

# HOUSE BILL 709

J5, C3

2lr1675  
CF 2lr1676

---

By: **Delegates R. Lewis, Lierman, and K. Young**

Introduced and read first time: January 31, 2022

Assigned to: Health and Government Operations

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Health Benefit Exchange – Small Business and Nonprofit Health**  
3 **Insurance Subsidies Program**

4 FOR the purpose of establishing a Small Business and Nonprofit Health Insurance  
5 Subsidies Program in the State to provide subsidies to small business and nonprofit  
6 employers and their employees for the purchase of qualified health benefit plans on  
7 the Maryland Health Benefit Exchange; and generally relating to the Maryland  
8 Health Benefit Exchange and subsidies for small businesses and nonprofits.

9 BY repealing and reenacting, with amendments,  
10 Article – Insurance  
11 Section 31–107  
12 Annotated Code of Maryland  
13 (2017 Replacement Volume and 2021 Supplement)

14 BY adding to  
15 Article – Insurance  
16 Section 31–123  
17 Annotated Code of Maryland  
18 (2017 Replacement Volume and 2021 Supplement)

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

21 **Article – Insurance**

22 31–107.

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

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

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (ii) provide funding for the establishment and operation of the State  
4 Reinsurance Program authorized under this subtitle;

5 (iii) provide funding for the Medical Assistance Program and the  
6 Senior Prescription Drug Assistance Program;

7 (iv) provide funding for the establishment and operation of Health  
8 Equity Resource Communities under Title 20, Subtitle 14 of the Health – General Article;  
9 [and]

10 (v) provide funding for the establishment and operation of the  
11 State–Based Young Adult Health Insurance Subsidies Pilot Program authorized under this  
12 subtitle; AND

13 **(VI) PROVIDE FUNDING FOR THE ESTABLISHMENT AND**  
14 **OPERATION OF THE SMALL BUSINESS AND NONPROFIT HEALTH INSURANCE**  
15 **SUBSIDIES PROGRAM AUTHORIZED UNDER THIS SUBTITLE.**

16 (2) The operation and administration of the Exchange, the State  
17 Reinsurance Program, [and] the State–Based Young Adult Health Insurance Subsidies  
18 Pilot Program, **AND THE SMALL BUSINESS AND NONPROFIT HEALTH INSURANCE**  
19 **SUBSIDIES PROGRAM** may include functions delegated by the Exchange to a third party  
20 under law or by contract.

21 (c) The Exchange shall administer the Fund.

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

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

26 (e) The Fund consists of:

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

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

30 (3) income from investments made on behalf of the Fund;

31 (4) interest on deposits or investments of money in the Fund;

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

3 (6) money donated to the Fund;

4 (7) money awarded to the Fund through grants;

5 (8) any pass-through funds received from the federal government under a  
6 waiver approved under § 1332 of the Affordable Care Act;

7 (9) any funds designated by the federal government to provide reinsurance  
8 to carriers that offer individual health benefit plans in the State;

9 (10) any funds designated by the State to provide reinsurance to carriers  
10 that offer individual health benefit plans in the State;

11 (11) any funds designated by the State to provide State-based health  
12 insurance subsidies to young adults in the State;

13 **(12) ANY FEDERAL FUNDS AVAILABLE TO PROVIDE HEALTH**  
14 **INSURANCE SUBSIDIES TO QUALIFIED SMALL BUSINESS AND NONPROFIT**  
15 **EMPLOYERS AND THEIR EMPLOYEES IN THE STATE, INCLUDING FUNDS FROM THE**  
16 **FEDERAL AMERICAN RESCUE PLAN OF 2021;**

17 **[(12)] (13)** any federal funds received in accordance with § 31-121 of this  
18 subtitle for the administration of small business tax credits; and

19 **[(13)] (14)** any other money from any other source accepted for the benefit  
20 of the Fund.

21 (f) (1) The Fund may be used only:

22 (i) 1. for the operation and administration of the Exchange in  
23 carrying out the purposes authorized under this subtitle;

24 2. for the establishment and operation of the State  
25 Reinsurance Program; and

26 3. for appropriations to the Health Equity Resource  
27 Community Reserve Fund under § 20-1407 of the Health – General Article;

28 (ii) in fiscal years 2021 and 2022, for the Medical Assistance  
29 Program within the Medical Care Programs Administration of the Maryland Department  
30 of Health;

1 (iii) in fiscal year 2022, for the Senior Prescription Drug Assistance  
2 Program established under Title 15, Subtitle 10 of the Health – General Article; [and]

3 (iv) for the establishment and operation of the State–Based Young  
4 Adult Health Insurance Subsidies Pilot Program; **AND**

5 (v) **FOR THE ESTABLISHMENT AND OPERATION OF THE SMALL**  
6 **BUSINESS AND NONPROFIT HEALTH INSURANCE SUBSIDIES PROGRAM.**

7 (2) In each of fiscal years 2023 through 2025, the Governor shall:

8 (i) transfer \$15,000,000 to the Health Equity Resource Community  
9 Reserve Fund; and

10 (ii) include the funds transferred in accordance with item (i) of this  
11 paragraph in the annual budget bill as an appropriation to the Health Equity Resource  
12 Community Reserve Fund under § 20–1407 of the Health – General Article.

