

HOUSE BILL 1782

C3, Q3

EMERGENCY BILL

8lr3979

By: **Delegates Pena–Melnik and Pendergrass**

Introduced and read first time: February 28, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Health Care Access Program – Establishment**
3 **(Maryland Health Care Access Act of 2018)**

4 FOR the purpose of requiring the State Health Services Cost Review Commission, for a
5 certain fiscal year, to assess on each hospital a certain fee for a certain purpose;
6 prohibiting the State Health Services Cost Review Commission from raising certain
7 hospital rates as part of a certain update factor to offset the fee; prohibiting the fee
8 from exceeding a certain percentage of certain revenue; requiring each hospital to
9 remit the fee to the Maryland Health Benefit Exchange Fund; requiring a carrier to
10 pay a certain assessment on certain premiums under certain circumstances
11 beginning on a certain date; requiring the assessment to be in addition to certain
12 taxes and certain penalties or actions; requiring certain health insurers, nonprofit
13 health service plans, health maintenance organizations, and managed care
14 organizations to pay, in a certain calendar year, a certain additional assessment for
15 a certain purpose; providing for the distribution of the assessments; altering the
16 purpose, contents, and authorized use of the Maryland Health Benefit Exchange
17 Fund; requiring that certain funds be used in a certain manner; repealing the
18 requirement that the Maryland Health Benefit Exchange implement or oversee the
19 implementation of state–specific requirements for transitional reinsurance and risk
20 adjustment under the Affordable Care Act; repealing the authority of the Exchange
21 to establish a State Reinsurance Program; requiring the Exchange to establish a
22 Health Care Access Program to provide reinsurance to certain carriers; requiring
23 that the Program be designed to mitigate the impact of certain individuals on certain
24 rates; providing that, beginning on a certain date, funding for reinsurance in the
25 individual health insurance market through the Program may be made from certain
26 sources; requiring that, beginning on a certain date and under certain circumstances,
27 certain State funding for the reinsurance of the individual market through the
28 Program be contingent on the Centers for Medicare and Medicaid Services approving
29 a waiver under a certain provision of federal law; requiring the Exchange to adopt
30 certain regulations on or before a certain date; authorizing the Exchange and the
31 Maryland Insurance Commissioner to submit a waiver under a certain provision of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 federal law in accordance with the recommendations of the Maryland Health
2 Insurance Coverage Protection Commission; authorizing, on or before a certain date,
3 the Commissioner to waive certain statutory requirements under certain
4 circumstances; requiring, beginning on a certain date, an individual to maintain
5 certain coverage for certain individuals; requiring that an individual pay a certain
6 penalty under certain circumstances; requiring that the penalty be in addition to a
7 certain State income tax and included with a certain income tax return; requiring
8 that certain individuals be jointly liable for the penalty under certain circumstances;
9 establishing the amount of the penalty; exempting an individual who qualifies for a
10 certain exemption under federal law from being assessed the penalty; requiring an
11 individual to indicate certain information on a certain income tax return; requiring
12 the Comptroller to distribute certain revenues from the penalty to a certain fund for
13 certain purposes; defining certain terms; repealing certain provisions of law
14 rendered obsolete by certain provisions of this Act; requiring the Maryland Health
15 Insurance Coverage Protection Commission to study and make recommendations for
16 individual and group market stability; requiring the Maryland Health Insurance
17 Coverage Protection Commission to engage an independent actuarial firm to assist
18 in its study; requiring the Maryland Health Insurance Coverage Protection
19 Commission, on or before a certain date, to report certain findings and
20 recommendations to the Governor and the General Assembly; making this Act an
21 emergency measure; and generally relating to health insurance.

