

SENATE BILL 387

C3, Q3

EMERGENCY BILL
ENROLLED BILL

(8lr1711)

— 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 – ~~Health Care Access Program – Establishment~~ Individual**
3 **Market Stabilization**
4 **(Maryland Health Care Access Act of 2018)**

5 FOR the purpose of ~~requiring a carrier to pay a certain assessment on certain premiums~~
6 ~~under certain circumstances beginning on a certain date; providing for the~~
7 ~~distribution of the assessment; requiring the assessment to be in addition to certain~~
8 ~~taxes and certain penalties or actions; establishing as a purpose of the Maryland~~
9 ~~Health Benefit Exchange to seek approval of a certain waiver on or before a certain~~
10 ~~date and carry out a certain waiver under certain circumstances; requiring the~~
11 ~~Exchange to apply to certain officials for a certain waiver on or before a certain date;~~
12 ~~requiring the Executive Director of the Exchange, in consultation with the Maryland~~
13 ~~Insurance Commissioner and with the approval of the Board of Trustees of the~~
14 ~~Exchange, to implement a certain plan; authorizing the Exchange to implement a~~
15 ~~certain waiver; altering the purpose, contents, and authorized use of the Maryland~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~Health Benefit Exchange Fund; altering certain requirements relating to the use of certain funds; requiring that certain funds be used in a certain manner; altering certain requirements relating to a certain certification of certain health benefit plans; requiring the Exchange to establish and oversee the implementation of a Health Care Access Program; requiring that the Program be designed to mitigate the impact of certain individuals on certain rates; requiring the Program, beginning on a certain date, to provide reinsurance to certain carriers and premium subsidies to certain individuals; establishing that the Program is contingent on the Centers for Medicare and Medicaid Services approving a waiver under a certain provision of federal law; requiring the Exchange to adopt certain regulations on or before a certain date; requiring, beginning on a certain date, an individual to maintain certain coverage for certain individuals; requiring that an individual pay a certain penalty under certain circumstances; requiring that the penalty be in addition to a certain State income tax and included with a certain income tax return; requiring that certain individuals be jointly liable for the penalty under certain circumstances; establishing the amount of the penalty; exempting an individual who qualifies for a certain exemption under federal law from being assessed the penalty; requiring an individual to indicate certain information on a certain income tax return; requiring the Comptroller to distribute certain revenues from the penalty to a certain fund for certain purposes; authorizing, on or before a certain date, the Commissioner to waive certain statutory requirements under certain circumstances; providing for the application of certain provisions of this Act; defining certain terms; making certain provisions of this Act subject to a certain contingency; terminating certain provisions of this Act under certain circumstances; requiring certain health insurers, nonprofit health service plans, health maintenance organizations, and dental plan organizations, fraternal benefit organizations, managed care organizations, and certain other persons to be subject to a certain assessment in a certain year; establishing the purpose and providing for the distribution of the assessment; establishing that certain provisions of law that apply to certain small employer health benefit plans apply to health benefit plans offered by certain entities; altering the definition of “short-term limited duration insurance” as it relates to certain provisions of law governing individual health benefit plans; altering the membership of the Maryland Health Insurance Coverage Protection Commission; requiring the Commission to study and make recommendations for individual and group health insurance market stability; requiring the Commission to engage an independent actuarial firm to assist in a certain study; requiring the Commission to include its findings and recommendations from a certain study in a certain report; making this Act an emergency measure; and generally relating to health insurance.~~

39 BY adding to

40 Article – Insurance

41 Section 6-102.1, ~~31-108(h)~~, and ~~31-117.1~~

42 Annotated Code of Maryland

43 (2017 Replacement Volume)

44 BY repealing and reenacting, with amendments,

45 Article – Insurance

1 Section ~~31-102(e), 31-107(b) and (c) through (g), and 31-115(b)~~ 15-1202 and
 2 15-1301(s)
 3 Annotated Code of Maryland
 4 (2017 Replacement Volume)

5 ~~BY repealing and reenacting, without amendments,~~
 6 ~~Article - Insurance~~
 7 ~~Section 31-107(a), (c), and (d) and 31-115(a)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2017 Replacement Volume)~~

