

HOUSE BILL 588

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HB 1035/22 – HGO

3lr1153
CF SB 365

By: **Delegates Cullison, Taveras, Acevero, Alston, Bagnall, Boafo, Charkoudian, Charles, Embry, Fair, Foley, Fraser–Hidalgo, Harris, Ivey, ~~Kelly~~, Kerr, R. Lewis, Lopez, Mireku–North, Palakovich Carr, Pena–Melnyk, Phillips, Qi, Queen, Ruth, Simpson, Stewart, Terrasa, Turner, Vogel, White, Woods, ~~and Ziegler~~ Ziegler, Bhandari, Guzzone, Hill, S. Johnson, Kaiser, Martinez, and Rosenberg**

Introduced and read first time: February 3, 2023
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 5, 2023

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance – Qualified Resident Enrollment Program**
3 **(Access to Care Act)**

4 FOR the purpose of altering the purpose for the Maryland Health Benefit Exchange Fund
5 to include the provision of funding for the establishment and operation of the
6 Qualified Resident Enrollment Program; authorizing the use of federal pass-through
7 funds for certain programs as approved under a certain waiver; requiring the
8 Maryland Health Benefit Exchange to make qualified plans available to qualified
9 residents; requiring the Maryland Health Benefit Exchange to establish and
10 implement the Qualified Resident Enrollment Program to allow qualified residents
11 to obtain coverage, facilitate the enrollment of qualified residents in qualified ~~health~~
12 plans, and, based on the availability of funds, provide premium assistance and
13 cost-sharing reductions to qualified residents; providing that the implementation of
14 subsidies under the Program is contingent on approval of a certain waiver
15 application amendment; requiring the Exchange to submit a certain report to the
16 General Assembly within a certain period of time before implementing certain
17 subsidies; and generally relating to the Qualified Resident Enrollment Program.

18 BY repealing and reenacting, without amendments,
19 Article – Insurance

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.



1 Section 31–101(a) and 31–108(a)
2 Annotated Code of Maryland
3 (2017 Replacement Volume and 2022 Supplement)

4 BY adding to
5 Article – Insurance
6 Section 31–101(u–1), 31–123, and 31–124
7 Annotated Code of Maryland
8 (2017 Replacement Volume and 2022 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – Insurance
11 Section 31–107, 31–108(b)(1), and 31–115(b)(7)
12 Annotated Code of Maryland
13 (2017 Replacement Volume and 2022 Supplement)

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

16 **Article – Insurance**

17 31–101.

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

19 **(U–1) “QUALIFIED RESIDENT” MEANS AN INDIVIDUAL, INCLUDING A MINOR,**
20 **REGARDLESS OF IMMIGRATION STATUS, WHO AT THE TIME OF ENROLLMENT:**

21 **(1) IS SEEKING TO ENROLL IN A QUALIFIED ~~HEALTH~~ PLAN OFFERED**
22 **TO INDIVIDUALS THROUGH THE EXCHANGE;**

23 **(2) RESIDES IN THE STATE;**

24 **(3) IS NOT INCARCERATED, OTHER THAN INCARCERATION PENDING**
25 **DISPOSITION OF CHARGES; AND**

26 **(4) IS NOT ELIGIBLE FOR THE FEDERAL PREMIUM TAX CREDIT, THE**
27 **MARYLAND MEDICAL ASSISTANCE PROGRAM, MEDICARE, THE MARYLAND**
28 **CHILDREN’S HEALTH PLAN, OR EMPLOYER–SPONSORED MINIMUM ESSENTIAL**
29 **COVERAGE.**

30 31–107.

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

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

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 QUALIFIED RESIDENT ENROLLMENT PROGRAM.**

15 (2) The operation and administration of the Exchange, the State
16 Reinsurance Program, [and] the State–Based Young Adult Health Insurance Subsidies
17 Pilot Program, **AND THE QUALIFIED RESIDENT ENROLLMENT PROGRAM** may include
18 functions delegated by the Exchange to a third party under law or by contract.

