

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 300 Session of 2005

INTRODUCED BY ARMSTRONG, JUBELIRER, BRIGHTBILL, MADIGAN, RHOADES, SCARNATI, WAUGH, PILEGGI, KASUNIC, WENGER, THOMPSON, EARLL, WONDERLING, CORMAN, RAFFERTY, KITCHEN, GREENLEAF, TOMLINSON, PUNT, VANCE, PIPPY, GORDNER, PICCOLA, LEMMOND, D. WHITE, COSTA, CONTI, M. WHITE, BOSCOLA, ERICKSON, ROBBINS, ORIE, O'PAKE, C. WILLIAMS AND REGOLA, FEBRUARY 15, 2005

AS AMENDED ON THIRD CONSIDERATION, APRIL 19, 2005

AN ACT

1 Authorizing the establishment and maintenance of health savings  
2 accounts; ~~exempting contributions from taxation~~ PROVIDING FOR <—  
3 SPECIAL TAX PROVISIONS; and imposing restrictions on health  
4 savings accounts.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Health  
9 Savings Account Act.

10 Section 2. Legislative intent.

11 It is the intent of the General Assembly to extend SPECIAL <—  
12 TAX PROVISIONS to health savings accounts established in this  
13 Commonwealth pursuant to section 223 of the Internal Revenue  
14 Code of 1986 (Public Law 99-514, 26 U.S.C. § 223). ~~exemption~~ <—  
15 ~~from State income tax.~~

16 ~~Section 3. Treatment of contribution, interest and~~  
17 ~~reimbursements.~~

1 ~~For a health savings account established in compliance with~~  
2 ~~section 223 of the Internal Revenue Code of 1986 (Public Law 99-~~  
3 ~~514, 26 U.S.C. § 223), the contribution to and interest earned~~  
4 ~~on an account and account funds reimbursed to an account holder~~  
5 ~~for eligible medical expenses are exempt from personal income~~  
6 ~~taxable under Article III of the act of March 4, 1971 (P.L.6,~~  
7 ~~No.2), known as the Tax Reform Code of 1971.~~

8 SECTION 3. DEFINITIONS. ←

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
10 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
11 CONTEXT CLEARLY INDICATES OTHERWISE:

12 "ACCOUNT BENEFICIARY." AS DEFINED IN SECTION 223(D)(3) OF  
13 THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C.  
14 § 223(D)(3)).

15 "EXCESS CONTRIBUTION DISTRIBUTION." A DISTRIBUTION DESCRIBED  
16 IN SECTION 223(F)(3) OF THE INTERNAL REVENUE CODE OF 1986  
17 (PUBLIC LAW 99-514, 26 U.S.C. § 223(F)(3)). THE TERM SHALL NOT  
18 INCLUDE AMOUNTS OF INCOME ATTRIBUTABLE TO SUCH DISTRIBUTION.

19 "HEALTH INSURANCE POLICY." AN INDIVIDUAL OR GROUP HEALTH,  
20 SICKNESS OR ACCIDENT POLICY OR SUBSCRIBER CONTRACT OR  
21 CERTIFICATE ISSUED BY AN ENTITY SUBJECT TO ANY ONE OF THE  
22 FOLLOWING:

23 (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS  
24 THE INSURANCE COMPANY LAW OF 1921.

25 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),  
26 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

27 (3) THE ACT OF MAY 18, 1976 (P.L.123, NO.54), KNOWN AS  
28 THE INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM  
29 STANDARDS ACT.

30 (4) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN

1 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES  
2 PLAN CORPORATIONS).

3 "HEALTH SAVINGS ACCOUNT." AS DEFINED IN SECTION 223(D) OF  
4 THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C.  
5 § 223(D)).

6 "QUALIFIED MEDICAL EXPENSES." AS DEFINED IN SECTION 223(D)  
7 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26  
8 U.S.C. § 223(D)).

