such organizations also shall be entitled to the same tax deductions, reductions, abatements, and credits that health maintenance organizations are entitled to receive.

(2) ~~Except as provided in subsection (3) of this section,~~ any Any capitation payment made in accordance with the Medical Assistance Act shall be excluded from computation of any tax obligation imposed by subsection (1) of this section.

~~(3) Upon approval by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services of federal financial participation based upon the changes made by Laws 2002, LB 9, Ninety-seventh Legislature, Second Special Session, any capitation payment made in accordance with the Medical Assistance Act shall be included in the computation of any tax obligation imposed by subsection (1) of this section.~~

Sec. 3. Section 77-908, Reissue Revised Statutes of Nebraska, is amended to read:

77-908 Every insurance company organized under the stock, mutual, assessment, or reciprocal plan, except fraternal benefit societies, which is transacting business in this state shall, on or before March 1 of each year, pay a tax to the director of one percent of the gross amount of direct writing premiums received by it during the preceding calendar year for business done in this state, except that (1) for group sickness and accident insurance the rate of such tax shall be five-tenths of one percent, and (2) for property and casualty insurance, excluding individual sickness and accident insurance, the rate of such tax shall be one percent, and ~~(3) for capitation payments made in accordance with the Medical Assistance Act, the rate of tax shall be five percent.~~ A captive insurer authorized under the Captive Insurers Act that is transacting business in this state shall, on or before March 1 of each year, pay to the director a tax of one-fourth of one percent of the gross amount of direct writing premiums received by such insurer during the preceding calendar year for business transacted in the state. The taxable premiums shall include premiums paid on the lives of persons residing in this state and premiums paid for risks located in this state whether the insurance was written in this state or not, including that portion of a group premium paid which represents the premium for insurance on Nebraska residents or risks located in Nebraska included within the group when the number of lives in the group exceeds five hundred. The tax shall also apply to premiums received by domestic companies for insurance written on individuals residing outside this state or risks located outside this state if no comparable tax is paid by

the direct writing domestic company to any other appropriate taxing authority. Companies whose scheme of operation contemplates the return of a portion of premiums to policyholders, without such policyholders being claimants under the terms of their policies, may deduct such return premiums or dividends from their gross premiums for the purpose of tax calculations. Any such insurance company shall receive a credit on the tax imposed as provided in the Community Development Assistance Act.

Sec. 4. Section 77-912, Reissue Revised Statutes of Nebraska, is amended to read:

77-912 The Director of Insurance shall transmit fifty percent of the taxes paid in conformity with Chapter 44, article 1, and Chapter 77, article 9, to the State Treasurer, forty percent of such taxes paid to the General Fund, and ten percent of such taxes paid to the Mutual Finance Assistance Fund promptly upon completion of his or her audit and examination and in no event later than May 1 of each year, except that:

(1) All fire insurance taxes paid pursuant to sections 44-150 and 81-523 shall be remitted to the State Treasurer for credit to the General Fund;

(2) All workers' compensation insurance taxes paid pursuant to section 44-150 shall be remitted to the State Treasurer for credit to the Compensation Court Cash Fund; and

(3) Commencing with the premium and related retaliatory taxes for the taxable year ending December 31, 2001, and for each taxable year thereafter, all premium and related retaliatory taxes imposed by section 44-150 or 77-908 paid by insurers writing health insurance in this state shall be remitted to the Comprehensive Health Insurance Pool Distributive Fund, ~~and~~

~~(4) All taxes paid pursuant to section 77-908 for capitation payments made in accordance with the Medical Assistance Act shall be remitted to the Health and Human Services Cash Fund.~~

Sec. 5. Original sections 77-908 and 77-912, Reissue Revised Statutes of Nebraska, and sections 44-32,180 and 44-4726, Revised Statutes Cumulative Supplement, 2008, are repealed.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.