10 ~~BY adding to~~
 11 ~~Article - Tax - General~~
 12 ~~Section 10-102.2~~
 13 ~~Annotated Code of Maryland~~
 14 ~~(2016 Replacement Volume and 2017 Supplement)~~

15 BY repealing and reenacting, without amendments,
 16 Chapter 17 of the Acts of the General Assembly of 2017
 17 Section 1(b) and (g)

18 BY repealing and reenacting, with amendments,
 19 Chapter 17 of the Acts of the General Assembly of 2017
 20 Section 1(c)(6)(viii) and (ix), (h), and (i)

21 BY adding to
 22 Chapter 17 of the Acts of the General Assembly of 2017
 23 Section 1(c)(6)(x) and (h)

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

26 **Article - Insurance**

27 **6-102.1.**

28 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 29 ~~INDICATED.~~

30 ~~(2) "CARRIER" HAS THE MEANING STATED IN § 31-101 OF THIS~~
 31 ~~ARTICLE.~~

32 ~~(3) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN~~
 33 ~~§ 15-1201 OF THIS ARTICLE.~~

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

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

~~(I) ALLOCABLE TO THE STATE; AND~~

~~(II) WRITTEN DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.~~

~~(C) NOTWITHSTANDING § 2-114 OF THIS ARTICLE, BEGINNING JANUARY 1, 2019, THE ASSESSMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE DISTRIBUTED ANNUALLY TO THE MARYLAND HEALTH BENEFIT EXCHANGE FUND ESTABLISHED UNDER § 31-107 OF THIS ARTICLE FOR THE SOLE PURPOSE OF FUNDING THE OPERATION AND ADMINISTRATION OF THE HEALTH CARE ACCESS PROGRAM AUTHORIZED UNDER § 31-117.1 OF THIS ARTICLE.~~

~~(D) THE ASSESSMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE IN ADDITION TO:~~

~~(1) TAXES DUE FROM THE CARRIER UNDER ANY OTHER PROVISION OF LAW; AND~~

~~(2) PENALTIES OR ACTIONS THAT THE COMMISSIONER MAY TAKE FOR THE CARRIER'S FAILURE TO COMPLY WITH THIS ARTICLE.~~

(A) THIS SECTION APPLIES TO:

(1) A HEALTH AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION, A DENTAL PLAN ORGANIZATION, A FRATERNAL BENEFIT ORGANIZATION, AND ANY OTHER PERSON SUBJECT TO REGULATION BY THE STATE THAT PROVIDES A HEALTH BENEFIT PLAN REGULATED PRODUCT THAT:

(I) IS SUBJECT TO THE FEE UNDER § 9010 OF THE AFFORDABLE CARE ACT; AND

(II) MAY BE SUBJECT TO AN ASSESSMENT BY THE STATE; AND

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

3 **(B) THE PURPOSE OF THIS SECTION IS TO RECOUP THE AGGREGATE**
4 **AMOUNT OF THE HEALTH INSURANCE PROVIDER FEE THAT OTHERWISE WOULD**
5 **HAVE BEEN ASSESSED UNDER § 9010 OF THE AFFORDABLE CARE ACT THAT IS**
6 **ATTRIBUTABLE TO STATE HEALTH RISK FOR CALENDAR YEAR 2019 AS A BRIDGE TO**
7 **STABILITY IN THE INDIVIDUAL HEALTH INSURANCE MARKET.**

8 **(C) (1) IN CALENDAR YEAR 2019, IN ADDITION TO THE AMOUNTS**
9 **OTHERWISE DUE UNDER THIS SUBTITLE, AN ENTITY SUBJECT TO THIS SECTION**
10 **SHALL BE SUBJECT TO AN ASSESSMENT OF 2.75% ON ALL AMOUNTS USED TO**
11 **CALCULATE THE ENTITY’S PREMIUM TAX LIABILITY UNDER § 6-102 OF THIS**
12 **SUBTITLE OR THE AMOUNT OF THE ENTITY’S PREMIUM TAX EXEMPTION VALUE FOR**
13 **CALENDAR YEAR 2018.**

14 **(2) NOTWITHSTANDING § 2-114 OF THIS ARTICLE, THE ASSESSMENT**
15 **REQUIRED UNDER THIS SECTION SHALL BE DISTRIBUTED BY THE COMMISSIONER**
16 **TO THE MARYLAND HEALTH BENEFIT EXCHANGE FUND ESTABLISHED UNDER**
17 **§ 31-107 OF THIS ARTICLE.**

18 15-1202.

