

# SENATE BILL 705

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CF HB 728

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By: **Senators Hayes and Lam**

Introduced and read first time: January 30, 2024

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of requiring the Maryland Health Benefit Exchange to establish and  
5 implement the Qualified Resident Enrollment Program to facilitate the enrollment  
6 of qualified residents in qualified plans; providing that the operation and  
7 administration of the Program may include functions delegated by the Maryland  
8 Exchange to a third party; providing that the implementation of the Program is  
9 contingent on approval of a certain waiver application amendment; and generally  
10 relating to the Qualified Resident Enrollment Program.

11 BY repealing and reenacting, without amendments,  
12 Article – Insurance  
13 Section 31–101(a) and 31–108(a)  
14 Annotated Code of Maryland  
15 (2017 Replacement Volume and 2023 Supplement)

16 BY adding to  
17 Article – Insurance  
18 Section 31–101(u–1), 31–123, and 31–124  
19 Annotated Code of Maryland  
20 (2017 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Insurance

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### 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 31–107, 31–108(b)(1), and 31–115(b)(7)  
2 Annotated Code of Maryland  
3 (2017 Replacement Volume and 2023 Supplement)

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

6 **Article – Insurance**

7 31–101.

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

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

11 **(1) IS SEEKING TO ENROLL IN A QUALIFIED PLAN OFFERED TO**  
12 **INDIVIDUALS THROUGH THE EXCHANGE;**

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

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

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

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 subtitle;

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

27 (iii) provide funding for the Medical Assistance Program and the  
28 Senior Prescription Drug Assistance Program;

1 (iv) provide funding for the establishment and operation of Health  
2 Equity Resource Communities under Title 20, Subtitle 14 of the Health – General Article;  
3 and

4 (v) provide funding for the establishment and operation of the  
5 State–Based Young Adult Health Insurance Subsidies Pilot Program authorized under this  
6 subtitle.

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

11 (c) The Exchange shall administer the Fund.

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

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

16 (e) The Fund consists of:

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

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

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

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

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

24 (6) money donated to the Fund;

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

26 (8) any pass–through funds received from the federal government under a  
27 waiver approved under § 1332 of the Affordable Care Act;

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

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

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

3 (12) any federal funds received in accordance with § 31-121 of this subtitle  
4 for the administration of small business tax credits; and

5 (13) any other money from any other source accepted for the benefit of the  
6 Fund.

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

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

10 2. for the establishment and operation of the State  
11 Reinsurance Program; and

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

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

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

19 (iv) for the establishment and operation of the State-Based Young  
20 Adult Health Insurance Subsidies Pilot Program.

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

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

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

27 (g) (1) The Board shall maintain separate accounts within the Fund for  
28 Exchange operations, for the State Reinsurance Program, and for the State-Based Young  
29 Adult Health Insurance Subsidies Pilot Program.

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

1           (3) Funds received from the distribution of the premium tax under §  
2 6–103.2 of this article shall be placed in the account for Exchange operations and may be  
3 used only for the purpose of funding the operation and administration of the Exchange.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 31-108.

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

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

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

11 31-115.

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

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

15 **31-123.**

16 **(A) ON OR BEFORE JULY 1, 2025, THE EXCHANGE, IN CONSULTATION WITH**  
17 **THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL SUBMIT A STATE**  
18 **INNOVATION WAIVER APPLICATION AMENDMENT UNDER § 1332 OF THE**  
19 **AFFORDABLE CARE ACT TO ESTABLISH A QUALIFIED RESIDENT ENROLLMENT**  
20 **PROGRAM AND, IF AVAILABLE, SEEK FEDERAL PASS-THROUGH FUNDING**  
21 **RESULTING FROM THE IMPLEMENTATION OF A QUALIFIED RESIDENT ENROLLMENT**  
22 **PROGRAM.**

23 **(B) ON OR BEFORE DECEMBER 31, 2025, THE COMMISSIONER MAY WAIVE**  
24 **ANY NOTIFICATION OR OTHER REQUIREMENTS THAT APPLY TO A CARRIER UNDER**  
25 **THIS ARTICLE IN CALENDAR YEAR 2025 DUE TO THE IMPLEMENTATION OF A WAIVER**  
26 **APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT.**

27 **31-124.**

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

1           (1) TO FACILITATE THE ENROLLMENT OF QUALIFIED RESIDENTS IN  
2 QUALIFIED PLANS;

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

5           (3) THAT IS CONSISTENT WITH FEDERAL AND STATE LAW.

6           (B) THE QUALIFIED RESIDENT ENROLLMENT PROGRAM SHALL ~~BE~~  
7 ~~DESIGNED TO MAKE INDIVIDUAL MARKET INSURANCE COVERAGE OFFERED~~  
8 ~~THROUGH THE EXCHANGE AVAILABLE TO QUALIFIED RESIDENTS~~ ALLOW QUALIFIED  
9 RESIDENTS TO PURCHASE QUALIFIED PLANS ON THE INDIVIDUAL EXCHANGE.

10          (C) (1) THE IMPLEMENTATION OF THE QUALIFIED RESIDENT  
11 ENROLLMENT PROGRAM SHALL BE CONTINGENT ON APPROVAL FROM THE U.S.  
12 SECRETARY OF HEALTH AND HUMAN SERVICES AND THE U.S. SECRETARY OF THE  
13 TREASURY OF A STATE INNOVATION WAIVER APPLICATION AMENDMENT UNDER §  
14 1332 OF THE AFFORDABLE CARE ACT.

15          (2) WITHIN 6 MONTHS BEFORE A FISCAL YEAR IN WHICH THE  
16 EXCHANGE IMPLEMENTS THE QUALIFIED RESIDENT ENROLLMENT PROGRAM, THE  
17 EXCHANGE SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE  
18 WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON ITS PLAN TO IMPLEMENT  
19 THE PROGRAM, INCLUDING:

20                   (I) THE AMOUNT AND SOURCE OF THE FUNDING FOR THE  
21 PROGRAM;

22                   (II) THE PARAMETERS OF THE PROGRAM;

23                   (III) THE NUMBER OF INDIVIDUALS ANTICIPATED TO ~~BE~~  
24 ~~ASSISTED THROUGH~~ PARTICIPATE IN THE PROGRAM; AND

25                   (IV) THE AMOUNT OF PREMIUMS ANTICIPATED TO BE PAID BY  
26 PARTICIPANTS UNDER THE PROGRAM; AND

27                   ~~(IV)~~ (V) IF THE ~~EXCHANGE IS AUTHORIZED TO PROVIDE~~  
28 ~~SUBSIDIES~~ GENERAL ASSEMBLY AUTHORIZES FUNDING TO SUBSIDIZE PREMIUMS  
29 UNDER THE PROGRAM, THE PARAMETERS OF THE SUBSIDIES.

30          (D) ON OR BEFORE JANUARY 1, 2026, THE EXCHANGE SHALL ADOPT  
31 REGULATIONS TO CARRY OUT THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2024.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.