

# SENATE BILL 387

C3, Q3

EMERGENCY BILL

8lr1711

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By: **Senator Middleton**

Introduced and read first time: January 25, 2018

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Health Care Access Program – Establishment**  
3 **(Maryland Health Care Access Act of 2018)**

4 FOR the purpose of requiring a carrier to pay a certain assessment on certain premiums  
5 under certain circumstances beginning on a certain date; providing for the  
6 distribution of the assessment; requiring the assessment to be in addition to certain  
7 taxes and certain penalties or actions; establishing as a purpose of the Maryland  
8 Health Benefit Exchange to seek approval of a certain waiver on or before a certain  
9 date and carry out a certain waiver under certain circumstances; requiring the  
10 Exchange to apply to certain officials for a certain waiver on or before a certain date;  
11 requiring the Executive Director of the Exchange, in consultation with the Maryland  
12 Insurance Commissioner and with the approval of the Board of Trustees of the  
13 Exchange, to implement a certain plan; authorizing the Exchange to implement a  
14 certain waiver; altering the purpose, contents, and authorized use of the Maryland  
15 Health Benefit Exchange Fund; altering certain requirements relating to the use of  
16 certain funds; requiring that certain funds be used in a certain manner; altering  
17 certain requirements relating to a certain certification of certain health benefit  
18 plans; requiring the Exchange to establish and oversee the implementation of a  
19 Health Care Access Program; requiring that the Program be designed to mitigate  
20 the impact of certain individuals on certain rates; requiring the Program, beginning  
21 on a certain date, to provide reinsurance to certain carriers and premium subsidies  
22 to certain individuals; establishing that the Program is contingent on the Centers  
23 for Medicare and Medicaid Services approving a waiver under a certain provision of  
24 federal law; requiring the Exchange to adopt certain regulations on or before a  
25 certain date; requiring, beginning on a certain date, an individual to maintain  
26 certain coverage for certain individuals; requiring that an individual pay a certain  
27 penalty under certain circumstances; requiring that the penalty be in addition to a  
28 certain State income tax and included with a certain income tax return; requiring  
29 that certain individuals be jointly liable for the penalty under certain circumstances;  
30 establishing the amount of the penalty; exempting an individual who qualifies for a  
31 certain exemption under federal law from being assessed the penalty; requiring an

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 individual to indicate certain information on a certain income tax return; requiring  
 2 the Comptroller to distribute certain revenues from the penalty to a certain fund for  
 3 certain purposes; authorizing, on or before a certain date, the Commissioner to waive  
 4 certain statutory requirements under certain circumstances; providing for the  
 5 application of certain provisions of this Act; defining certain terms; making certain  
 6 provisions of this Act subject to a certain contingency; terminating certain provisions  
 7 of this Act under certain circumstances; making this Act an emergency measure; and  
 8 generally relating to health insurance.

9 BY adding to

10 Article – Insurance  
 11 Section 6–102.1, 31–108(h), and 31–117.1  
 12 Annotated Code of Maryland  
 13 (2017 Replacement Volume)

14 BY repealing and reenacting, with amendments,

15 Article – Insurance  
 16 Section 31–102(c), 31–107(b) and (e) through (g), and 31–115(b)  
 17 Annotated Code of Maryland  
 18 (2017 Replacement Volume)

19 BY repealing and reenacting, without amendments,

20 Article – Insurance  
 21 Section 31–107(a), (c), and (d) and 31–115(a)  
 22 Annotated Code of Maryland  
 23 (2017 Replacement Volume)

24 BY adding to

25 Article – Tax – General  
 26 Section 10–102.2  
 27 Annotated Code of Maryland  
 28 (2016 Replacement Volume and 2017 Supplement)

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

31 **Article – Insurance**

32 **6–102.1.**

33 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
 34 **INDICATED.**

35 **(2) “CARRIER” HAS THE MEANING STATED IN § 31–101 OF THIS**  
 36 **ARTICLE.**

1           **(3) “HEALTH BENEFIT PLAN” HAS THE MEANING STATED IN**  
2 **§ 15–1201 OF THIS ARTICLE.**

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

7           **(2) THE ASSESSMENT PAYABLE BY A CARRIER UNDER THIS**  
8 **SUBSECTION SHALL BE BASED ON THE CARRIER’S PREMIUMS IN ANY MARKET**  
9 **SEGMENT:**