19 (a) This subtitle applies only to a health benefit plan that:

20 (1) covers eligible employees of small employers in the State; and

21 (2) is issued or renewed on or after July 1, 1994, if:

22 (i) any part of the premium or benefits is paid by or on behalf of the
23 small employer;

24 (ii) any eligible employee or dependent is reimbursed, through wage
25 adjustments or otherwise, by or on behalf of the small employer for any part of the
26 premium;

27 (iii) the health benefit plan is treated by the employer or any eligible
28 employee or dependent as part of a plan or program under the United States Internal
29 Revenue Code, 26 U.S.C. § 106, § 125, or § 162; or

30 (iv) the small employer allows eligible employees to pay for the
31 health benefit plan through payroll deductions.

32 (b) A carrier is subject to the requirements of § 15-1403 of this title in connection
33 with health benefit plans issued under this subtitle.

1 **(C) THIS SUBTITLE APPLIES TO ANY HEALTH BENEFIT PLAN OFFERED BY AN**
 2 **ASSOCIATION, A PROFESSIONAL ~~EMPLOYEE~~ EMPLOYER ORGANIZATION, OR ANY**
 3 **OTHER ENTITY, INCLUDING A PLAN ISSUED UNDER THE LAWS OF ANOTHER STATE,**
 4 **IF THE HEALTH BENEFIT PLAN COVERS ELIGIBLE EMPLOYEES OF ONE OR MORE**
 5 **SMALL EMPLOYERS AND MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS**
 6 **SECTION.**

7 15-1301.

8 (s) “Short-term limited duration insurance” [has the meaning stated in 45 C.F.R.
 9 § 144.103] MEANS HEALTH INSURANCE COVERAGE PROVIDED UNDER A POLICY OR
 10 CONTRACT WITH A CARRIER AND THAT:

11 **(1) HAS A POLICY TERM THAT IS LESS THAN 3 MONTHS AFTER THE**
 12 **ORIGINAL EFFECTIVE DATE OF THE POLICY OR CONTRACT;**

13 **(2) MAY NOT BE EXTENDED OR RENEWED;**

14 **(3) APPLIES THE SAME UNDERWRITING STANDARDS TO ALL**
 15 **APPLICANTS REGARDLESS OF WHETHER THEY HAVE PREVIOUSLY BEEN COVERED**
 16 **BY SHORT-TERM LIMITED DURATION INSURANCE; AND**

17 **(4) CONTAINS THE NOTICE REQUIRED BY FEDERAL LAW**
 18 **PROMINENTLY DISPLAYED IN THE CONTRACT AND IN ANY APPLICATION MATERIALS**
 19 **PROVIDED IN CONNECTION WITH ENROLLMENT.**

20 ~~31-107.~~

21 ~~(a) There is a Maryland Health Benefit Exchange Fund.~~

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

23 ~~(i) provide funding for the operation and administration of the~~
 24 ~~Exchange in carrying out the purposes of the Exchange under this title; [and]~~

25 ~~(ii) provide funding for the establishment and operation of the State~~
 26 ~~Reinsurance Program authorized under § 31-117 of this title; AND~~

27 ~~(H) PROVIDE FUNDING FOR THE ESTABLISHMENT AND~~
 28 ~~OPERATION OF THE HEALTH CARE ACCESS PROGRAM AUTHORIZED UNDER §~~
 29 ~~31-117.1 OF THIS TITLE.~~

~~(2) The operation and administration of the Exchange and the State Reinsurance Program may include functions delegated by the Exchange to a third party under law or by contract.~~

~~(e) The Exchange shall administer the Fund.~~

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

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

~~(e) The Fund consists of:~~

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

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

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

~~(4) income from investments made on behalf of the Fund;~~

~~(5) interest on deposits or investments of money in the Fund;~~

~~(6) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Exchange or the Fund;~~

~~(7) money donated to the Fund;~~

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

~~(9) THE REALLOCATION OF FEDERAL PREMIUM TAX CREDITS AS AUTHORIZED UNDER A WAIVER APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT;~~