19 (c) The Exchange shall administer the Fund.

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

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

24 (e) The Fund consists of:

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

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

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

29 (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 received in accordance with § 31-121 of this subtitle
14 for the administration of small business tax credits; [and]

15 (13) **ANY FUNDS DESIGNATED BY THE STATE TO PROVIDE**
16 **STATE-BASED HEALTH INSURANCE SUBSIDIES TO QUALIFIED RESIDENTS IN THE**
17 **STATE; AND**

18 (14) any other money from any other source accepted for the benefit of the
19 Fund.

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

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

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

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

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

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

1 (iv) for the establishment and operation of the State-Based Young
2 Adult Health Insurance Subsidies Pilot Program; AND

3 (v) FOR THE ESTABLISHMENT AND OPERATION OF THE
4 QUALIFIED RESIDENT ENROLLMENT PROGRAM.

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

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

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

11 (g) (1) The Board shall maintain separate accounts within the Fund for
12 Exchange operations, for the State Reinsurance Program, [and] for the State-Based Young
13 Adult Health Insurance Subsidies Pilot Program, AND FOR THE ESTABLISHMENT AND
14 OPERATION OF THE QUALIFIED RESIDENT ENROLLMENT 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) The following funds may be used only for the purposes of funding the
21 State Reinsurance Program:

22 (i) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS
23 SUBSECTION, any pass-through funds received from the federal government under a
24 waiver approved under § 1332 of the Affordable Care Act to provide reinsurance to carriers
25 that offer individual health benefit plans in the State;

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

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

30 (iv) except as provided in subsection (f) of this section, funds received
31 from the distribution of the assessment under § 6–102.1 of this article.

1 **(5) IF THE FEDERAL GOVERNMENT APPROVES AN AMENDMENT TO**
2 **THE STATE'S § 1332 WAIVER OF THE AFFORDABLE CARE ACT TO INCLUDE ANY**
3 **PROGRAM IN ADDITION TO THE STATE REINSURANCE PROGRAM, ANY FEDERAL**
4 **PASS-THROUGH FUNDS MAY BE USED FOR THE ADDITIONAL PROGRAM AS**
5 **APPROVED UNDER THE AMENDED § 1332 WAIVER.**

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

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

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

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

18 (3) If operating expenses of the Exchange may be charged to either State
19 or non-State fund sources, the non-State funds shall be charged before State funds are
20 charged.

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

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

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

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

28 31-108.

29 (a) On or before January 1, 2014, the functions and operations of the Exchange
30 shall include at a minimum all functions required by § 1311(d)(4) of the Affordable Care
31 Act.

32 (b) In compliance with § 1311(d)(4) of the Affordable Care Act, the Exchange
33 shall:

1 (1) make qualified plans available to qualified individuals, **QUALIFIED**
2 **RESIDENTS**, and qualified employers;

3 31-115.

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

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

7 **31-123.**

8 (A) **ON OR BEFORE JULY 1, 2024, THE EXCHANGE, IN CONSULTATION WITH**
9 **THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL SUBMIT A STATE**
10 **INNOVATION WAIVER APPLICATION AMENDMENT UNDER § 1332 OF THE**
11 **AFFORDABLE CARE ACT TO ESTABLISH A QUALIFIED RESIDENT ENROLLMENT**
12 **PROGRAM AND SEEK FEDERAL PASS-THROUGH FUNDING TO ALLOW QUALIFIED**
13 **RESIDENTS TO OBTAIN COVERAGE THROUGH THE EXCHANGE.**

14 (B) **ON OR BEFORE DECEMBER 31, 2024, THE COMMISSIONER MAY WAIVE**
15 **ANY NOTIFICATION OR OTHER REQUIREMENTS THAT APPLY TO A CARRIER UNDER**
16 **THIS ARTICLE IN CALENDAR YEAR 2024 DUE TO THE IMPLEMENTATION OF A WAIVER**
17 **APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT.**