10                   **(I) ALLOCABLE TO THE STATE; AND**

11                   **(II) WRITTEN DURING THE IMMEDIATELY PRECEDING**  
12 **CALENDAR YEAR.**

13           **(C) NOTWITHSTANDING § 2–114 OF THIS ARTICLE, BEGINNING JANUARY 1,**  
14 **2019, THE ASSESSMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL**  
15 **BE DISTRIBUTED ANNUALLY TO THE MARYLAND HEALTH BENEFIT EXCHANGE**  
16 **FUND ESTABLISHED UNDER § 31–107 OF THIS ARTICLE FOR THE SOLE PURPOSE OF**  
17 **FUNDING THE OPERATION AND ADMINISTRATION OF THE HEALTH CARE ACCESS**  
18 **PROGRAM AUTHORIZED UNDER § 31–117.1 OF THIS ARTICLE.**

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

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

23                   **(2) PENALTIES OR ACTIONS THAT THE COMMISSIONER MAY TAKE FOR**  
24 **THE CARRIER’S FAILURE TO COMPLY WITH THIS ARTICLE.**

25 31–107.

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

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

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

30                   (ii) provide funding for the establishment and operation of the State  
31 Reinsurance Program authorized under § 31–117 of this title; AND

1                   **(III) PROVIDE FUNDING FOR THE ESTABLISHMENT AND**  
2 **OPERATION OF THE HEALTH CARE ACCESS PROGRAM AUTHORIZED UNDER §**  
3 **31-117.1 OF THIS TITLE.**

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

7                   (c)     The Exchange shall administer the Fund.

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

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

12                   (e)     The Fund consists of:

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

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

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

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

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

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

22                   (7)     money donated to the Fund;

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

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

27                   **(10)  TAXES RECEIVED BY THE COMPTROLLER UNDER § 10-102.2 OF**  
28 **THE TAX – GENERAL ARTICLE;**

29                   **(11)  ASSESSMENTS RECEIVED BY THE COMMISSIONER UNDER §**

1 **6-102.1 OF THIS ARTICLE; AND**

2 ~~[(9)] (12)~~ any other money from any other source accepted for the benefit  
3 of the Fund.

4 (f) The Fund may be used only:

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

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

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

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

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

13 (II) the State Reinsurance Program; **AND**

14 (III) **THE HEALTH CARE ACCESS PROGRAM.**

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

17 (3) Funds received from the distribution of the premium tax under §  
18 6-103.2 of this article shall be placed in the account for Exchange operations and may be  
19 used only for the purpose of funding the operation and administration of the Exchange.

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

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

26 (I) **FUNDS TRANSFERRED FROM THE COMPTROLLER UNDER §**  
27 **10-102.2 OF THE TAX – GENERAL ARTICLE;**

28 (II) **FUNDS TRANSFERRED FROM THE COMMISSIONER UNDER §**  
29 **6-102.1 OF THIS ARTICLE; AND**

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

3 31–115.

4           (a)    The Exchange shall certify:

5                   (1)    health benefit plans as qualified health plans;

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

7 as:

8                           (i)    stand–alone dental plans; or

9                           (ii)   dental plans sold in conjunction with or as an endorsement to  
10 qualified health plans;

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

12 as:

13                           (i)    stand–alone vision plans; or

14                           (ii)   vision plans sold in conjunction with or as an endorsement to  
15 qualified health plans; and

16                   (4)    stand–alone dental plans for sale outside the Exchange.

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

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

22                   (2)    obtain prior approval of premium rates and contract language from the  
23 Commissioner;

24                   (3)    except as provided in subsection (e) of this section, provide at least a  
25 bronze level of coverage, as defined in the Affordable Care Act and determined by the  
26 Exchange under § 31–108(b)(8)(ii) of this title;

27                   (4)    (i)    ensure that its cost–sharing requirements do not exceed the  
28 limits established under § 1302(c)(1) of the Affordable Care Act; and

29                           (ii)   if the health benefit plan is offered through the SHOP Exchange,  
30 ensure that the health benefit plan’s deductible does not exceed the limits established

1 under § 1302(c)(2) of the Affordable Care Act;

2 (5) be offered by a carrier that:

3 (i) is licensed and in good standing to offer health insurance  
4 coverage in the State;

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

8 1. at a bronze level of coverage;

9 2. at a silver level of coverage; and

10 3. at a gold level of coverage;

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

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

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

25 (vi) does not charge any cancellation fees or penalties in violation of  
26 § 31–108(d) of this title; and

27 (vii) complies with the regulations adopted by the Secretary under §  
28 1311(d) of the Affordable Care Act and by the Exchange under § 31–106(c)(1)(iv) of this  
29 title;

30 (6) meet the requirements for certification established under the  
31 regulations adopted by:

32 (i) the Secretary under § 1311(c)(1) of the Affordable Care Act,  
33 including minimum standards for marketing practices, network adequacy, essential

1 community providers in underserved areas, accreditation, quality improvement, uniform  
2 enrollment forms and descriptions of coverage, and information on quality measures for  
3 health plan performance; and

4 (ii) the Exchange under § 31–106(c)(1)(iv) of this title;

5 (7) be in the interest of qualified individuals and qualified employers, as  
6 determined by the Exchange;

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

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

11 (i) transition of care language in contracts as determined  
12 appropriate by the Exchange to ensure care continuity and reduce duplication and costs of  
13 care;

14 (ii) criteria that encourage and support qualified plans in facilitating  
15 cross-border enrollment; and

16 (iii) demonstrating compliance with the federal Mental Health Parity  
17 and Addiction Equity Act of 2008.