~~(10) TAXES RECEIVED BY THE COMPTROLLER UNDER § 10-102.2 OF THE TAX GENERAL ARTICLE;~~

~~(11) ASSESSMENTS RECEIVED BY THE COMMISSIONER UNDER § 6-102.1 OF THIS ARTICLE; AND~~

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

~~(f) The Fund may be used only:~~

~~(1) for the operation and administration of the Exchange in carrying out the purposes authorized under this title; [and]~~

~~(2) for the establishment and operation of the State Reinsurance Program authorized under § 31-117 of this title; AND~~

~~(3) FOR THE ESTABLISHMENT AND OPERATION OF THE HEALTH CARE ACCESS PROGRAM AUTHORIZED UNDER § 31-117.1 OF THIS TITLE.~~

~~(g) (1) The Board shall maintain separate accounts within the Fund for:~~

~~(I) Exchange operations [and for];~~

~~(II) the State Reinsurance Program; AND~~

~~(III) THE HEALTH CARE ACCESS PROGRAM.~~

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

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

~~(4) Funds transferred from the Maryland Health Insurance Plan Fund before July 1, 2016, shall be placed in the account for the State Reinsurance Program and may be used only for the purpose of funding the State Reinsurance Program AND THE HEALTH CARE ACCESS PROGRAM.~~

~~(5) THE FOLLOWING FUNDS MAY BE USED ONLY FOR THE PURPOSES OF THE HEALTH CARE ACCESS PROGRAM:~~

~~(I) FUNDS TRANSFERRED FROM THE COMPTROLLER UNDER § 10-102.2 OF THE TAX GENERAL ARTICLE;~~

~~(II) FUNDS TRANSFERRED FROM THE COMMISSIONER UNDER § 6-102.1 OF THIS ARTICLE; AND~~

~~(III) FUNDS RECEIVED FROM THE INTERNAL REVENUE SERVICE UNDER A WAIVER APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT.~~

~~31-115.~~

1 ~~(a) The Exchange shall certify:~~

2 ~~(1) health benefit plans as qualified health plans;~~

3 ~~(2) dental plans as qualified dental plans, which may be offered by carriers~~

4 ~~as:~~

5 ~~(i) stand-alone dental plans; or~~

6 ~~(ii) dental plans sold in conjunction with or as an endorsement to~~
7 ~~qualified health plans;~~

8 ~~(3) vision plans as qualified vision plans, which may be offered by carriers~~

9 ~~as:~~

10 ~~(i) stand-alone vision plans; or~~

11 ~~(ii) vision plans sold in conjunction with or as an endorsement to~~
12 ~~qualified health plans; and~~

13 ~~(4) stand-alone dental plans for sale outside the Exchange.~~

14 ~~(b) To be certified as a qualified health plan, a health benefit plan shall:~~

15 ~~(1) except as provided in subsection (c) of this section AND AS OTHERWISE~~
16 ~~AUTHORIZED UNDER A WAIVER APPROVED UNDER § 1332 OF THE AFFORDABLE~~
17 ~~CARE ACT, provide the essential health benefits required under § 1302(a) of the Affordable~~
18 ~~Care Act and § 31-116 of this title;~~

19 ~~(2) obtain prior approval of premium rates and contract language from the~~
20 ~~Commissioner;~~

21 ~~(3) except as provided in subsection (c) of this section, provide at least a~~
22 ~~bronze level of coverage, as defined in the Affordable Care Act and determined by the~~
23 ~~Exchange under § 31-108(b)(8)(ii) of this title;~~

24 ~~(4) (i) ensure that its cost-sharing requirements do not exceed the~~
25 ~~limits established under § 1302(c)(1) of the Affordable Care Act; and~~

26 ~~(ii) if the health benefit plan is offered through the SHOP Exchange,~~
27 ~~ensure that the health benefit plan's deductible does not exceed the limits established~~
28 ~~under § 1302(e)(2) of the Affordable Care Act;~~

29 ~~(5) be offered by a carrier that:~~

1 (i) ~~is licensed and in good standing to offer health insurance~~
2 ~~coverage in the State;~~

3 (ii) ~~IF THE CARRIER PARTICIPATES IN THE SHOP EXCHANGE,~~
4 ~~offers in [each Exchange, the Individual and] the SHOP[, in which the carrier participates,]~~
5 ~~EXCHANGE at least one qualified health plan:~~