18 **31-124.**

19 (A) **THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS**
20 **APPROVED BY THE BOARD, SHALL ESTABLISH AND IMPLEMENT A QUALIFIED**
21 **RESIDENT ENROLLMENT PROGRAM:**

22 (1) **TO FACILITATE THE ENROLLMENT OF QUALIFIED RESIDENTS IN**
23 **QUALIFIED ~~HEALTH~~ PLANS;**

24 (2) **BASED ON THE AVAILABILITY OF FUNDS, TO PROVIDE STATE**
25 **PREMIUM ASSISTANCE AND COST-SHARING REDUCTIONS TO QUALIFIED RESIDENTS**
26 **ENROLLED IN QUALIFIED HEALTH PLANS;**

27 (3) **THAT, AS NECESSARY, MEETS THE REQUIREMENTS OF A WAIVER**
28 **APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT; AND**

29 (4) **THAT IS CONSISTENT WITH FEDERAL AND STATE LAW.**

30 (B) **THE QUALIFIED RESIDENT ENROLLMENT PROGRAM SHALL BE**
31 **DESIGNED TO MAKE INDIVIDUAL MARKET ~~HEALTH~~ INSURANCE COVERAGE OFFERED**
32 **THROUGH THE EXCHANGE AVAILABLE TO QUALIFIED RESIDENTS.**

1 (C) BASED ON THE AVAILABILITY OF FUNDS, AND SUBJECT TO SUBSECTION
2 (E) OF THIS SECTION, THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER
3 AND AS APPROVED BY THE BOARD, SHALL ESTABLISH SUBSIDY ELIGIBILITY AND
4 PAYMENT PARAMETERS FOR CALENDAR YEAR 2025 AND EACH SUBSEQUENT
5 CALENDAR YEAR.

6 (D) BEGINNING JANUARY 1, 2025, FUNDING FOR THE QUALIFIED
7 RESIDENT ENROLLMENT PROGRAM MAY BE MADE USING:

8 (1) ANY PASS-THROUGH FUNDS RECEIVED FROM THE FEDERAL
9 GOVERNMENT UNDER A WAIVER APPROVED UNDER § 1332 OF THE AFFORDABLE
10 CARE ACT;

11 (2) ANY FUNDS DESIGNATED BY THE FEDERAL GOVERNMENT TO
12 PROVIDE HEALTH COVERAGE FOR QUALIFIED RESIDENTS; AND

13 (3) ANY FUNDS DESIGNATED BY THE STATE TO PROVIDE HEALTH
14 COVERAGE FOR QUALIFIED RESIDENTS.

15 (E) (1) THE IMPLEMENTATION OF SUBSIDIES UNDER THE QUALIFIED
16 RESIDENT ENROLLMENT PROGRAM SHALL BE CONTINGENT ON APPROVAL FROM
17 THE U.S. SECRETARY OF HEALTH AND HUMAN SERVICES AND THE U.S.
18 SECRETARY OF THE TREASURY OF A STATE INNOVATION WAIVER APPLICATION
19 AMENDMENT UNDER § 1332 OF THE AFFORDABLE CARE ACT.

20 (2) WITHIN 6 MONTHS BEFORE A FISCAL YEAR IN WHICH THE
21 EXCHANGE IMPLEMENTS SUBSIDIES UNDER THE QUALIFIED RESIDENT
22 ENROLLMENT PROGRAM, THE EXCHANGE SHALL SUBMIT A REPORT TO THE
23 GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT
24 ARTICLE, ON ITS PLAN TO IMPLEMENT THE SUBSIDIES, INCLUDING:

25 (I) THE AMOUNT AND SOURCE OF THE FUNDING;

26 (II) THE PARAMETERS OF THE SUBSIDIES; AND

27 (III) THE NUMBER OF INDIVIDUALS ANTICIPATED TO BE
28 ELIGIBLE FOR THE SUBSIDIES.

29 (F) ON OR BEFORE JANUARY 1, 2025, THE EXCHANGE SHALL ADOPT
30 REGULATIONS TO CARRY OUT THIS SECTION.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.