

*ENROLLED BILL*  
*-- Finance/Health and Government Operations --*

Introduced by **Senator Middleton**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Insurance - Small Group Market - Self-Employed Individuals -**  
3 **~~Transfer to Maryland Health Insurance Plan~~**

4 FOR the purpose of ~~providing that certain self-employed individuals or sole~~  
5 ~~proprietors are considered medically uninsurable individuals for purposes of the~~  
6 ~~Maryland Health Insurance Plan; requiring the Plan to be a mechanism for~~  
7 ~~certain self-employed individuals or sole proprietors to obtain health insurance~~  
8 ~~coverage in the State; establishing certain criteria that self-employed~~  
9 ~~individuals or sole proprietors must meet to be eligible for coverage under the~~  
10 ~~Maryland Health Insurance Plan; altering certain criteria for determining when~~  
11 ~~an employee is considered an eligible employee for small group market health~~  
12 ~~insurance; repealing certain provisions of law requiring certain self-employed~~  
13 ~~individuals to be considered small employers under small group market health~~  
14 ~~insurance; repealing a certain provision of law that requires a carrier to~~  
15 ~~establish a certain open enrollment period for self-employed individuals;~~  
16 ~~altering certain definitions; requiring certain individuals to be automatically~~  
17 ~~enrolled in the Maryland Health Insurance Plan on a certain date under certain~~

1 ~~circumstances; providing for the applicability of this Act; authorizing certain~~  
 2 ~~self-employed individuals or sole proprietors to remain enrolled in small group~~  
 3 ~~market health insurance under certain circumstances; requiring the Maryland~~  
 4 ~~Insurance Administration and the Maryland Health Insurance Plan to make a~~  
 5 ~~certain report to certain committees of the General Assembly on or before a~~  
 6 ~~certain date; providing for the termination of certain provisions of the Act; and~~  
 7 ~~generally relating to coverage for self-employed individuals under small group~~  
 8 ~~market health insurance and the Maryland Health Insurance Plan.~~

9 BY repealing and reenacting, without amendments,  
 10 Article - Insurance  
 11 Section 14-501(a), (h) and (i), 14-502, ~~and~~ 15-1201(a), and 15-1212(b)  
 12 Annotated Code of Maryland  
 13 (2002 Replacement Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,  
 15 Article - Insurance  
 16 Section ~~14-501(h)~~, 15-1201(e) and (h), 15-1203, and 15-1210(a)  
 17 Annotated Code of Maryland  
 18 (2002 Replacement Volume and 2004 Supplement)

19 ~~BY adding to~~  
 20 ~~Article - Insurance~~  
 21 ~~Section 14-509~~  
 22 ~~Annotated Code of Maryland~~  
 23 ~~(2002 Replacement Volume and 2004 Supplement)~~

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

26 **Article - Insurance**

27 14-501.

28 (a) In this subtitle the following words have the meanings indicated.

29 (h) (1) "Medically uninsurable individual" means an individual who is a  
 30 resident of the State and who:

31 (i) provides evidence that, for health reasons, a carrier has refused  
 32 to issue substantially similar coverage to the individual;

33 (ii) provides evidence that, for health reasons, a carrier has refused  
 34 to issue substantially similar coverage to the individual, except at a rate that exceeds  
 35 the Plan rate;

1 (iii) satisfies the definition of "eligible individual" under § 15-1301  
2 of this article;

3 (iv) has a history of or suffers from a medical or health condition  
4 that is included on a list promulgated in regulation by the Board;

5 (v) is eligible for the tax credit for health insurance costs under § 35  
6 of the Internal Revenue Code; ~~for~~

7 (vi) ~~IS A SELF EMPLOYED INDIVIDUAL OR SOLE PROPRIETOR~~  
8 ~~DESCRIBED IN § 14-509 OF THIS SUBTITLE; OR~~

9 ~~(vii)~~ is a dependent of an individual who is eligible for coverage  
10 under this subsection.

11 (2) "Medically uninsurable individual" does not include an individual  
12 who is eligible for coverage under:

13 (i) the federal Medicare program;

14 (ii) the Maryland Medical Assistance Program;

15 (iii) the Maryland Children's Health Program; or

16 (iv) an employer-sponsored group health insurance plan that  
17 includes benefits comparable to Plan benefits, unless the individual is eligible for the  
18 tax credit for health insurance costs under § 35 of the Internal Revenue Code.

19 (i) "Plan" means the Maryland Health Insurance Plan.

20 14-502.

21 (a) There is a Maryland Health Insurance Plan.

22 (b) The Plan is an independent unit that operates within the Administration.

23 (c) The purpose of the Plan is to decrease uncompensated care costs by  
24 providing access to affordable, comprehensive health benefits for medically  
25 uninsurable residents of the State by July 1, 2003.

