COMMITTEE REPORT

May 21, 2013

**S. 35**

Introduced by Senator Campsen

S. Printed 5/21/13--S.

Read the first time January 8, 2013.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 35) to amend Chapter 131, Title 44 of the 1976 Code, to enact the “Healthcare Sharing Ministries Freedom to Share Act” by adding Section 44‑131‑10 to, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking the bill in its entirety and inserting:

/ A BILL

TO AMEND CHAPTER 5, TITLE 38 OF THE 1976 CODE, TO ENACT THE “HEALTHCARE SHARING MINISTRIES FREEDOM TO SHARE ACT” BY ADDING SECTION 38-5-25 TO PROVIDE THAT A HEALTHCARE SHARING MINISTRY IS A FAITH‑BASED, NONPROFIT, TAX‑EXEMPT ORGANIZATION THAT ESTABLISHES CRITERIA AND PROCEDURES TO FACILITATE MATCHING PARTICIPANTS HAVING FINANCIAL OR MEDICAL NEEDS WITH OTHER PARTICIPANTS WHO ARE ABLE TO ASSIST IN MEETING THOSE NEEDS OR THAT HELPS PROVIDE FOR THE FINANCIAL OR MEDICAL NEEDS OF A PARTICIPANT THROUGH CONTRIBUTIONS OF ANOTHER PARTICIPANT AND TO FURTHER PROVIDE THAT SUCH A HEALTHCARE SHARING MINISTRY IS NOT ENGAGING IN THE BUSINESS OF INSURANCE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Healthcare Sharing Ministries Freedom to Share Act”.

SECTION 2. Chapter 5, Title 38 of the 1976 Code is amended by adding:

Section 38-5-25. (A) A healthcare sharing ministry is not considered to be engaging in the business of insurance and is not subject to the insurance laws of this State.

(B) ‘Healthcare sharing ministry’ means a faith‑based, nonprofit organization that is tax‑exempt under the Internal Revenue Code that:

(1) limits its participants to those who are of a similar faith;

(2) acts as a facilitator among participants who have financial or medical needs, or both, and matches those participants with other participants with the present ability to assist those with financial or medical needs, or both, in accordance with criteria established by the healthcare sharing ministry;

(3) provides for the financial or medical needs, or both, of a participant through contributions from one participant or multiple participants to another;

(4) provides amounts that participants may contribute with no assumption of risk or promise to pay among the participants and no assumption of risk or promise to pay by the healthcare sharing ministry to the participants;

(5) provides a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the healthcare sharing ministry, as well as the amount actually published or assigned to participants for their contributions;

(6) satisfies Title 26, Chapter 48, Section 5000A(d)(2)(B)(ii)(IV) of the United States Code;

(7) provides a written disclaimer on or accompanying all applications and guideline materials distributed by or on behalf of the organization that reads:

‘Important Notice: The healthcare sharing ministry facilitating the sharing of medical expenses is not a health insurance company, and neither its guidelines nor plan of operation is an insurance policy. Whether anyone chooses to assist you with your medical bills will be totally voluntary because no other participant or group of participants will be compelled by law to contribute toward your medical bills. As such, participation in the organization or a subscription to any of its documents should never be considered to be insurance. Regardless of whether you receive any payment for medical expenses or whether this organization continues to operate, you are always personally responsible for the payment of your own medical bills’; and

(8) provides a written disclaimer on all participation cards issued by or on behalf of the organization that states the healthcare sharing ministry is not insurance.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

HARVEY S. PEELER, JR. for Committee.

**A** **BILL**

TO AMEND CHAPTER 131, TITLE 44 OF THE 1976 CODE, TO ENACT THE “HEALTHCARE SHARING MINISTRIES FREEDOM TO SHARE ACT” BY ADDING SECTION 44‑131‑10 TO PROVIDE THAT A HEALTHCARE SHARING MINISTRY IS A FAITH‑BASED, NONPROFIT, TAX‑EXEMPT ORGANIZATION THAT ESTABLISHES CRITERIA AND PROCEDURES TO FACILITATE MATCHING PARTICIPANTS HAVING FINANCIAL OR MEDICAL NEEDS WITH OTHER PARTICIPANTS WHO ARE ABLE TO ASSIST IN MEETING THOSE NEEDS OR THAT HELPS PROVIDE FOR THE FINANCIAL OR MEDICAL NEEDS OF A PARTICIPANT THROUGH CONTRIBUTIONS OF ANOTHER PARTICIPANT AND TO FURTHER PROVIDE THAT SUCH A HEALTHCARE SHARING MINISTRY IS NOT ENGAGING IN THE BUSINESS OF INSURANCE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Healthcare Sharing Ministries Freedom to Share Act”.

SECTION 2. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 131

Healthcare Sharing Ministries Freedom to Share

Section 44‑131‑10. A healthcare sharing ministry is not considered to be engaging in the business of insurance, as provided for in Title 38, for purposes of this section.

Section 44‑131‑20. ‘Healthcare sharing ministry’ means a faith‑based, nonprofit organization that is tax‑exempt under the Internal Revenue Code that:

(1) limits its participants to those who are of a similar faith;

(2) acts as a facilitator among participants who have financial or medical needs, or both, and matches those participants with other participants with the present ability to assist those with financial or medical needs, or both, in accordance with criteria established by the healthcare sharing ministry;

(3) provides for the financial or medical needs, or both, of a participant through contributions from one participant to another;

(4) provides amounts that participants may contribute with no assumption of risk or promise to pay among the participants and no assumption of risk or promise to pay by the healthcare sharing ministry to the participants;

(5) provides a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the healthcare sharing ministry, as well as the amount actually published or assigned to participants for their contributions; and

(6) provides a written disclaimer on or accompanying all applications and guideline materials distributed by or on behalf of the organization that substantially reads:

‘Notice: The organization facilitating the sharing of medical expenses is not an insurance company, and neither its guidelines nor plan of operation is an insurance policy. Whether anyone chooses to assist you with your medical bills will be totally voluntary because no other participant will be compelled by law to contribute toward your medical bills. As such, participation in the organization or a subscription to any of its documents should never be considered to be insurance. Regardless of whether you receive any payment for medical expenses or whether this organization continues to operate, you are always personally responsible for the payment of your own medical bills’.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor.

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