

109TH CONGRESS
1ST SESSION

H. R. 2291

To amend the Internal Revenue Code of 1986 to allow a business credit for qualified expenditures for medical professional malpractice insurance.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2005

Ms. HERSETH (for herself, Mr. JEFFERSON, Mr. SNYDER, Ms. BERKLEY, Mr. HIGGINS, Mr. NADLER, Mr. BOUCHER, Mr. MOORE of Kansas, Mr. ISRAEL, Mr. LEWIS of Georgia, Mr. BAIRD, Mr. ROSS, Mr. GENE GREEN of Texas, Mr. HONDA, Mr. BERRY, Mr. BOSWELL, Mr. CLAY, Mr. GONZALEZ, Ms. KAPTUR, Mr. REYES, Mr. RUPPERSBERGER, Mr. HINOJOSA, Mr. DAVIS of Alabama, Mr. THOMPSON of California, Mr. CROWLEY, Mr. MEEKS of New York, and Mr. BISHOP of New York) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to allow a business credit for qualified expenditures for medical professional malpractice insurance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medical Malpractice
5 Relief Act of 2005”.

1 **SEC. 2. CREDIT FOR QUALIFIED EXPENDITURES FOR MED-**
2 **ICAL PROFESSIONAL MALPRACTICE INSUR-**
3 **ANCE.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 of the Internal Revenue Code of
6 1986 (relating to business tax credits) is amended by add-
7 ing at the end the following:

8 **“SEC. 45J. CREDIT FOR EXPENDITURES FOR MEDICAL PRO-**
9 **FSSIONAL MALPRACTICE INSURANCE.**

10 “(a) GENERAL RULE.—For purposes of section 38,
11 in the case of an eligible person, the medical malpractice
12 insurance expenditure tax credit determined under this
13 section for a taxable year is the amount equal to the appli-
14 cable percentage of qualified medical malpractice insur-
15 ance expenditures.

16 “(b) LIMITATION.—

17 “(1) IN GENERAL.—The amount of qualified
18 medical malpractice insurance expenditures taken
19 into account under subsection (a) for a taxable year
20 with respect to an eligible person shall not exceed
21 the amount equal to twice the average of costs of
22 qualified medical malpractice insurance for similarly
23 situated eligible persons.

24 “(2) AVERAGE COSTS.—For purposes of para-
25 graph (1), the Secretary of Health and Human
26 Services, after consultation with State boards of

1 medical licensure and State boards (or agencies) reg-
2 ulating insurance, shall—

3 “(A) determine average costs (rounded to
4 the nearest whole dollar) of providing or fur-
5 nishing general medical malpractice liability in-
6 surance to eligible persons, and

7 “(B) certify the amount of such costs to
8 the Secretary on or before the 15th day of No-
9 vember of each year.

10 “(c) DEFINITIONS AND SPECIAL RULE.—For pur-
11 poses of this section—

12 “(1) QUALIFIED MEDICAL MALPRACTICE INSUR-
13 ANCE EXPENDITURE.—

14 “(A) IN GENERAL.—The term ‘qualified
15 medical malpractice insurance expenditure’
16 means so much of any professional insurance
17 premium, surcharge, payment, or other cost or
18 expense which is paid or incurred in the taxable
19 year by an eligible person for the sole purpose
20 of providing or furnishing general medical mal-
21 practice liability insurance for such eligible per-
22 son.

23 “(2) ELIGIBLE PERSON.—The term ‘eligible
24 person’ means—

1 “(A) any physician (as defined in section
2 213(d)(4)) who practices in any surgical spe-
3 cialty or subspecialty, emergency medicine, ob-
4 stetrics, anesthesiology or who does intervention
5 work which is reflected in medical malpractice
6 insurance expenditures,

7 “(B) any physician (as so defined) who
8 practices in general medicine, allergy, derma-
9 tology, pathology, or any other specialty not
10 otherwise described in this section, and

11 “(C) any hospital, clinic, or long-term care
12 provider,

13 which meets applicable legal requirements to provide
14 the health care services involved.

15 “(3) APPLICABLE PERCENTAGE.—The applica-
16 ble percentage is—

17 “(A) 30 percent in the case of a person de-
18 scribed in paragraph (2)(A), and

19 “(B) 20 percent in the case of a person de-
20 scribed in subparagraph (B) or (C) of para-
21 graph (2).

22 “(4) SIMILARLY SITUATED.—The determination
23 of whether persons are similarly situated shall be
24 made on the basis of medical practices primarily lo-
25 cated within a statistical area (as defined in section

1 142(k)(2)) and shall differentiate between specialty
2 and subspecialty medical practices.

