

Chapter 616

(House Bill 671)

AN ACT concerning

~~Estates and Trusts~~ – Health Savings Accounts – Establishment and Application of Trust Law

FOR the purpose of authorizing the establishment of a certain health savings account; providing that certain provisions of law do not apply to certain health savings accounts; providing that a certain health savings account is established on the first day that an individual becomes covered under a certain health plan; requiring a health savings account to be opened with a trustee or custodian within a certain time period; clarifying that a health savings account is established regardless of certain circumstances; making this Act an emergency measure; defining certain terms; and generally relating to health savings accounts.

BY ~~repealing and reenacting, with amendments,~~ adding to  
Article – Estates and Trusts  
Section ~~14.5-401~~ 14-501 to be under the new subtitle “Subtitle 5. Health Savings Accounts”  
Annotated Code of Maryland  
(2017 Replacement Volume and 2019 Supplement)

BY adding to  
Article – Insurance  
Section 15-144  
Annotated Code of Maryland  
(2017 Replacement Volume and 2019 Supplement)

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

**Article – Estates and Trusts**

~~14.5-401.~~

~~(A) A trust may be created by:~~

~~(1) Transfer of property to another person as trustee during the lifetime of the settlor or by will or other disposition taking effect on the death of the settlor;~~

~~(2) Declaration by the owner of property that the owner holds identifiable property as trustee; or~~

SUBTITLE 5. HEALTH SAVINGS ACCOUNTS.14-501.

(A) IN THIS SUBTITLE, “HEALTH SAVINGS ACCOUNT” HAS THE MEANING STATED IN § 223 OF THE INTERNAL REVENUE CODE.

(B) A HEALTH SAVINGS ACCOUNT MAY BE ESTABLISHED AS PROVIDED IN § 15-144 OF THE INSURANCE ARTICLE.

(C) EXCEPT AS PROVIDED IN THIS SUBTITLE OR REQUIRED BY FEDERAL LAW, THIS ARTICLE DOES NOT APPLY TO A HEALTH SAVINGS ACCOUNT.

~~(3) Exercise of a power of appointment in favor of a trustee.~~

Article – Insurance15-144.

~~(B)~~ (A) (1) (H) IN THIS SUBSECTION SECTION THE FOLLOWING WORDS HAVING THE MEANINGS INDICATED.

~~(H)~~ (2) “HEALTH SAVINGS ACCOUNT” HAS THE MEANING STATED IN § 223 OF THE INTERNAL REVENUE CODE.

~~(H)~~ (3) “HIGH DEDUCTIBLE HEALTH PLAN” HAS THE MEANING STATED IN § 223 OF THE INTERNAL REVENUE CODE.

~~(2)~~ (B) A HEALTH SAVINGS ACCOUNT IS ESTABLISHED ON THE FIRST DAY THAT AN INDIVIDUAL BECOMES COVERED BY A HIGH DEDUCTIBLE HEALTH PLAN.

~~(3)~~ (C) THE HEALTH SAVINGS ACCOUNT SHALL BE OPENED WITH A TRUSTEE OR CUSTODIAN WITHIN THE TIME PERIOD PRESCRIBED BY LAW, WITHOUT EXTENSIONS, FOR FILING A FEDERAL INCOME TAX RETURN FOR THE YEAR IN WHICH THE HEALTH SAVINGS ACCOUNT IS ESTABLISHED.

~~(4)~~ (D) A HEALTH SAVINGS ACCOUNT IS ESTABLISHED REGARDLESS OF A TRANSFER OF CASH OR OTHER PROPERTY TO THE ACCOUNT AND, UNLESS REQUIRED BY THE TRUSTEE OR CUSTODIAN, IT IS NOT NECESSARY FOR ANY PARTY TO SIGN A HEALTH SAVINGS ACCOUNT TRUST OR CUSTODIAL AGREEMENT REGARDING THE HEALTH SAVINGS ACCOUNT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2020~~ is an emergency measure, is necessary for the immediate preservation of

the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.**