18 **31–117.1.**

19 (A) THE EXCHANGE SHALL ESTABLISH AND OVERSEE THE  
20 IMPLEMENTATION OF A HEALTH CARE ACCESS PROGRAM IN ACCORDANCE WITH §  
21 1332 OF THE AFFORDABLE CARE ACT.

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

26 (C) BEGINNING JANUARY 1, 2019, THE HEALTH CARE ACCESS PROGRAM  
27 SHALL PROVIDE:

28 (1) REINSURANCE TO CARRIERS THAT ISSUE HEALTH BENEFIT PLANS  
29 IN THE INDIVIDUAL MARKET IN THE STATE; AND

30 (2) PREMIUM SUBSIDIES TO LOW- TO MODERATE-INCOME  
31 INDIVIDUALS AS AUTHORIZED UNDER A WAIVER APPROVED UNDER § 1332 OF THE  
32 AFFORDABLE CARE ACT.



1 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE  
2 HEALTH CARE ACCESS PROGRAM IS CONTINGENT ON THE CENTERS FOR  
3 MEDICARE AND MEDICAID SERVICES APPROVING A WAIVER UNDER § 1332 OF THE  
4 AFFORDABLE CARE ACT.

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

7 Article – Tax – General

8 10-102.2.

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

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

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

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

22 (I) IN ADDITION TO THE STATE INCOME TAX UNDER §  
23 10-105(A) OF THIS SUBTITLE; AND

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

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

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

3           **(1) 2.5% OF THE SUM OF THE INDIVIDUAL'S FEDERAL MODIFIED**  
4 **ADJUSTED GROSS INCOME, AS DEFINED IN 42 U.S.C. § 1395R, AND THE FEDERAL**  
5 **MODIFIED ADJUSTED GROSS INCOME OF ALL INDIVIDUALS CLAIMED ON THE**  
6 **INDIVIDUAL'S INCOME TAX RETURN; OR**

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

9                   **(I) \$695 PER ADULT; AND**

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

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

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

18                   **(1) THE INDIVIDUAL;**

19                   **(2) THE INDIVIDUAL'S SPOUSE IN THE CASE OF A MARRIED COUPLE;**  
20 **AND**

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

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

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

29                                   **Article – Insurance**

1 (c) The purposes of the Exchange are to:

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

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

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

8 (4) assist individuals in accessing public programs, premium tax credits,  
9 and cost-sharing reductions; [and]

10 (5) supplement the individual and small group insurance markets outside  
11 of the Exchange; AND

12 **(6) IN CONSULTATION WITH THE COMMISSIONER:**

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

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

22 31-108.

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

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

32 **(I) IN A MANNER CONSISTENT WITH STATE AND FEDERAL LAW;**  
33 **AND**

1                   **(II) AS APPROVED BY THE UNITED STATES SECRETARY OF**  
2 **HEALTH AND HUMAN SERVICES AND THE UNITED STATES SECRETARY OF THE**  
3 **TREASURY.**

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

6           SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31,  
7 2018, the Maryland Insurance Commissioner may waive any notification or other  
8 requirements on a carrier under the Insurance Article that apply in calendar year 2018 and  
9 that the Commissioner determines cannot reasonably be met due to the carrier's or the  
10 State's implementation of a waiver approved under § 1332 of the Affordable Care Act.

11           SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take  
12 effect contingent on the receipt by the Maryland Health Benefit Exchange of approval of a  
13 waiver under § 1332 of the Patient Protection and Affordable Care Act of applicable  
14 provisions of the Patient Protection and Affordable Care Act relating to health insurance  
15 coverage in the State by the United States Secretary of Health and Human Services or the  
16 United States Secretary of the Treasury. If approval is received on or before July 1, 2023,  
17 Section 1 of this Act shall take effect on the date notice of the approval is received by the  
18 Department of Legislative Services in accordance with this section. If the Maryland Health  
19 Benefit Exchange does not receive approval for the waiver on or before July 1, 2023, Section  
20 1 of this Act, with no further action required by the General Assembly, shall be null and  
21 void. The Maryland Health Benefit Exchange, within 5 days after receiving notice of  
22 approval or denial of a waiver, shall forward a copy of the notice to the Department of  
23 Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

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

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