

# SENATE BILL 365

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SB 728/22 – FIN

3lr0531  
CF 3lr1153

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By: **Senator Lam**

Introduced and read first time: January 31, 2023

Assigned to: Finance

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## A BILL ENTITLED

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; requiring the Maryland Health Benefit  
7 Exchange to make qualified plans available to qualified residents; requiring the  
8 Maryland Health Benefit Exchange to establish and implement the Qualified  
9 Resident Enrollment Program to allow qualified residents to obtain coverage,  
10 facilitate the enrollment of qualified residents in qualified health plans, and, based  
11 on the availability of funds, provide premium assistance and cost-sharing reductions  
12 to qualified residents; providing that the implementation of the Program is  
13 contingent on approval of a certain waiver application amendment; and generally  
14 relating to the Qualified Resident Enrollment Program.

15 BY repealing and reenacting, without amendments,  
16 Article – Insurance  
17 Section 31–101(a) and 31–108(a)  
18 Annotated Code of Maryland  
19 (2017 Replacement Volume and 2022 Supplement)

20 BY adding to  
21 Article – Insurance  
22 Section 31–101(u–1), 31–123, and 31–124  
23 Annotated Code of Maryland  
24 (2017 Replacement Volume and 2022 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article – Insurance  
27 Section 31–107, 31–108(b)(1), and 31–115(b)(7)  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



(2017 Replacement Volume and 2022 Supplement)

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

**Article – Insurance**

31–101.

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

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

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

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

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

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

31–107.

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

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

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

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

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

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

1 (v) provide funding for the establishment and operation of the  
2 State-Based Young Adult Health Insurance Subsidies Pilot Program authorized under this  
3 subtitle; AND

4 (VI) PROVIDE FUNDING FOR THE ESTABLISHMENT AND  
5 OPERATION OF THE QUALIFIED RESIDENT ENROLLMENT PROGRAM.

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

10 (c) The Exchange shall administer the Fund.

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

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

15 (e) The Fund consists of:

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

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

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

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

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

23 (6) money donated to the Fund;

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

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

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

29 (10) any funds designated by the State to provide reinsurance to carriers  
30 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 FUNDS DESIGNATED BY THE STATE TO PROVIDE**  
6 **STATE-BASED HEALTH INSURANCE SUBSIDIES TO QUALIFIED RESIDENTS IN THE**  
7 **STATE; AND**

8 (14) any other money from any other source accepted for the benefit of the  
9 Fund.

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

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

13 2. for the establishment and operation of the State  
14 Reinsurance Program; and

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

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

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

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

24 **(V) FOR THE ESTABLISHMENT AND OPERATION OF THE**  
25 **QUALIFIED RESIDENT ENROLLMENT PROGRAM.**

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

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

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

1 (g) (1) The Board shall maintain separate accounts within the Fund for  
2 Exchange operations, for the State Reinsurance Program, [and] for the State-Based Young  
3 Adult Health Insurance Subsidies Pilot Program, **AND FOR THE ESTABLISHMENT AND**  
4 **OPERATION OF THE QUALIFIED RESIDENT ENROLLMENT PROGRAM.**

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

7 (3) Funds received from the distribution of the premium tax under §  
8 6–103.2 of this article shall be placed in the account for Exchange operations and may be  
9 used only for the purpose of funding the operation and administration of the Exchange.

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

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

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

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

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

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

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

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

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

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

1 charged.

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

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

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

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

9 31-108.

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

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

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

17 31-115.

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

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

21 **31-123.**

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

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

1 31-124.

2 (A) THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS  
3 APPROVED BY THE BOARD, SHALL ESTABLISH AND IMPLEMENT A QUALIFIED  
4 RESIDENT ENROLLMENT PROGRAM:

5 (1) TO FACILITATE THE ENROLLMENT OF QUALIFIED RESIDENTS IN  
6 QUALIFIED HEALTH PLANS;

7 (2) BASED ON THE AVAILABILITY OF FUNDS, TO PROVIDE STATE  
8 PREMIUM ASSISTANCE AND COST-SHARING REDUCTIONS TO QUALIFIED RESIDENTS  
9 ENROLLED IN QUALIFIED HEALTH PLANS;

10 (3) THAT MEETS THE REQUIREMENTS OF A WAIVER APPROVED  
11 UNDER § 1332 OF THE AFFORDABLE CARE ACT; AND

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

13 (B) THE QUALIFIED RESIDENT ENROLLMENT PROGRAM SHALL BE  
14 DESIGNED TO MAKE INDIVIDUAL MARKET HEALTH INSURANCE COVERAGE OFFERED  
15 THROUGH THE EXCHANGE AVAILABLE TO QUALIFIED RESIDENTS.

16 (C) BASED ON THE AVAILABILITY OF FUNDS, THE EXCHANGE, IN  
17 CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD,  
18 SHALL ESTABLISH SUBSIDY ELIGIBILITY AND PAYMENT PARAMETERS FOR  
19 CALENDAR YEAR 2025 AND EACH SUBSEQUENT CALENDAR YEAR.

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

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

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

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

29 (E) THE IMPLEMENTATION OF THE QUALIFIED RESIDENT ENROLLMENT  
30 PROGRAM SHALL BE CONTINGENT ON APPROVAL FROM THE U.S. SECRETARY OF  
31 HEALTH AND HUMAN SERVICES AND THE U.S. SECRETARY OF THE TREASURY OF A

1 STATE INNOVATION WAIVER APPLICATION AMENDMENT UNDER § 1332 OF THE  
2 AFFORDABLE CARE ACT.

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

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