6 ~~1. at a bronze level of coverage;~~

7 ~~2. at a silver level of coverage; and~~

8 ~~3. at a gold level of coverage;~~

9 (iii) ~~if the carrier participates in the Individual Exchange [and offers~~
10 ~~any health benefit plan in the individual market outside the Exchange, offers at least one~~
11 ~~qualified health plan at the silver level and one at the gold level in the individual market~~
12 ~~outside the Exchange], OFFERS IN THE INDIVIDUAL EXCHANGE AND IN THE~~
13 ~~INDIVIDUAL MARKET OUTSIDE THE EXCHANGE AT LEAST ONE QUALIFIED HEALTH~~
14 ~~PLAN AT A GOLD LEVEL OF COVERAGE IN ACCORDANCE WITH THE STANDARDIZED~~
15 ~~BENEFIT DESIGN ESTABLISHED BY THE EXCHANGE;~~

16 (iv) ~~if the carrier participates in the SHOP Exchange and offers any~~
17 ~~health benefit plan in the small group market outside the SHOP Exchange, offers at least~~
18 ~~one qualified health plan at the silver level and one at the gold level in the small group~~
19 ~~market outside the SHOP Exchange;~~

20 (v) ~~charges the same premium rate for each qualified health plan~~
21 ~~regardless of whether the qualified health plan is offered through the Exchange, through~~
22 ~~an insurance producer outside the Exchange, or directly from a carrier;~~

23 (vi) ~~does not charge any cancellation fees or penalties in violation of~~
24 ~~§ 31-108(d) of this title; and~~

25 (vii) ~~complies with the regulations adopted by the Secretary under §~~
26 ~~1311(d) of the Affordable Care Act and by the Exchange under § 31-106(e)(1)(iv) of this~~
27 ~~title;~~

28 (G) ~~meet the requirements for certification established under the~~
29 ~~regulations adopted by:~~

30 (i) ~~the Secretary under § 1311(e)(1) of the Affordable Care Act,~~
31 ~~including minimum standards for marketing practices, network adequacy, essential~~
32 ~~community providers in underserved areas, accreditation, quality improvement, uniform~~
33 ~~enrollment forms and descriptions of coverage, and information on quality measures for~~
34 ~~health plan performance; and~~

1 ~~(ii) the Exchange under § 31-106(e)(1)(iv) of this title;~~

2 ~~(7) be in the interest of qualified individuals and qualified employers, as~~
3 ~~determined by the Exchange;~~

4 ~~(8) provide any other benefits as may be required by the Commissioner~~
5 ~~under any applicable State law or regulation; and~~

6 ~~(9) meet any other requirements established by the Exchange under this~~
7 ~~title, including:~~

8 ~~(i) transition of care language in contracts as determined~~
9 ~~appropriate by the Exchange to ensure care continuity and reduce duplication and costs of~~
10 ~~care;~~

11 ~~(ii) criteria that encourage and support qualified plans in facilitating~~
12 ~~cross-border enrollment; and~~

13 ~~(iii) demonstrating compliance with the federal Mental Health Parity~~
14 ~~and Addiction Equity Act of 2008.~~

15 ~~31-117.1.~~

16 ~~(A) THE EXCHANGE SHALL ESTABLISH AND OVERSEE THE~~
17 ~~IMPLEMENTATION OF A HEALTH CARE ACCESS PROGRAM IN ACCORDANCE WITH §~~
18 ~~1332 OF THE AFFORDABLE CARE ACT.~~

19 ~~(B) THE HEALTH CARE ACCESS PROGRAM SHALL BE DESIGNED TO~~
20 ~~MITIGATE THE IMPACT OF HIGH-RISK INDIVIDUALS ON RATES FOR HEALTH BENEFIT~~
21 ~~PLANS IN THE INDIVIDUAL MARKET IN THE STATE, BOTH INSIDE AND OUTSIDE THE~~
22 ~~EXCHANGE.~~

23 ~~(C) BEGINNING JANUARY 1, 2019, THE HEALTH CARE ACCESS PROGRAM~~
24 ~~SHALL PROVIDE:~~

25 ~~(1) REINSURANCE TO CARRIERS THAT ISSUE HEALTH BENEFIT PLANS~~
26 ~~IN THE INDIVIDUAL MARKET IN THE STATE; AND~~

27 ~~(2) PREMIUM SUBSIDIES TO LOW-TO-MODERATE-INCOME~~
28 ~~INDIVIDUALS AS AUTHORIZED UNDER A WAIVER APPROVED UNDER § 1332 OF THE~~
29 ~~AFFORDABLE CARE ACT.~~

