

CHAPTER 304

S.B. No. 956

An Act relating to providing fidelity bonds for officers, employees, directors, and partners of health maintenance organizations and to certification of taxes paid by health maintenance organizations; amending the Texas Health Maintenance Organization Act, as amended (Articles 20A.30 and 20A.33, Vernon's Texas Insurance Code), by amending Section 30 and Subsection (a) of Section 33.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 30, Texas Health Maintenance Organization Act (Article 20A.30, Vernon's Texas Insurance Code), is amended to read as follows:

"Section 30. OFFICERS AND EMPLOYEES BOND. (a) *A health maintenance organization shall maintain in force a fidelity bond issued by an insurance company holding a certificate of authority to do business in this state, on its officers and employees in an amount not less than \$100,000 or in any other amount prescribed by the commissioner.*

“(b) A three-year discovery period applies in the event a health maintenance organization goes out of business, is sold, is voluntarily liquidated, or becomes bankrupt.

“(c) The fidelity bond must include a provision that a cancellation or termination of the bond, whether by or at the request of the insured or by the underwriter, does not take effect before the expiration of 90 days after written notice of the cancellation or termination has been filed with the commissioner, unless an earlier date of cancellation or termination is approved by the commissioner.

“(d) The fidelity bond shall obligate the surety to pay a loss of money or other property the health maintenance organization sustains through acts of fraud or dishonesty on the part of any employee or officer of the health maintenance organization acting either alone or in concert with others, while employed or serving as an officer of a health maintenance organization.

“[A health maintenance organization shall maintain in force on all officers and employees a surety bond, issued by an insurance company holding a certificate of authority to do business in this state and made payable to the State Board of Insurance for the use and benefit of the health maintenance organization, which said bond shall obligate the principal and surety to pay such pecuniary loss as the health maintenance organization shall sustain through acts of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction, or wilful misapplication by an employee or officer, in an amount not less than \$100,000 or such other sum as may be prescribed by the commissioner. The bond must be written with at least a three-year discovery period and must contain a provision that no cancellation or termination of the bond, whether by or at the request of the insured or by the underwriter, shall take effect prior to the expiration of 90 days after written notice of the cancellation or termination has been filed with the commissioner, unless an earlier date of cancellation or termination is approved by the commissioner. The bond that is currently in force must be replaced on the next renewal date by a bond that satisfies the requirements of this section.]”

SECTION 2. Subsection (a), Section 33, Texas Health Maintenance Organization Act, as amended (Article 20A.33, Vernon's Texas Insurance Code), is amended to read as follows:

“(a) Each health maintenance organization shall on or before the first day of March of each year file its annual statement showing the gross amount of revenues collected during the year ending December 31 preceding, and each such health maintenance organization [if organized under the laws of this state] shall pay an annual tax for the gross amounts of revenues collected for the issuance of health maintenance certificates or contracts in accordance with Article 4.11, Insurance Code, as amended [; if such health maintenance organization is not organized under Texas laws, said health maintenance organization shall pay an annual tax for the gross amounts of revenues collected for the issuance of health maintenance certificates or contracts in accordance with Article 4760, Revised Civil Statutes of Texas, 1925, as amended]. For the purposes of computing and collecting the tax herein provided, a health maintenance organization is an ‘insurance organization’ within the terms of Article 4.11, Insurance Code, as amended.

“After receipt by the commissioner of insurance of each health maintenance organization's tax return and tax payments, the commissioner shall certify to the State Treasurer the amount of taxes paid by each health maintenance organization. The commissioner's certification shall be authorization for the State Treasurer to transfer the certified amounts from the insurance suspense account to the General Revenue Fund unless there is a lawful reason for maintaining the payment in the insurance suspense account. [Upon receipt of the sworn statement above provided, the State Board of Insurance shall certify to the State Treasurer the amount of taxes due by such health maintenance organization which shall be paid to the State Treasurer on or before March 15 following, and the State Treasurer shall issue his receipt therefor as evidence of the payment of such tax.] Such taxes shall be for and on account of business transacted within this state during the calendar year ending December 31 in which such payments were collected, or for that portion of the year during which the health maintenance organization transacted business in this state. Taxes collected under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund [State Board of Insurance operating fund, Article 1-31A, Insurance Code, applies to taxes collected under this section].”

SECTION 3. Section 30, Texas Health Maintenance Organization Act as adopted by this Act, applies only to fidelity bonds that are purchased or renewed on or after the effective date of this Act. A fidelity bond purchased before the effective date of this Act is governed until its first renewal after the effective date of this Act by the law as it existed at the time the fidelity bond was purchased and that law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 2, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 16, 1985, by a non-record vote.

Approved: June 7, 1985

Effective: Immediately