22 BY repealing and reenacting, with amendments,
23 Article – Health – General
24 Section 19–214(d)
25 Annotated Code of Maryland
26 (2015 Replacement Volume and 2017 Supplement)

27 BY adding to
28 Article – Insurance
29 Section 6–102.1, 6–102.2, 31–117, and 31–117.1
30 Annotated Code of Maryland
31 (2017 Replacement Volume)

32 BY repealing and reenacting, with amendments,
33 Article – Insurance
34 Section 31–107
35 Annotated Code of Maryland
36 (2017 Replacement Volume)

37 BY repealing
38 Article – Insurance
39 Section 31–117
40 Annotated Code of Maryland
41 (2017 Replacement Volume)

42 BY adding to

1 Article – Tax – General
2 Section 10–102.2
3 Annotated Code of Maryland
4 (2016 Replacement Volume and 2017 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
6 That the Laws of Maryland read as follows:

7 **Article – Health – General**

8 19–214.

9 (d) (1) Each year, the Commission shall assess a uniform, broad-based, and
10 reasonable amount in hospital rates to reflect the aggregate reduction in hospital
11 uncompensated care realized from the expansion of health care coverage under Chapter 7
12 of the Acts of the 2007 Special Session of the General Assembly.

13 (2) (i) 1. The Commission shall ensure that the assessment amount
14 equals 1.25% of projected regulated net patient revenue.

15 2. Each hospital shall remit its assessment amount to the
16 Health Care Coverage Fund established under § 15–701 of this article.

17 (ii) Any savings realized in averted uncompensated care as a result
18 of the expansion of health care coverage under Chapter 7 of the Acts of the 2007 Special
19 Session of the General Assembly that are not subject to the assessment under paragraph
20 (1) of this subsection shall be shared among purchasers of hospital services in a manner
21 that the Commission determines is most equitable.

22 (3) (i) Funds generated from the assessment under this subsection may
23 be used only to supplement coverage under the Medical Assistance Program beyond the
24 eligibility requirements in existence on January 1, 2008.

25 (ii) Any funds remaining after the expenditure of funds under
26 subparagraph (i) of this paragraph has been made may be used for the general operations
27 of the Medicaid program.

28 **(4) (I) IN ADDITION TO THE RATES IMPOSED UNDER PARAGRAPH**
29 **(1) OF THIS SUBSECTION AND SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS**
30 **PARAGRAPH, FOR FISCAL YEAR 2019, THE COMMISSION SHALL ASSESS A UNIFORM,**
31 **BROAD-BASED AND REASONABLE FEE ON EACH HOSPITAL FOR THE PURPOSE OF**
32 **SUPPORTING THE HEALTH CARE ACCESS PROGRAM ESTABLISHED UNDER § 31–117**
33 **OF THE INSURANCE ARTICLE.**

34 **(II) THE COMMISSION MAY NOT RAISE HOSPITAL RATES AS**
35 **PART OF THE ANNUAL UPDATE FACTOR FOR FISCAL YEAR 2019 TO OFFSET THE FEE**

1 ASSESSED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

2 (III) THE FEE ASSESSED UNDER SUBPARAGRAPH (I) OF THIS
3 PARAGRAPH MAY NOT EXCEED 0.5% OF EACH HOSPITAL'S NET PATIENT REVENUE.

4 (IV) EACH HOSPITAL SHALL REMIT THE FEE ASSESSED UNDER
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH TO THE MARYLAND HEALTH BENEFIT
6 EXCHANGE FUND ESTABLISHED UNDER § 31-107 OF THE INSURANCE ARTICLE.

7 Article - Insurance

8 6-102.1.

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (2) "CARRIER" HAS THE MEANING STATED IN § 15-1201 OF THIS
12 ARTICLE.

13 (3) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN §
14 15-1201 OF THIS ARTICLE.

15 (B) (1) BEGINNING JANUARY 1, 2019, A CARRIER SHALL PAY AN
16 ASSESSMENT OF 3% ON THE CARRIER'S NEW AND RENEWAL GROSS DIRECT
17 PREMIUMS IF THE CARRIER FAILS TO OFFER INDIVIDUAL HEALTH BENEFIT PLANS
18 IN THE STATE IN ACCORDANCE WITH TITLE 15, SUBTITLE 13 OF THIS ARTICLE.

19 (2) THE ASSESSMENT PAYABLE BY A CARRIER UNDER THIS SECTION
20 SHALL BE BASED ON THE CARRIER'S PREMIUMS IN ANY MARKET SEGMENT:

21 (I) ALLOCABLE TO THE STATE; AND

22 (II) WRITTEN DURING THE IMMEDIATELY PRECEDING
23 CALENDAR YEAR.