9 SECTION 4. SPECIAL TAX PROVISIONS.

10 (A) GENERAL RULE.--THE FOLLOWING SHALL BE EXCLUDED FROM  
11 TAXATION UNDER ARTICLE III OF THE ACT OF MARCH 4, 1971 (P.L.6,  
12 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971:

13 (1) ANY CONTRIBUTION TO A HEALTH SAVINGS ACCOUNT BY AN  
14 ACCOUNT BENEFICIARY OR THE EMPLOYER OF THAT ACCOUNT  
15 BENEFICIARY THAT CONFORMS TO SECTION 223(A) AND (B) OF THE  
16 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §  
17 223(A) AND (B));

18 (2) ANY INCOME OF A HEALTH SAVINGS ACCOUNT;

19 (3) ANY AMOUNT PAID OR DISTRIBUTED OUT OF A HEALTH  
20 SAVINGS ACCOUNT THAT IS USED EXCLUSIVELY TO PAY THE QUALIFIED  
21 MEDICAL EXPENSES OF THE ACCOUNT BENEFICIARY; AND

22 (4) ANY AMOUNT PAID OR DISTRIBUTED OUT OF A HEALTH  
23 SAVINGS ACCOUNT THAT IS USED EXCLUSIVELY TO REIMBURSE AN  
24 ACCOUNT BENEFICIARY FOR QUALIFIED MEDICAL EXPENSES.

25 (B) TAXABLE DISTRIBUTIONS.--THE FOLLOWING SHALL BE INCLUDED  
26 IN THE INCOME OF THE ACCOUNT BENEFICIARY AND SHALL BE SUBJECT TO  
27 TAXATION UNDER ARTICLE III OF THE TAX REFORM CODE OF 1971:

28 (1) ANY AMOUNT PAID OR DISTRIBUTED OUT OF A HEALTH  
29 SAVINGS ACCOUNT THAT IS USED FOR ANY PURPOSE OTHER THAN TO  
30 PAY THE QUALIFIED MEDICAL EXPENSES OF THE ACCOUNT

1 BENEFICIARY.

2 (2) ANY EXCESS CONTRIBUTION DISTRIBUTION THAT HAS NOT  
3 PREVIOUSLY BEEN INCLUDED IN THE ACCOUNT BENEFICIARY'S INCOME.

4 (3) ANY AMOUNT OF THE ACCOUNT BENEFICIARY'S INCOME  
5 ATTRIBUTABLE TO AN EXCESS CONTRIBUTION DISTRIBUTION.

6 Section 4 5. Mandated benefits. <—

7 (a) General rule.--A health insurance policy that would  
8 qualify as a high deductible health plan under section 223(c)(2)  
9 of the Internal Revenue Code of 1986 (Public Law 99-514, 26  
10 U.S.C. § 223(c)(2)) shall be subject to any provision of law  
11 mandating a minimum health insurance benefit or reimbursement.

12 (b) Construction.--Nothing in this act shall be construed to  
13 prohibit or prevent a health insurance policy that would qualify  
14 as a high deductible health plan under section 223(c)(2) of the  
15 Internal Revenue Code of 1986 from applying deductibles or  
16 copayments to benefits offered under these mandated minimum  
17 health insurance benefits.

18 ~~(c) Definition. As used in this section, the term "health <—~~  
19 ~~insurance policy" means an individual or group health, sickness~~  
20 ~~or accident policy or subscriber contract or certificate issued~~  
21 ~~by an entity subject to any one of the following:~~

22 ~~(1) The act of May 17, 1921 (P.L.682, No.284), known as~~  
23 ~~The Insurance Company Law of 1921.~~

24 ~~(2) The act of December 29, 1972 (P.L.1701, No.364),~~  
25 ~~known as the Health Maintenance Organization Act.~~

26 ~~(3) The act of May 18, 1976 (P.L.123, No.54), known as~~  
27 ~~the Individual Accident and Sickness Insurance Minimum~~  
28 ~~Standards Act.~~

29 ~~(4) 40 Pa.C.S. Ch. 61 (relating to hospital plan~~  
30 ~~corporations) or 63 (relating to professional health services~~

1 ~~plan corporations).~~

2 SECTION 6. APPLICABILITY. ←

3 SECTION 4 SHALL APPLY TO TAXABLE YEARS BEGINNING AFTER  
4 DECEMBER 31, 2004.

5 Section ~~5~~ 7. Effective date. ←

6 This act shall take effect in 60 days.