26 (d) It is the intent of the General Assembly that the Plan operate as a  
27 nonprofit entity and that Fund revenue, to the extent consistent with good business  
28 practices, be used to subsidize health insurance coverage for medically uninsurable  
29 individuals.

30 ~~14-509.~~

31 ~~(A) THE PLAN SHALL BE A MECHANISM FOR SELF EMPLOYED INDIVIDUALS~~  
32 ~~OR SOLE PROPRIETORS AS DESCRIBED IN THIS SECTION TO OBTAIN HEALTH~~  
33 ~~INSURANCE COVERAGE IN THE STATE.~~

1 ~~(B) (1) AN INDIVIDUAL IS ELIGIBLE FOR COVERAGE AS A SELF INSURED~~  
 2 ~~INDIVIDUAL OR SOLE PROPRIETOR UNDER THE PLAN IF THE INDIVIDUAL MEETS THE~~  
 3 ~~CRITERIA SPECIFIED IN THIS SUBSECTION.~~

4 ~~(2) AN INDIVIDUAL IS ELIGIBLE FOR COVERAGE UNDER THE PLAN IF~~  
 5 ~~THE INDIVIDUAL:~~

6 ~~(I) WORKS AND RESIDES IN THE STATE; AND~~

7 ~~(II) IS A SELF EMPLOYED INDIVIDUAL ORGANIZED AS A SOLE~~  
 8 ~~PROPRIETORSHIP OR IN ANY OTHER LEGALLY RECOGNIZED MANNER THAT A~~  
 9 ~~SELF EMPLOYED INDIVIDUAL MAY ORGANIZE:~~

10 ~~1. A SUBSTANTIAL PART OF WHOSE INCOME DERIVES FROM~~  
 11 ~~A TRADE OR BUSINESS THROUGH WHICH THE INDIVIDUAL HAS ATTEMPTED TO EARN~~  
 12 ~~TAXABLE INCOME;~~

13 ~~2. WHO HAS FILED THE APPROPRIATE INTERNAL REVENUE~~  
 14 ~~FORM FOR THE PREVIOUS TAXABLE YEAR; AND~~

15 ~~3. FOR WHOM A COPY OF THE APPROPRIATE INTERNAL~~  
 16 ~~REVENUE FORM OR FORMS AND SCHEDULE HAS BEEN FILED WITH THE PLAN.~~

17 ~~(3) AN INDIVIDUAL IS ELIGIBLE FOR COVERAGE UNDER THE PLAN IF~~  
 18 ~~THE INDIVIDUAL IS A SELF EMPLOYED INDIVIDUAL WHO IS ENGAGED IN A~~  
 19 ~~LICENSED PROFESSION THROUGH A PROFESSIONAL CORPORATION ORGANIZED IN~~  
 20 ~~ACCORDANCE WITH TITLE 5, SUBTITLE 1 OF THE CORPORATIONS AND ASSOCIATIONS~~  
 21 ~~ARTICLE AND WHO RECEIVED HEALTH BENEFITS THROUGH A PROFESSIONAL~~  
 22 ~~ASSOCIATION ON OR BEFORE JUNE 30, 1994.~~

23 15-1201.

24 (a) In this subtitle the following words have the meanings indicated.

25 (e) (1) "Eligible employee" means:

26 (i) an individual who:

27 1. is an employee, [sole proprietor, self-employed  
 28 individual,] partner of a partnership, or independent contractor who is included as an  
 29 employee under a health benefit plan; and

30 2. works on a full-time basis and has a normal workweek of  
 31 at least 30 hours; or

32 (ii) a sole employee of a nonprofit organization that has been  
 33 determined by the Internal Revenue Service to be exempt from taxation under §  
 34 501(c)(3), (4), or (6) of the Internal Revenue Code who:

35 1. has a normal workweek of at least 20 hours; and



1 (i) a person is considered a small employer under this subtitle if  
2 the employer did not exist during the preceding calendar year but on at least 50% of  
3 the working days during its first year the employer employs at least two but not more  
4 than 50 eligible employees and otherwise satisfies the conditions of paragraph (1)(i) of  
5 this subsection; and

6 (ii) if the federal Employee Retirement Income Security Act  
7 (ERISA) is amended to exclude employee groups under a specific size, this subtitle  
8 shall apply to any employee group size that is excluded from that Act.

9 (3) In determining the group size specified under paragraph (1)(i) of this  
10 subsection:

11 (i) companies that are affiliated companies or that are eligible to  
12 file a consolidated federal income tax return shall be considered one employer; and

13 (ii) an employee may not be counted who is a part-time employee  
14 as described in § 15-1210(a)(2) of this subtitle.

15 (4) A carrier may request documentation to verify that a person meets  
16 the criteria under this subsection to be considered a small employer under this  
17 subtitle.

18 (5) Notwithstanding paragraph (1)(i) of this subsection, a person is  
19 considered to continue to be a small employer under this subtitle if the person met the  
20 conditions of paragraph (1)(i) of this subsection and purchased a health benefit plan  
21 in accordance with this subtitle, and subsequently eliminated all but one employee.

