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By: **Senator Middleton**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 24, 2005

Rules suspended

Assigned to: Finance

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A BILL ENTITLED

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 Plan; altering certain criteria for determining when an employee is considered  
 11 an eligible employee for small group market health insurance; repealing certain  
 12 provisions of law requiring certain self-employed individuals to be considered  
 13 small employers under small group market health insurance; repealing a  
 14 certain provision of law that requires a carrier to establish a certain open  
 15 enrollment period for self-employed individuals; altering certain definitions;  
 16 requiring certain individuals to be automatically enrolled in the Maryland  
 17 Health Insurance Plan on a certain date under certain circumstances; providing  
 18 for the applicability of this Act; and generally relating to coverage for  
 19 self-employed individuals under small group market health insurance and the  
 20 Maryland Health Insurance Plan.

21 BY repealing and reenacting, without amendments,  
 22 Article - Insurance  
 23 Section 14-501(a) and (i), 14-502, and 15-1201(a)  
 24 Annotated Code of Maryland  
 25 (2002 Replacement Volume and 2004 Supplement)

26 BY repealing and reenacting, with amendments,  
 27 Article - Insurance  
 28 Section 14-501(h), 15-1201(e) and (h), 15-1203, and 15-1210(a)  
 29 Annotated Code of Maryland

1 (2002 Replacement Volume and 2004 Supplement)

2 BY adding to

3 Article - Insurance

4 Section 14-509

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2004 Supplement)

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

9 **Article - Insurance**

10 14-501.

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

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

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

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

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

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

23 (v) is eligible for the tax credit for health insurance costs under § 35  
24 of the Internal Revenue Code; [or]

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

27 (VII) is a dependent of an individual who is eligible for coverage  
28 under this subsection.

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

31 (i) the federal Medicare program;

32 (ii) the Maryland Medical Assistance Program;

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

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

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

5 14-502.

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

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

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

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

15 14-509.

16 (A) THE PLAN SHALL BE A MECHANISM FOR SELF-EMPLOYED INDIVIDUALS  
17 OR SOLE PROPRIETORS AS DESCRIBED IN THIS SECTION TO OBTAIN HEALTH  
18 INSURANCE COVERAGE IN THE STATE.

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

22 (2) AN INDIVIDUAL IS ELIGIBLE FOR COVERAGE UNDER THE PLAN IF  
23 THE INDIVIDUAL:

24 (I) WORKS AND RESIDES IN THE STATE; AND

25 (II) IS A SELF-EMPLOYED INDIVIDUAL ORGANIZED AS A SOLE  
26 PROPRIETORSHIP OR IN ANY OTHER LEGALLY RECOGNIZED MANNER THAT A  
27 SELF-EMPLOYED INDIVIDUAL MAY ORGANIZE:

28 1. A SUBSTANTIAL PART OF WHOSE INCOME DERIVES FROM  
29 A TRADE OR BUSINESS THROUGH WHICH THE INDIVIDUAL HAS ATTEMPTED TO EARN  
30 TAXABLE INCOME;

31 2. WHO HAS FILED THE APPROPRIATE INTERNAL REVENUE  
32 FORM FOR THE PREVIOUS TAXABLE YEAR; AND

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

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

7 15-1201.

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

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

10 (i) an individual who:

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

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

16 (ii) a sole employee of a nonprofit organization that has been  
17 determined by the Internal Revenue Service to be exempt from taxation under §  
18 501(c)(3), (4), or (6) of the Internal Revenue Code who:

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

20 2. is not covered under a public or private plan for health  
21 insurance or other health benefit arrangement.

22 (2) "Eligible employee" does not include an individual who works:

23 (i) on a temporary or substitute basis; or

24 (ii) except for an individual described in paragraph (1)(ii) of this  
25 subsection, for less than 30 hours in a normal workweek.

26 (h) "Late enrollee" means[:

27 (1)] an eligible employee or dependent who requests enrollment in a  
28 health benefit plan after the initial enrollment period provided under the health  
29 benefit plan[: or

30 (2) a self-employed individual described in § 15-1203(c) or (d) of this  
31 subtitle or dependent who requests enrollment in a health benefit plan after an  
32 annual open enrollment period for self-employed individuals established by the  
33 carrier in accordance with regulations adopted by the Commissioner].

1 15-1203.

2 (a) A small employer under this subtitle is a person that meets the criteria  
3 specified in any subsection of this section.

4 (b) (1) A person is considered a small employer under this subtitle if the  
5 person:

6 (i) is an employer that on at least 50% of its working days during  
7 the preceding calendar quarter, employed at least two but not more than 50 eligible  
8 employees, the majority of whom are employed in the State; and

9 (ii) is a person actively engaged in business or is the governing body  
10 of:

11 1. a charter home-rule county established under Article  
12 XI-A of the Maryland Constitution;

13 2. a code home-rule county established under Article XI-F of  
14 the Maryland Constitution;

15 3. a commission county established or operating under  
16 Article 25 of the Code; or

17 4. a municipal corporation established or operating under  
18 Article XI-E of the Maryland Constitution.

19 (2) Notwithstanding paragraph (1)(i) of this subsection:

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

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

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

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

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

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

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

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

7           (1)     works and resides 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 for the  
13 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     (d)     An individual is considered a small employer under this subtitle if the  
17 individual is a self-employed individual who is engaged in a licensed profession  
18 through a professional corporation organized in accordance with Title 5, Subtitle 1 of  
19 the Corporations and Associations Article and who received health benefits through a  
20 professional association on or before June 30, 1994.]

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

25 15-1210.

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

27           (1)     offer coverage to all of its eligible employees and all of their eligible  
28 dependents;

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

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

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

3       SECTION 2. AND BE IT FURTHER ENACTED, That each individual  
4 enrolled on September 30, 2005 in a health benefit plan under Title 15, Subtitle 12 of  
5 the Insurance Article after meeting the criteria to be considered a self-employed  
6 individual or sole proprietor, shall, at the option of the enrollee and subject to the  
7 payment of all necessary premiums and copayments, be automatically enrolled in the  
8 Maryland Health Insurance Plan on October 1, 2005.

9       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to  
10 health benefit plans under Title 15, Subtitle 12 of the Insurance Article and health  
11 insurance policies under the Maryland Health Insurance Plan that are issued,  
12 delivered, or renewed in the State on or after October 1, 2005.

13       SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take  
14 effect October 1, 2005.