13 (g) (1) The Board shall maintain separate accounts within the Fund for  
14 Exchange operations, for the State Reinsurance Program, [and] for the State–Based Young  
15 Adult Health Insurance Subsidies Pilot Program, **AND FOR THE SMALL BUSINESS AND**  
16 **NONPROFIT HEALTH INSURANCE SUBSIDIES PROGRAM.**

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

19 (3) Funds received from the distribution of the premium tax under §  
20 6–103.2 of this article shall be placed in the account for Exchange operations and may be  
21 used only for the purpose of funding the operation and administration of the Exchange.

22 (4) The following funds may be used only for the purposes of funding the  
23 State Reinsurance Program:

24 (i) any pass–through funds received from the federal government  
25 under a waiver approved under § 1332 of the Affordable Care Act to provide reinsurance to  
26 carriers that offer individual health benefit plans in the State;

27 (ii) any funds designated by the federal government to provide  
28 reinsurance to carriers that offer individual health benefit plans in the State; and

29 (iii) any funds designated by the State to provide reinsurance to  
30 carriers that offer individual health benefit plans in the State.

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

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

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

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

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

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

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

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

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

21 **31–123.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
23 INDICATED.

24 (2) “PROGRAM” MEANS THE SMALL BUSINESS AND NONPROFIT  
25 HEALTH INSURANCE SUBSIDIES PROGRAM.

26 (3) (I) “QUALIFIED EMPLOYER” MEANS AN EMPLOYER WITH  
27 FEWER THAN 25 FULL–TIME EQUIVALENT EMPLOYEES.

28 (II) “QUALIFIED EMPLOYER” INCLUDES A NONPROFIT  
29 ORGANIZATION EMPLOYER WITH FEWER THAN 25 FULL–TIME EQUIVALENT  
30 EMPLOYEES.

31 (B) THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS  
32 APPROVED BY THE BOARD, SHALL ESTABLISH AND IMPLEMENT A SMALL BUSINESS

1 AND NONPROFIT HEALTH INSURANCE SUBSIDIES PROGRAM TO PROVIDE  
2 SUBSIDIES TO QUALIFIED EMPLOYERS AND THEIR EMPLOYEES FOR THE PURCHASE  
3 OF QUALIFIED HEALTH BENEFIT PLANS ON THE EXCHANGE.

4 (C) THE PROGRAM REQUIRED UNDER THIS SECTION SHALL BE DESIGNED  
5 TO REDUCE THE AMOUNT THAT QUALIFIED EMPLOYERS AND THEIR EMPLOYEES PAY  
6 FOR QUALIFIED HEALTH BENEFIT PLANS ON THE EXCHANGE.

7 (D) FOR CALENDAR YEARS 2024 THROUGH 2028, THE EXCHANGE, IN  
8 CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD,  
9 SHALL ESTABLISH SUBSIDY ELIGIBILITY AND PAYMENT PARAMETERS FOR THE  
10 PROGRAM.

11 (E) SUBJECT TO AVAILABLE FUNDS, IN EACH OF FISCAL YEARS 2023  
12 THROUGH 2029, THE EXCHANGE MAY DESIGNATE FUNDS FROM THE FUND TO BE  
13 USED FOR THE PROGRAM SO THAT FOR CALENDAR YEARS 2024 THROUGH 2028 NOT  
14 MORE THAN:

15 (1) \$45,000,000 IN ANNUAL SUBSIDIES MAY BE PROVIDED TO  
16 QUALIFIED EMPLOYERS AND THEIR EMPLOYEES WHO MEET THE SUBSIDY  
17 ELIGIBILITY AND PAYMENT PARAMETERS ESTABLISHED UNDER SUBSECTION (D) OF  
18 THIS SECTION; AND

19 (2) \$3,000,000 MAY BE SPENT IN SMALL BUSINESS OUTREACH  
20 ACTIVITIES FOR THE PURPOSE OF EDUCATING QUALIFIED EMPLOYERS ABOUT THE  
21 PROGRAM.

22 (F) ON OR BEFORE JANUARY 1, 2023, THE EXCHANGE SHALL ADOPT  
23 REGULATIONS CARRYING OUT THIS SECTION.

24 (G) (1) THE EXCHANGE SHALL TRACK ON A MONTHLY BASIS  
25 EXPENDITURES ON SUBSIDIES PROVIDED UNDER THE PROGRAM, INCLUDING:

26 (I) THE AVERAGE NUMBER OF QUALIFIED EMPLOYERS AND  
27 THEIR EMPLOYEES RECEIVING SUBSIDIES UNDER THE PROGRAM; AND

28 (II) THE AVERAGE SUBSIDY AMOUNT RECEIVED BY QUALIFIED  
29 EMPLOYERS AND THEIR EMPLOYEES UNDER THE PROGRAM.

30 (2) THE INFORMATION TRACKED BY THE EXCHANGE UNDER  
31 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:

32 (I) POSTED ON THE WEBSITE OF THE EXCHANGE;

1                   **(II) INCLUDED IN THE ANNUAL REPORT REQUIRED UNDER §**  
2 **31-119(D) OF THIS SUBTITLE; AND**

3                   **(III) ON OR BEFORE DECEMBER 1, 2028, REPORTED TO THE**  
4 **SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT**  
5 **OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE**  
6 **GOVERNMENT ARTICLE.**

7           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2022. It shall remain effective for a period of 7 years and, at the end of September  
9 30, 2029, this Act, with no further action required by the General Assembly, shall be  
10 abrogated and of no further force and effect.