30 ~~(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE~~
31 ~~HEALTH CARE ACCESS PROGRAM IS CONTINGENT ON THE CENTERS FOR~~

~~MEDICARE AND MEDICAID SERVICES APPROVING A WAIVER UNDER § 1332 OF THE AFFORDABLE CARE ACT.~~

~~(E) ON OR BEFORE JANUARY 1, 2019, THE EXCHANGE SHALL ADOPT REGULATIONS IMPLEMENTING THE PROVISIONS OF THIS SECTION.~~

~~Article Tax General~~

~~10-102.2.~~

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

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

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT AS PROVIDED UNDER SUBSECTION (E) OF THIS SECTION, AN INDIVIDUAL SHALL PAY A PENALTY IN THE AMOUNT DETERMINED UNDER SUBSECTION (D) OF THIS SECTION IF THE INDIVIDUAL FAILS TO MAINTAIN THE COVERAGE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION FOR 3 OR MORE MONTHS OF THE TAXABLE YEAR.~~

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

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

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

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

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

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

~~(2) THE FOLLOWING FLAT RATES PER INDIVIDUAL, WHICH SHALL BE ADJUSTED ANNUALLY FOR INFLATION:~~

~~(I) \$695 PER ADULT; AND~~

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

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

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

~~(1) THE INDIVIDUAL;~~

~~(2) THE INDIVIDUAL'S SPOUSE IN THE CASE OF A MARRIED COUPLE;~~

~~AND~~

~~(3) EACH DEPENDENT CHILD OF THE INDIVIDUAL, IF ANY.~~

~~(G) NOTWITHSTANDING § 2-609 OF THIS ARTICLE AND AFTER DEDUCTING A REASONABLE AMOUNT FOR ADMINISTRATIVE COSTS, THE COMPTROLLER SHALL DISTRIBUTE THE REVENUES FROM THE PENALTY TO THE MARYLAND HEALTH BENEFIT EXCHANGE FUND FOR THE PURPOSES OF THE HEALTH CARE ACCESS PROGRAM ESTABLISHED UNDER § 31-117.1 OF THE INSURANCE ARTICLE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Insurance~~

~~§ 102.~~

~~(e) The purposes of the Exchange are to:~~

~~(1) reduce the number of uninsured in the State;~~

1 ~~(2) facilitate the purchase and sale of qualified health plans in the~~
 2 ~~individual market in the State by providing a transparent marketplace;~~

3 ~~(3) assist qualified employers in the State in facilitating the enrollment of~~
 4 ~~their employees in qualified health plans in the small group market in the State and in~~
 5 ~~accessing small business tax credits;~~

6 ~~(4) assist individuals in accessing public programs, premium tax credits,~~
 7 ~~and cost sharing reductions; [and]~~

8 ~~(5) supplement the individual and small group insurance markets outside~~
 9 ~~of the Exchange; AND~~

10 ~~(6) IN CONSULTATION WITH THE COMMISSIONER:~~

11 ~~(I) ON OR BEFORE JULY 1, 2018, SEEK APPROVAL FROM THE~~
 12 ~~UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES AND THE UNITED~~
 13 ~~STATES SECRETARY OF THE TREASURY OF A WAIVER UNDER § 1332 OF THE~~
 14 ~~AFFORDABLE CARE ACT TO IMPLEMENT INNOVATIONS RELATING TO THE~~
 15 ~~PROVISION OF HEALTH INSURANCE COVERAGE IN THE STATE; AND~~

16 ~~(II) IF APPROVED BY THE CENTERS FOR MEDICARE AND~~
 17 ~~MEDICAID SERVICES, CARRY OUT THE WAIVER, INCLUDING DEVELOPING A~~
 18 ~~STANDARDIZED BENEFIT PLAN FOR GOLD LEVEL COVERAGE THAT A CARRIER IS~~
 19 ~~REQUIRED TO OFFER UNDER § 31-115 OF THIS TITLE.~~

