

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 890

(Senator Gile)

Finance

Ways and Means and Health

Insurance - Captive Insurers - Premium Receipts Tax Moratorium and Study

This bill prohibits the Maryland Insurance Administration (MIA), in fiscal 2027 and 2028, from collecting the 3% insurance premium receipts tax imposed on unauthorized insurers or insureds, or a fee, penalty, or interest accrued for failure to pay that tax, from captive insurance lawfully procured by a nonprofit entity; the moratorium applies to any existing and retroactive tax or penalty liability. The bill further requires MIA to study the use, regulation, and taxation of captive insurance companies by entities in the State. MIA must submit a final report of its findings and recommendations to the Governor and General Assembly by December 1, 2027. **The bill takes effect July 1, 2026, and the premium tax collection moratorium terminates June 30, 2028.**

Fiscal Summary

State Effect: General fund revenues decrease significantly in FY 2027 and 2028, likely by at least \$2.3 million in each year, due to the premium tax moratorium established by the bill. Beginning in FY 2029, collection of these premium taxes resumes, including some or all of the premium tax revenues suspended in FY 2027 and 2028, due to the termination of the moratorium, as discussed below. MIA can complete the required study using existing resources.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: In conducting the study MIA must examine:

- utilization of captive insurance by nonprofit and for-profit entities;
- existing federal and state regulatory and taxation frameworks that apply to captive insurance, including states with and without established captive insurance frameworks, focusing on mechanisms used for funding regulatory oversight and how other states tax capital contributions and internal reserves, as specified;
- the feasibility, utility, and potential structure of establishing a State registry for captive insurance companies domiciled in other jurisdictions but used by entities in the State, including an analysis of how a registry framework could provide regulatory transparency and fund oversight operations as an alternative to a premium tax framework; and
- the aggregate results of any completed investigations regarding the use of captive insurance by nonprofit and for-profit entities in the State.

The bill specifies that any data, documents, or other information provided by a nonprofit health system or hospital to MIA regarding the evaluation and assessment required (1) are considered confidential commercial and financial information; (2) may not be disclosed by MIA to any third party; and (3) is not a public record and is not subject to inspection under the Public Information Act (PIA).

Current Law:

Maryland Insurance Law, Unauthorized Insurers

Insurance Law includes various policies and procedures to govern and regulate insurance policies issued by insurers and other persons that are not authorized to do insurance business in the State. These policies and procedures are specified by Title 4 of the Insurance Article, and generally subject these unauthorized insurers, and the policies they issue, to the regulatory authority of MIA.

Directly related to the bill, if an unauthorized insurer effects, continues, or renews insurance on a subject resident, located, or to be performed in the State, the unauthorized insurer must pay a premium receipts tax of 3% of the gross premiums charged for the insurance, and the tax owed must be calculated in a specified manner. Additionally, if an insured procures, continues, or renews insurance from an unauthorized insurer, a premium receipts tax of 3% of the gross premiums charged for the insurance is levied on the obligation under specified circumstances. An authorized insurer or person that fails to pay the tax is subject to a civil penalty of not less than \$100 but not exceeding \$125,000 for each violation.

Public Information Act

PIA establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative whom a member of the public may contact to request a public record. The Office of the Attorney General (OAG) must post all such contact information on its website and in any Public Information Act Manual published by OAG.

Generally, a custodian of a public record must permit inspection of any public record at any reasonable time. A custodian must designate types of public records that are to be made available to any applicant immediately on request and maintain a current list of the types of public records that have been so designated. Each custodian must adopt reasonable rules or regulations that, consistent with PIA, govern timely production and inspection of a public record. Chapter 658 of 2021, effective July 1, 2022, requires each official custodian to adopt a policy of proactive disclosure of public records that are available for inspection under PIA, as specified. PIA also establishes when custodians *must* deny inspection of records and when they *are authorized* to deny inspection.

State Revenues: General fund revenues decrease significantly in fiscal 2027 and 2028 due to fewer entities paying premium taxes and late fees, penalties, and interest. According to MIA, approximately 16 hospitals in the State, two nonprofit health care systems, and one nonprofit entity fall under the moratorium from paying premium taxes under the bill. A precise estimate of the impact depends on the premiums and premium taxes paid by *each* of these entities, which is currently unknown and, therefore, cannot be reliably estimated at this time.

A preliminary analysis by MIA estimates that the bill's moratorium decreases general fund revenues by at least \$2.3 million in both fiscal 2027 and 2028. According to MIA, this is a *conservative estimate*, and does not include, among other things, penalties collected for late payments or the tax liability for all entities that may be subject to the moratorium. MIA's analysis assumes that (1) each exempt hospital pays roughly the same amount in premiums; and (2) half of the exempt hospitals, each of the nonprofit healthcare systems, and all of the nonprofit entities identified in the preliminary analysis would be subject to the premium tax absent the bill.

Beginning in fiscal 2029, the collection of premium tax revenues from captive insurance lawfully procured by a nonprofit entity resumes. Any premium taxes that are not paid by a nonprofit entity in fiscal 2027 and 2028 under the bill are assumed to be required to be paid in full in fiscal 2029, when the moratorium established by the bill terminates. Accordingly, in fiscal 2029, general fund revenues increase by an amount similar to the reduction in revenues in fiscal 2027 and 2028.

Additional Comments: According to the National Association of Insurance Commissioners, [captive insurance](#) is a type of self-insurance where a business or entity creates a wholly owned subsidiary to provide insurance to its non-insurance parent company.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1228 (Delegate Qi) - Ways and Means and Health.

Information Source(s): Comptroller's Office; Maryland Insurance Administration; National Association of Insurance Commissioners; Department of Legislative Services

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