24 (C) NOTWITHSTANDING § 2-114 OF THIS ARTICLE, BEGINNING JANUARY 1,
25 2019, THE ASSESSMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL
26 BE DISTRIBUTED ANNUALLY TO THE MARYLAND HEALTH BENEFIT EXCHANGE
27 FUND ESTABLISHED UNDER § 31-107 OF THIS ARTICLE FOR THE SOLE PURPOSE OF
28 FUNDING THE OPERATION AND ADMINISTRATION OF THE HEALTH CARE ACCESS
29 PROGRAM AUTHORIZED UNDER § 31-117 OF THIS ARTICLE.

30 (D) THE ASSESSMENT REQUIRED UNDER THIS SECTION SHALL BE IN

1 ADDITION TO:

2 (1) TAXES OWED BY THE CARRIER UNDER ANY OTHER PROVISION OF
3 LAW; AND

4 (2) ANY PENALTIES IMPOSED OR ACTIONS TAKEN BY THE
5 COMMISSIONER IN RESPONSE TO THE CARRIER'S FAILURE TO COMPLY WITH THIS
6 ARTICLE.

7 6-102.2.

8 (A) THIS SECTION APPLIES TO:

9 (1) A HEALTH INSURER, NONPROFIT HEALTH SERVICE PLAN, OR
10 HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES A HEALTH BENEFIT PLAN
11 REGULATED BY THE STATE; AND

12 (2) A MANAGED CARE ORGANIZATION AUTHORIZED UNDER TITLE 15,
13 SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE.

14 (B) THE PURPOSE OF THIS SECTION IS TO RECOUP THE HEALTH INSURANCE
15 PROVIDER FEE THAT OTHERWISE WOULD HAVE BEEN ASSESSED UNDER § 9010 OF
16 THE AFFORDABLE CARE ACT THAT IS ATTRIBUTABLE TO STATE HEALTH RISK FOR
17 CALENDAR YEAR 2019 AS A BRIDGE TO STABILITY IN THE INDIVIDUAL HEALTH
18 INSURANCE MARKET.

19 (C) (1) IN CALENDAR YEAR 2019, IN ADDITION TO THE AMOUNTS
20 OTHERWISE DUE UNDER THIS SUBTITLE, AN ENTITY SUBJECT TO THIS SECTION
21 SHALL BE SUBJECT TO AN ASSESSMENT OF 2.75% ON ALL AMOUNTS USED TO
22 CALCULATE THE ENTITY'S PREMIUM TAX LIABILITY UNDER § 6-102 OF THIS
23 SUBTITLE OR THE AMOUNT OF THE ENTITY'S PREMIUM TAX EXEMPTION VALUE FOR
24 CALENDAR YEAR 2018.

25 (2) NOTWITHSTANDING § 2-114 OF THIS ARTICLE, THE ASSESSMENT
26 REQUIRED UNDER THIS SECTION SHALL BE DISTRIBUTED BY THE COMMISSIONER
27 TO THE MARYLAND HEALTH BENEFIT EXCHANGE FUND ESTABLISHED UNDER §
28 31-107 OF THIS ARTICLE.

29 31-107.

30 (a) There is a Maryland Health Benefit Exchange Fund.

31 (b) (1) The purpose of the Fund is to:

1 (i) provide funding for the operation and administration of the
2 Exchange in carrying out the purposes of the Exchange under this title; and

3 (ii) provide funding for the establishment and operation of the [State
4 Reinsurance Program] **HEALTH CARE ACCESS PROGRAM** authorized under § 31–117 of
5 this title.

6 (2) The operation and administration of the Exchange and the [State
7 Reinsurance Program] **HEALTH CARE ACCESS PROGRAM** may include functions
8 delegated by the Exchange to a third party under law or by contract.

9 (c) The Exchange shall administer the Fund.

10 (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of
11 the State Finance and Procurement Article.

