

House Bill 801

By: Representatives Gardner of the 57th, Beverly of the 139th, Dobbs of the 53rd, Smyre of the 132nd, Buckner of the 130th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 establish the Georgia Health Insurance Marketplace Authority; to provide for legislative
3 intent; to provide for definitions; to provide for a board of directors; to provide for
4 composition, terms, and officers; to provide for powers and duties of the authority; to provide
5 for the Georgia Health Insurance Marketplace and the Small Business Health Insurance
6 Marketplace; to provide for a trust fund; to provide for advisory committees; to provide for
7 limited liability; to provide for rules and regulations; to provide for accounts and audits; to
8 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 The purpose of this Act is to provide for a Georgia Health Insurance Marketplace to facilitate
13 the purchase and sale of qualified health plans in the individual market in this state in
14 accordance with federal law. This Act also provides for the establishment of a Small
15 Business Health Insurance Marketplace to assist qualified small employers in this state in
16 facilitating the enrollment of their employees in qualified health plans offered in the small
17 group market. The intent of the insurance marketplaces is to reduce the number of uninsured
18 people in this state, provide a transparent marketplace, provide consumer education, and
19 assist individuals with access to programs, premium assistance tax credits, and cost-sharing
20 reductions.

21 style="text-align:center">**SECTION 2.**

22 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
23 adding a new chapter to read as follows:

24 "CHAPTER 65

25 33-65-1.

26 This chapter shall be known and may be cited as the 'Georgia Health Insurance
 27 Marketplace Act.'

28 33-65-2.

29 As used in this chapter, the term:

30 (1) 'Authority' means the Georgia Health Insurance Marketplace Authority established
 31 pursuant to Code Section 33-65-3.

32 (2) 'Board' means the board of directors of the Georgia Health Insurance Marketplace
 33 Authority.

34 (3) 'Federal act' means the federal Patient Protection and Affordable Care Act (Public
 35 Law 111-148), as amended by the federal Health Care and Education Reconciliation Act
 36 of 2010 (Public Law 111-152), and any regulations or guidance issued under such acts.

37 (4) 'Fund' means the Georgia Health Insurance Marketplace Trust Fund, established
 38 pursuant to Code Section 33-65-6.

39 (5) 'Health Insurance Marketplace' means the Georgia Health Insurance Marketplace
 40 established as this state's American Health Benefit Exchange and the Small Business
 41 Health Insurance Marketplace established as the Small Business Health Options Program
 42 Exchange in accordance with the federal act.

43 (6) 'Insurer' means any insurer or nonprofit organization authorized to sell accident and
 44 sickness policies, subscriber contracts, certificates, or agreements of any form under
 45 Chapter 15, 18, 19, 20, 21, 29, or 30 of this title.

46 33-65-3.

47 (a) There is established the Georgia Health Insurance Marketplace Authority as a body
 48 corporate and politic, an instrumentality of this state, and a public corporation; and by that
 49 name the authority may contract and be contracted with and bring and defend actions. The
 50 authority shall have perpetual existence.

51 (b) The authority shall be governed by a board of directors composed of nine members
 52 who shall be residents of the State of Georgia as follows:

53 (1) The commissioner of community health, or his or her designee;

54 (2) The Commissioner;

55 (3) Seven members appointed by the Governor from the general public, one of whom
 56 shall represent a consumer organization or health advocacy organization and one of
 57 whom shall represent small businesses. The balance of the appointments to the board

58 shall be made to provide demonstrated and acknowledged expertise in a diverse range of
 59 health care areas including, but not limited to, the following:

60 (A) Individual health care coverage;

61 (B) Small employer health care coverage;

62 (C) Health benefits plan administration;

63 (D) Health care finance;

64 (E) Administering a public or private health care delivery system;

65 (F) Purchasing health plan coverage; and

66 (G) State employee health care coverage.

67 The Governor shall consider the expertise of the other members of the board and attempt
 68 to make appointments so that the board's composition reflects a range and diversity of
 69 skills, backgrounds, and geographic and stakeholder perspectives; and

70 (4) Three ex officio members as follows:

71 (A) The director of the Office of Planning and Budget, or his or her designee;

72 (B) The Governor's executive counsel, or his or her designee; and

73 (C) The executive director of the Georgia Technology Authority or his or her designee.