3 “(d) ELECTION NOT TO CLAIM CREDIT.—This sec-
4 tion shall not apply to a taxpayer for any taxable year
5 if such taxpayer elects to have this section not apply for
6 such taxable year.

7 “(e) TERMINATION.—This section shall not apply to
8 taxable years beginning after December 31, 2006.”.

9 (b) CREDIT MADE PART OF GENERAL BUSINESS
10 CREDIT.—Section 38(b) of such Code (relating to current
11 year business credit) is amended by striking “plus” at the
12 end of paragraph (18), by striking the period at the end
13 of paragraph (19) and inserting “, plus”, and by adding
14 at the end the following new paragraph:

15 “(20) the medical malpractice insurance ex-
16 penditure tax credit determined under section
17 45J(a).”.

18 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of
19 such Code (relating to certain expenses for which credits
20 are allowable) is amended by adding at the end the fol-
21 lowing new subsection:

22 “(e) CREDIT FOR MEDICAL MALPRACTICE LIABILITY
23 INSURANCE PREMIUMS.—

24 “(1) IN GENERAL.—No deduction shall be al-
25 lowed for that portion of the qualified medical mal-

1 practice insurance expenditures otherwise allowable
2 as a deduction for the taxable year which is equal
3 to the amount of the credit allowable for the taxable
4 year under section 45J (determined without regard
5 to section 38(c)).

6 “(2) CONTROLLED GROUPS.—In the case of a
7 corporation which is a member of a controlled group
8 of corporations (within the meaning of section
9 41(f)(5)) or a trade or business which is treated as
10 being under common control with other trades or
11 business (within the meaning of section
12 41(f)(1)(B)), this subsection shall be applied under
13 rules prescribed by the Secretary similar to the rules
14 applicable under subparagraphs (A) and (B) of sec-
15 tion 41(f)(1).”.

16 (d) GRANTS TO NON-PROFIT HOSPITALS, CLINICS,
17 AND LONG-TERM CARE PROVIDERS.—

18 (1) IN GENERAL.—The Secretary of Health and
19 Human Services, acting through the Administrator
20 of the Health Resources and Services Administra-
21 tion, shall award grants to eligible non-profit hos-
22 pitals, clinics, and long-term care providers to assist
23 such hospitals, clinics, and long-term care providers
24 in defraying qualified medical malpractice insurance
25 expenditures.

1 (2) ELIGIBLE NON-PROFIT HOSPITAL, CLINIC,
2 OR LONG-TERM CARE PROVIDER.—To be eligible to
3 receive a grant under paragraph (1) an entity
4 shall—

5 (A) be a non-profit hospital, clinic, or long-
6 term care provider;

7 (B) be an organization described in section
8 501(c) of the Internal Revenue Code of 1986
9 and exempt from tax under section 501(a) of
10 such Code for the year for which an application
11 is submitted under subparagraph (C); and

12 (C) prepare and submit to the Secretary of
13 Health and Human Services an application at
14 such time, in such manner, and containing such
15 information as the Secretary may require.

16 (3) AMOUNT OF GRANT.—The amount of a
17 grant to a non-profit hospital, clinic, or long-term
18 care provider under paragraph (1) shall equal 15
19 percent of the amount of the qualified medical mal-
20 practice insurance expenditures of the hospital, clin-
21 ic, or long-term care provider for the year involved.

22 (4) QUALIFIED MEDICAL MALPRACTICE INSUR-
23 ANCE EXPENDITURE.—In this subsection, the term
24 “qualified medical malpractice insurance expendi-
25 ture” means so much of any professional insurance

1 premium, surcharge, payment or other cost or ex-
2 pense which is incurred by a non-profit hospital,
3 clinic, or long-term care provider in a year for the
4 sole purpose of providing or furnishing general med-
5 ical malpractice liability insurance for such hospital,
6 clinic, or long-term care provider as does not exceed
7 twice the average of such costs for similarly situated
8 hospitals, clinics, or long-term care provider homes.

9 (5) AUTHORIZATION OF APPROPRIATIONS.—
10 There are authorized to be appropriated to carry out
11 this subsection such sums as may be necessary for
12 each of fiscal years 2006 and 2007.

13 (e) CLERICAL AMENDMENT.—The table of sections
14 for subpart D of part IV of subchapter A of chapter 1
15 of such Code is amended by adding at the end the fol-
16 lowing new item:

“Sec. 45J. Credit for expenditures for medical professional malpractice insur-
ance.”.

17 (f) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2004.

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