12 (2) The State Treasurer shall hold the Fund separately, and the
13 Comptroller shall account for the Fund.

14 (e) The Fund consists of:

15 (1) any user fees or other assessments collected by the Exchange;

16 (2) all revenue deposited into the Fund that is received from the
17 distribution of the premium tax under § 6–103.2 of this article;

18 (3) all revenue transferred to the Fund before July 1, 2016, from the
19 Maryland Health Insurance Plan Fund;

20 (4) **ASSESSMENTS COLLECTED BY THE COMMISSIONER UNDER §§**
21 **6–102.1 AND 6–102.2 OF THIS ARTICLE;**

22 (5) **ASSESSMENTS REMITTED IN ACCORDANCE WITH § 19–214 OF THE**
23 **HEALTH – GENERAL ARTICLE;**

24 (6) **PENALTIES COLLECTED BY THE COMPTROLLER UNDER §**
25 **10–102.2 OF THE TAX – GENERAL ARTICLE;**

26 [(4)] (7) income from investments made on behalf of the Fund;

27 [(5)] (8) interest on deposits or investments of money in the Fund;

28 [(6)] (9) money collected by the Board as a result of legal or other actions
29 taken by the Board on behalf of the Exchange or the Fund;

30 [(7)] (10) money donated to the Fund;

1 ~~[(8)] (11)~~ money awarded to the Fund through grants; and

2 ~~[(9)] (12)~~ any other money from any other source accepted for the benefit
3 of the Fund.

4 (f) The Fund may be used only:

5 (1) for the operation and administration of the Exchange in carrying out
6 the purposes authorized under this title; and

7 (2) for the establishment and operation of the [State Reinsurance
8 Program] **HEALTH CARE ACCESS PROGRAM** authorized under § 31–117 of this title.

9 (g) (1) The Board shall maintain separate accounts within the Fund for
10 Exchange operations and for the [State Reinsurance Program] **HEALTH CARE ACCESS**
11 **PROGRAM**.

12 (2) Accounts within the Fund shall contain the money that is intended to
13 support the purpose for which each account is designated.

14 (3) Funds received from the distribution of the premium tax under §
15 6–103.2 of this article shall be placed in the account for Exchange operations and may be
16 used only for the purpose of funding the operation and administration of the Exchange.

17 ~~[(4) Funds transferred from the Maryland Health Insurance Plan Fund
18 before July 1, 2016, shall be placed in the account for the State Reinsurance Program and
19 may be used only for the purpose of funding the State Reinsurance Program.]~~

20 **(4) THE FOLLOWING FUNDS MAY BE USED ONLY FOR THE PURPOSES**
21 **OF THE HEALTH CARE ACCESS PROGRAM:**

22 **(I) ASSESSMENTS DISTRIBUTED TO THE FUND IN ACCORDANCE**
23 **WITH §§ 6–102.1 AND 6–102.2 OF THIS ARTICLE;**

24 **(II) ASSESSMENTS REMITTED TO THE FUND IN ACCORDANCE**
25 **WITH § 19–214 OF THE HEALTH – GENERAL ARTICLE;**

26 **(III) PENALTIES DISTRIBUTED TO THE FUND IN ACCORDANCE**
27 **WITH § 10–102.2 OF THE TAX – GENERAL ARTICLE; AND**

28 **(IV) ANY FUNDS THAT THE STATE RECEIVES FROM THE**
29 **FEDERAL GOVERNMENT UNDER ANY FEDERALLY SPONSORED OR DEVELOPED**
30 **PROGRAM TO PROMOTE OR ENHANCE STABILITY IN THE INDIVIDUAL HEALTH**
31 **INSURANCE MARKET.**

1 (h) (1) Expenditures from the Fund for the purposes authorized by this
2 subtitle may be made only:

3 (i) with an appropriation from the Fund approved by the General
4 Assembly in the State budget; or

5 (ii) by the budget amendment procedure provided for in Title 7,
6 Subtitle 2 of the State Finance and Procurement Article.