20 ~~31-108.~~

21 ~~(H) (1) ON OR BEFORE JULY 1, 2018, THE EXCHANGE SHALL APPLY TO~~
 22 ~~THE UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES AND TO THE~~
 23 ~~UNITED STATES SECRETARY OF THE TREASURY UNDER § 1332 OF THE~~
 24 ~~AFFORDABLE CARE ACT FOR A WAIVER OF APPLICABLE PROVISIONS OF THE~~
 25 ~~AFFORDABLE CARE ACT RELATING TO HEALTH INSURANCE COVERAGE IN THE~~
 26 ~~STATE FOR A PLAN YEAR BEGINNING ON OR AFTER JANUARY 1, 2019.~~

27 ~~(2) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE~~
 28 ~~COMMISSIONER AND WITH THE APPROVAL OF THE BOARD, MAY IMPLEMENT A~~
 29 ~~STATE PLAN MEETING THE WAIVER REQUIREMENTS:~~

30 ~~(I) IN A MANNER CONSISTENT WITH STATE AND FEDERAL LAW;~~
 31 ~~AND~~

32 ~~(II) AS APPROVED BY THE UNITED STATES SECRETARY OF~~
 33 ~~HEALTH AND HUMAN SERVICES AND THE UNITED STATES SECRETARY OF THE~~
 34 ~~TREASURY.~~

~~(3) THE EXCHANGE MAY IMPLEMENT ANY FEDERALLY APPROVED WAIVER REQUESTED BY THE EXCHANGE UNDER THIS SUBSECTION.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2018, the Maryland Insurance Commissioner may waive any notification or other requirements on a carrier under the Insurance Article that apply in calendar year 2018 and that the Commissioner determines cannot reasonably be met due to the carrier's or the State's implementation of a waiver approved under § 1332 of the Affordable Care Act.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect contingent on the receipt by the Maryland Health Benefit Exchange of approval of a waiver under § 1332 of the Patient Protection and Affordable Care Act of applicable provisions of the Patient Protection and Affordable Care Act relating to health insurance coverage in the State by the United States Secretary of Health and Human Services or the United States Secretary of the Treasury. If approval is received on or before July 1, 2023, Section 1 of this Act shall take effect on the date notice of the approval is received by the Department of Legislative Services in accordance with this section. If the Maryland Health Benefit Exchange does not receive approval for the waiver on or before July 1, 2023, Section 1 of this Act, with no further action required by the General Assembly, shall be null and void. The Maryland Health Benefit Exchange, within 5 days after receiving notice of approval or denial of a waiver, shall forward a copy of the notice to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That, if Section 1 of this Act becomes null and void under Section 4 of this Act, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect on the date that Section 1 becomes null and void.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 17 of the Acts of 2017

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(b) There is a Maryland Health Insurance Coverage Protection Commission.

(c) The Commission consists of the following members:

(6) the following members:

(viii) one representative of behavioral health providers, appointed jointly by the President of the Senate and the Speaker of the House; [and]

1 (ix) two members of the public:

2 1. one of whom shall be appointed jointly by the President of
3 the Senate and the Speaker of the House; and

4 2. one of whom shall be appointed by the Governor; AND

5 (X) ONE REPRESENTATIVE OF A GROUP MODEL HEALTH
6 MAINTENANCE ORGANIZATION THAT PARTICIPATES IN THE INDIVIDUAL MARKET,
7 APPOINTED BY THE GOVERNOR.

8 (g) (1) The Commission shall:

9 (i) monitor potential and actual federal changes to the ACA,
10 Medicaid, the Maryland Children's Health Program, Medicare, and the Maryland
11 All-Payer Model;

12 (ii) assess the impact of potential and actual federal changes to the
13 ACA, Medicaid, the Maryland Children's Health Program, Medicare, and the Maryland
14 All-Payer Model; and

15 (iii) provide recommendations for State and local action to protect
16 access of residents of the State to affordable health coverage.