22 [(c) An individual is considered a small employer under this subtitle if the  
23 individual:

24 (1) works and resides in the State; and

25 (2) is a self-employed individual organized as a sole proprietorship or in  
26 any other legally recognized manner that a self-employed individual may organize:

27 (i) a substantial part of whose income derives from a trade or  
28 business through which the individual has attempted to earn taxable income;

29 (ii) who has filed the appropriate Internal Revenue form for the  
30 previous taxable year; and

31 (iii) for whom a copy of the appropriate Internal Revenue form or  
32 forms and schedule has been filed with the carrier.

33 (d) An individual is considered a small employer under this subtitle if the  
34 individual is a self-employed individual who is engaged in a licensed profession  
35 through a professional corporation organized in accordance with Title 5, Subtitle 1 of  
36 the Corporations and Associations Article and who received health benefits through a  
37 professional association on or before June 30, 1994.]

1 [(e)] (C) A person is considered a small employer under this subtitle if the  
2 person is a nonprofit organization that has been determined by the Internal Revenue  
3 Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal  
4 Revenue Code and has at least one eligible employee.

5 15-1210.

6 (a) A carrier that offers coverage to a small employer shall:

7 (1) offer coverage to all of its eligible employees and all of their eligible  
8 dependents;

9 (2) at the election of the small employer, offer coverage to all of its  
10 part-time employees who have a normal workweek of at least 17 1/2 but less than 30  
11 hours per week and have been continuously employed for at least 4 consecutive  
12 months; AND

13 (3) at the election of the small employer, offer coverage to all of its  
14 employees who are covered under another public or private plan of health insurance  
15 or another health benefit arrangement[; and

16 (4) establish an annual open enrollment period for self-employed  
17 individuals for at least 30 consecutive days in each 12-month period].

18 15-1212.

19 (b) A carrier may cancel or refuse to renew a health benefit plan only:

20 (1) for nonpayment of premiums;

21 (2) for fraud or intentional misrepresentation of material fact by the  
22 small employer;

23 (3) for noncompliance with a material plan provision relating to  
24 employer contributions or group participation rules;

25 (4) when the carrier elects not to renew:

26 (i) all of its health benefit plans that are issued to small employers  
27 in the State; or

28 (ii) the particular health benefit plan for all small employers in the  
29 State; or

30 (5) in the case of a health maintenance organization, where there is no  
31 longer any enrollee who lives, resides, or works in the health maintenance  
32 organization's approved service area.

33 SECTION 2. AND BE IT FURTHER ENACTED, That each individual  
34 enrolled on September 30, 2005 in a health benefit plan under Title 15, Subtitle 12 of  
35 the Insurance Article ~~after meeting the criteria to be considered a self employed~~

1 individual or sole proprietor, shall, at the option of the enrollee and subject to the  
2 payment of all necessary premiums and copayments, be automatically enrolled in the  
3 Maryland Health Insurance Plan on October 1, 2005 may at the option of the enrollee  
4 remain covered under the policy issued under the health benefit plan, subject to the  
5 termination provisions under § 15-1212(b) of the Insurance Article, provided the  
6 enrollee continues to:

7 (1) work and reside in the State; and

8 (2) is a self-employed individual organized as a sole proprietorship or in  
9 any other legally recognized manner that a self-employed individual may organize:

10 (i) a substantial part of whose income derives from a trade or  
11 business through which the individual has attempted to earn taxable income;

12 (ii) who has filed the appropriate Internal Revenue form or forms  
13 and schedule for the previous taxable year; and

14 (iii) for whom a copy of the appropriate Internal Revenue form or  
15 forms and schedule has been filed with the carrier.

16 SECTION 3. AND BE IT FURTHER ENACTED, That ~~this Act shall apply to~~  
17 ~~health benefit plans under Title 15, Subtitle 12 of the Insurance Article and health~~  
18 ~~insurance policies under the Maryland Health Insurance Plan that are issued,~~  
19 ~~delivered, or renewed in the State on or after October 1, 2005., on or before September~~  
20 1, 2008, the Maryland Insurance Administration and the Maryland Health Insurance  
21 Plan shall submit a report, in accordance with § 2-1246 of the State Government  
22 Article, to the Senate Finance Committee and the House Health and Government  
23 Operations Committee on:

24 (a) the effect of excluding self-employed individuals and sole proprietors from  
25 the small group market on the availability and affordability of health insurance in the  
26 small group market; and

27 (b) the number of self-employed individuals and sole proprietors enrolled in  
28 the Maryland Health Insurance Plan.

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take  
30 effect October 1, 2005. Sections 1 and 2 of this Act shall remain effective for a period  
31 of 3 years and, at the end of September 30, 2008, with no further action required by  
32 the General Assembly, Sections 1 and 2 of this Act shall be abrogated and of no  
33 further force and effect.