7 (2) Notwithstanding § 7-304 of the State Finance and Procurement Article,
8 if the amount of the distribution from the premium tax under § 6-103.2 of this article
9 exceeds in any State fiscal year the actual expenditures incurred for the operation and
10 administration of the Exchange, funds in the Exchange operations account from the
11 premium tax that remain unspent at the end of the State fiscal year shall revert to the
12 General Fund of the State.

13 (3) If operating expenses of the Exchange may be charged to either State
14 or non-State fund sources, the non-State funds shall be charged before State funds are
15 charged.

16 (i) (1) The State Treasurer shall invest the money of the Fund in the same
17 manner as other State money may be invested.

18 (2) Any investment earnings of the Fund shall be credited to the Fund.

19 (3) Except as provided in subsection (h)(2) of this section, no part of the
20 Fund may revert or be credited to the General Fund or any special fund of the State.

21 (j) A debt or an obligation of the Fund is not a debt of the State or a pledge of
22 credit of the State.

23 [31-117.

24 (a) The Exchange, with the approval of the Commissioner, shall implement or
25 oversee the implementation of the state-specific requirements of §§ 1341 and 1343 of the
26 Affordable Care Act relating to transitional reinsurance and risk adjustment.

27 (b) The Exchange may not assume responsibility for the program corridors for
28 health benefit plans in the Individual Exchange and the SHOP Exchange established under
29 § 1342 of the Affordable Care Act.

30 (c) (1) In compliance with § 1341 of the Affordable Care Act, the Exchange, in
31 consultation with the Maryland Health Care Commission and with the approval of the
32 Commissioner, shall operate or oversee the operation of a transitional reinsurance program
33 in accordance with regulations adopted by the Secretary for coverage years 2014 through
34 2016.

1 (2) As required by the Affordable Care Act and regulations adopted by the
2 Secretary, the transitional reinsurance program shall be designed to protect carriers that
3 offer individual health benefit plans inside and outside the Exchange against excessive
4 health care expenses incurred by high-risk individuals.

5 (3) (i) The Exchange, in consultation with the Maryland Health Care
6 Commission and with the approval of the Commissioner, may establish a State
7 Reinsurance Program to take effect on or after January 1, 2014.

8 (ii) The purpose of the State Reinsurance Program is to mitigate the
9 impact of high-risk individuals on rates in the individual insurance market inside and
10 outside the Exchange.

11 (iii) The Exchange shall use funds transferred from the Maryland
12 Health Insurance Plan Fund before July 1, 2016, to fund the State Reinsurance Program.

13 (d) (1) In compliance with § 1343 of the Affordable Care Act, the Exchange,
14 with the approval of the Commissioner, shall operate or oversee the operation of a risk
15 adjustment program designed to:

16 (i) reduce the incentive for carriers to manage their risk by seeking
17 to enroll individuals with a lower than average health risk;

18 (ii) increase the incentive for carriers to enhance the quality and
19 cost-effectiveness of their enrollees' health care services; and

20 (iii) require appropriate adjustments among all health benefit plans
21 in the individual and small group markets inside and outside the Exchange to compensate
22 for the enrollment of high-risk individuals.

23 (2) Beginning in 2014, the Exchange, with the approval of the
24 Commissioner, shall strongly consider using the federal model adopted by the Secretary in
25 the operation of the State's risk adjustment program.]

26 **31-117.**

27 **(A) THE EXCHANGE SHALL ESTABLISH A HEALTH CARE ACCESS PROGRAM**
28 **TO PROVIDE REINSURANCE TO CARRIERS THAT OFFER INDIVIDUAL HEALTH**
29 **BENEFIT PLANS IN THE STATE.**

30 **(B) THE HEALTH CARE ACCESS PROGRAM SHALL BE DESIGNED TO**
31 **MITIGATE THE IMPACT OF HIGH-RISK INDIVIDUALS ON RATES IN THE INDIVIDUAL**
32 **INSURANCE MARKET INSIDE AND OUTSIDE THE EXCHANGE.**

33 **(C) BEGINNING JANUARY 1, 2020, FUNDING FOR REINSURANCE IN THE**

1 INDIVIDUAL MARKET THROUGH THE HEALTH CARE ACCESS PROGRAM MAY BE
2 MADE FROM:

3 (1) ANY AVAILABLE STATE FUNDING SOURCE; AND

4 (2) ANY AVAILABLE FEDERAL FUNDING SOURCE.