17 (2) The duties of the Commission under paragraph (1) of this subsection
18 shall include a study that includes:

19 (i) an assessment of the current and potential adverse effects of the
20 loss of health coverage on the residents, public health, and economy of the State resulting
21 from changes to the ACA, Medicaid, the Maryland Children's Health Program, Medicare,
22 or the Maryland All-Payer Model;

23 (ii) an estimate of the costs to the State and State residents of
24 adverse effects from changes to the ACA, Medicaid, the Maryland Children's Health
25 Program, Medicare, or the Maryland All-Payer Model and the resulting loss of health
26 coverage;

27 (iii) an examination of measures that may prevent or mitigate the
28 adverse effects of changes to the ACA, Medicaid, the Maryland Children's Health Program,
29 Medicare, or the Maryland All-Payer Model and the resulting loss of health coverage on
30 the residents, public health, and economy of the State; and

31 (iv) recommendations for laws that:

1 1. may be warranted to minimize the adverse effects
2 associated with changes to the ACA, Medicaid, the Maryland Children’s Health Program,
3 Medicare, or the Maryland All–Payer Model; and

4 2. will assist residents in obtaining and maintaining
5 affordable health coverage.

6 **(H) (1) THE COMMISSION SHALL STUDY AND MAKE RECOMMENDATIONS**
7 **FOR INDIVIDUAL AND GROUP HEALTH INSURANCE MARKET STABILITY, INCLUDING:**

8 **(I) THE COMPONENTS OF ONE OR MORE WAIVERS UNDER §**
9 **1332 OF THE AFFORDABLE CARE ACT TO ENSURE MARKET STABILITY THAT MAY BE**
10 **SUBMITTED BY THE STATE;**

11 **(II) WHETHER TO PURSUE A STANDARD PLAN DESIGN THAT**
12 **LIMITS COST SHARING;**

13 **(III) WHETHER TO MERGE THE INDIVIDUAL AND SMALL GROUP**
14 **HEALTH INSURANCE MARKETS IN THE STATE FOR RATING PURPOSES;**

15 **(IV) WHETHER TO PURSUE A BASIC HEALTH PROGRAM;**

16 **(V) WHETHER TO PURSUE A MEDICAID BUY–IN PROGRAM FOR**
17 **THE INDIVIDUAL MARKET;**

18 **(VI) WHETHER TO PROVIDE SUBSIDIES THAT SUPPLEMENT**
19 **PREMIUM TAX CREDITS OR COST–SHARING REDUCTIONS DESCRIBED IN § 1402(C)**
20 **OF THE AFFORDABLE CARE ACT; AND**

21 **(VII) WHETHER TO ADOPT A STATE–BASED INDIVIDUAL HEALTH**
22 **INSURANCE MANDATE AND HOW TO USE PAYMENTS COLLECTED FROM INDIVIDUALS**
23 **WHO DO NOT MAINTAIN MINIMUM ESSENTIAL COVERAGE, INCLUDING USE OF THE**
24 **PAYMENTS TO ASSIST INDIVIDUALS IN PURCHASING HEALTH INSURANCE.**

25 **(2) THE COMMISSION SHALL ENGAGE AN INDEPENDENT ACTUARIAL**
26 **FIRM TO ASSIST IN ITS STUDY UNDER THIS SUBSECTION.**

27 **(3) THE COMMISSION SHALL INCLUDE ITS FINDINGS AND**
28 **RECOMMENDATIONS FROM THE STUDY REQUIRED UNDER PARAGRAPH (1) OF THIS**
29 **SUBSECTION IN THE ANNUAL REPORT SUBMITTED BY THE COMMISSION ON OR**
30 **BEFORE DECEMBER 31, 2019, UNDER SUBSECTION (J) OF THIS SECTION.**

31 **[(h)](I)** The Commission may:

1 (1) hold public meetings across the State to carry out the duties of the
2 Commission; and

3 (2) convene workgroups to solicit input from stakeholders.

4 **[(i)](J)** On or before December 31 each year, the Commission shall submit a
5 report on its findings and recommendations, including any legislative proposals, to the
6 Governor and, in accordance with § 2-1246 of the State Government Article, the General
7 Assembly.

8 SECTION ~~6~~ 3. AND BE IT FURTHER ENACTED, That, ~~subject to Section 4 of this~~
9 ~~Act,~~ this Act is an emergency measure, is necessary for the immediate preservation of the
10 public health or safety, has been passed by a yea and nay vote supported by three-fifths of
11 all the members elected to each of the two Houses of the General Assembly, and, ~~except as~~
12 ~~provided in Section 4 of this Act,~~ shall take effect from the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.