5 (D) BEGINNING JANUARY 1, 2020, IF REQUIRED UNDER THE TERMS AND
6 CONDITIONS OF RECEIVING FEDERAL FUNDS, STATE FUNDING FOR REINSURANCE
7 IN THE INDIVIDUAL MARKET THROUGH THE HEALTH CARE ACCESS PROGRAM
8 SHALL BE CONTINGENT ON THE CENTERS FOR MEDICARE AND MEDICAID SERVICES
9 APPROVING A WAIVER UNDER § 1332 OF THE AFFORDABLE CARE ACT.

10 (E) THE EXCHANGE SHALL ADOPT REGULATIONS IMPLEMENTING THE
11 PROVISIONS OF THIS SECTION.

12 31-117.1.

13 (A) THE EXCHANGE AND THE COMMISSIONER MAY SUBMIT A WAIVER
14 UNDER § 1332 OF THE AFFORDABLE CARE ACT IN ACCORDANCE WITH THE
15 RECOMMENDATIONS OF THE MARYLAND HEALTH INSURANCE COVERAGE
16 PROTECTION COMMISSION ESTABLISHED UNDER CHAPTER 17 OF THE ACTS OF THE
17 GENERAL ASSEMBLY OF 2017.

18 (B) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSIONER MAY WAIVE
19 ANY NOTIFICATION OR OTHER REQUIREMENTS THAT APPLY TO A CARRIER UNDER
20 THIS ARTICLE IN CALENDAR YEAR 2019 DUE TO THE IMPLEMENTATION OF A WAIVER
21 APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT.

22 Article – Tax – General

23 10-102.2.

24 (A) THIS SECTION DOES NOT APPLY TO A NONRESIDENT, INCLUDING A
25 NONRESIDENT SPOUSE AND A NONRESIDENT DEPENDENT.

26 (B) BEGINNING JANUARY 1, 2019, AN INDIVIDUAL SHALL MAINTAIN FOR
27 THE INDIVIDUAL, AND FOR EACH DEPENDENT OF THE INDIVIDUAL, MINIMUM
28 ESSENTIAL COVERAGE, AS DEFINED IN § 15-1301 OF THE INSURANCE ARTICLE.

29 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT
30 AS PROVIDED UNDER SUBSECTION (E) OF THIS SECTION, AN INDIVIDUAL SHALL PAY
31 A PENALTY IN THE AMOUNT DETERMINED UNDER SUBSECTION (D) OF THIS SECTION
32 IF THE INDIVIDUAL FAILS TO MAINTAIN THE COVERAGE REQUIRED UNDER

1 SUBSECTION (B) OF THIS SECTION FOR 3 OR MORE MONTHS OF THE TAXABLE YEAR.

2 (2) ANY PENALTY IMPOSED UNDER THIS SUBSECTION FOR ANY
3 MONTH IN WHICH AN INDIVIDUAL FAILS TO MAINTAIN THE COVERAGE REQUIRED
4 UNDER SUBSECTION (B) OF THIS SECTION SHALL BE:

5 (I) IN ADDITION TO THE STATE INCOME TAX UNDER §
6 10-105(A) OF THIS SUBTITLE; AND

7 (II) INCLUDED WITH THE STATE INCOME TAX RETURN FOR THE
8 INDIVIDUAL UNDER SUBTITLE 8 OF THIS TITLE FOR THE TAXABLE YEAR THAT
9 INCLUDES THE MONTHS IN WHICH COVERAGE WAS NOT MAINTAINED AS REQUIRED
10 UNDER SUBSECTION (B) OF THIS SECTION.

11 (3) IF AN INDIVIDUAL WHO IS SUBJECT TO A PENALTY UNDER THIS
12 SECTION FILES A JOINT STATE INCOME TAX RETURN UNDER § 10-807 OF THIS TITLE,
13 THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE SHALL BE JOINTLY LIABLE FOR
14 THE PENALTY.

15 (D) THE AMOUNT OF THE PENALTY IMPOSED UNDER SUBSECTION (C) OF
16 THIS SECTION SHALL BE EQUAL TO THE GREATER OF:

17 (1) 2.5% OF THE SUM OF THE INDIVIDUAL'S FEDERAL MODIFIED
18 ADJUSTED GROSS INCOME, AS DEFINED IN 42 U.S.C. § 1395R, AND THE FEDERAL
19 MODIFIED ADJUSTED GROSS INCOME OF ALL INDIVIDUALS CLAIMED ON THE
20 INDIVIDUAL'S INCOME TAX RETURN; OR

21 (2) THE FOLLOWING FLAT RATES PER INDIVIDUAL, ADJUSTED
22 ANNUALLY FOR INFLATION:

23 (I) \$695 PER ADULT; AND

24 (II) \$347.50 PER CHILD UNDER 18 YEARS OLD.

25 (E) AN INDIVIDUAL MAY NOT BE ASSESSED A PENALTY UNDER SUBSECTION
26 (C) OF THIS SECTION IF THE INDIVIDUAL QUALIFIES FOR AN EXEMPTION UNDER 26
27 U.S.C. § 5000A(E).

28 (F) AN INDIVIDUAL SHALL INDICATE ON THE INCOME TAX RETURN FOR THE
29 INDIVIDUAL, IN THE FORM REQUIRED BY THE COMPTROLLER, WHETHER MINIMUM
30 ESSENTIAL COVERAGE WAS MAINTAINED AS REQUIRED UNDER SUBSECTION (B) OF
31 THIS SECTION FOR:

- 1 **(1) THE INDIVIDUAL;**
- 2 **(2) THE INDIVIDUAL'S SPOUSE IN THE CASE OF A MARRIED COUPLE;**
3 **AND**
- 4 **(3) EACH DEPENDENT CHILD OF THE INDIVIDUAL, IF ANY.**

5 **(G) NOTWITHSTANDING § 2-609 OF THIS ARTICLE, AFTER DEDUCTING A**
6 **REASONABLE AMOUNT FOR ADMINISTRATIVE COSTS, THE COMPTROLLER SHALL**
7 **DISTRIBUTE THE REVENUES FROM THE PENALTY TO THE MARYLAND HEALTH**
8 **BENEFIT EXCHANGE FUND FOR THE PURPOSES OF THE HEALTH CARE ACCESS**
9 **PROGRAM ESTABLISHED UNDER § 31-117 OF THE INSURANCE ARTICLE.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That:

11 (a) (1) The Maryland Health Insurance Coverage Protection Commission,
12 established under Chapter 17 of the Acts of the General Assembly of 2017, shall study and
13 make recommendations for individual and group health insurance market stability,
14 including:

15 (i) the components of a waiver under § 1332 of the Affordable Care
16 Act to ensure market stability;

17 (ii) whether to pursue a standard plan design that limits cost
18 sharing;

19 (iii) whether to merge the individual and small group health
20 insurance markets in the State for rating purposes;

21 (iv) whether to pursue a Basic Health Program; and

22 (v) whether to pursue a Medicaid buy-in program for the individual
23 market.

24 (2) The Maryland Health Insurance Coverage Protection Commission shall
25 engage an independent actuarial firm to assist in its study under this subsection.

26 (b) On or before October 1, 2018, the Maryland Health Insurance Coverage
27 Protection Commission shall issue a report on its findings and recommendations, including
28 any legislative proposals, under subsection (a) of this section to the Governor and, in
29 accordance with § 2-1246 of the State Government Article, the General Assembly.

30 SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Health Benefit
31 Exchange shall adopt the regulations required under § 31-117 of the Insurance Article, as
32 enacted by Section 1 of this Act, on or before January 1, 2019.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
2 measure, is necessary for the immediate preservation of the public health or safety, has
3 been passed by a yea and nay vote supported by three-fifths of all the members elected to
4 each of the two Houses of the General Assembly, and shall take effect from the date it is
5 enacted.