74 (c) The initial members of the board appointed pursuant to paragraph (3) of subsection (b)
 75 of this Code section shall be appointed to terms of office beginning July 1, 2012. All
 76 members shall serve for terms of three years; provided, however, that for the purpose of
 77 providing for staggered terms, three members shall have initial terms of three years, two
 78 members shall have initial terms of two years, and two members shall have initial terms of
 79 one year. Any vacancy on the board shall be filled in the same manner as the original
 80 appointment, and any member appointed to fill a vacancy occurring because of death,
 81 resignation, or ineligibility for membership shall serve only for the unexpired term of the
 82 member's predecessor. A member shall be eligible for reappointment. All members of the
 83 board shall serve until the appointment and qualification of a successor.

84 (d) The board chairperson shall be appointed by the Governor from his or her appointees
 85 and the board shall at its initial meeting and the first meeting of each calendar year
 86 thereafter select from among its members a vice chairperson and other officers. Meetings
 87 shall be held at the call of the chairperson or whenever any two members so request.

88 (e) The members of the board who are not public officers shall be entitled to an expense
 89 allowance and reimbursement from funds of the authority for their actual travel expenses
 90 necessarily incurred in the performance of their duties and for each day actually spent in
 91 performance of their duties in the same manner as provided in Code Section 45-7-21.

92 (f) A majority of the members of the board shall constitute a quorum for the transaction
 93 of business of the authority. The vote of at least a majority of the members present at any
 94 meeting at which a quorum is present is necessary for any action to be taken by the board.

95 No vacancy in the membership of the board shall impair the right of a quorum to exercise
 96 all rights and perform all duties of the board.

97 (g) A member of the board or of the staff of the authority shall not be employed by, a
 98 consultant to, a member of the board of directors of, affiliated with, or otherwise a
 99 representative of an insurer, a health insurance agent or broker, a health care provider, a
 100 health care facility, or a health care clinic while serving on the board or on the staff of the
 101 authority. A member of the board or of the staff of the authority shall not be a member, a
 102 board member, or an employee of a trade association of insurers, health facility, health
 103 clinic, or health care provider while serving on the board or on the staff of the authority.
 104 A member of the board or of the staff of the authority shall not be a health care provider
 105 unless he or she receives no compensation for rendering services as a health care provider
 106 and does not have an ownership interest in a professional health care practice.

107 (h) The authority is assigned to the Department of Community Health for administrative
 108 purposes only, as prescribed in Code Section 50-4-3.

109 (i) The executive director of the authority shall be appointed by the Governor.

110 33-65-4.

111 The authority shall have the following powers:

112 (1) To elect, appoint, or hire officers, employees, and other agents of the authority,
 113 including experts and fiscal agents, define their duties, and fix their compensation;

114 (2) To have a seal and alter the same at its pleasure;

115 (3) To make and execute contracts, lease agreements, and all other instruments necessary
 116 or convenient to exercise the powers of the authority or to further the public purpose for
 117 which the authority is created;

118 (4) To adopt, amend, and repeal bylaws, regulations, and policies and procedures for the
 119 regulation of its affairs and the conduct of its business; to elect and prescribe the duties
 120 of officers and employees; and to perform such other matters as the authority may
 121 determine. In the adoption of bylaws, regulations, policies, and procedures or in the
 122 exercise of any regulatory power, the authority shall be exempt from the requirements of
 123 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';

124 (5) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or
 125 personal property of every kind and character, or any interest therein, in furtherance of
 126 the public purpose of the authority;

127 (6) To apply for and to accept any gifts or grants or loan guarantees or loans of funds or
 128 property or financial or other aid in any form from the federal government or any agency
 129 or instrumentality thereof or from this state or any agency or instrumentality thereof or

130 from any other source for any or all of the purposes specified in this chapter and to
 131 comply, subject to the provisions of this chapter, with the terms and conditions thereof;
 132 (7) To solicit, receive, and review proposals from technology vendors for the
 133 development and implementation of technology to operate and maintain the Health
 134 Insurance Marketplace, including an Internet website and call center accessible to all
 135 Georgians;

136 (8) To work with advisory groups, state agencies, nonprofit entities, consumer groups,
 137 corporations, universities, and other persons and organizations to research and make
 138 recommendations to the Governor and General Assembly on the creation of the Health
 139 Insurance Marketplace;

140 (9) To administer the Georgia Health Care Insurance Marketplace Trust Fund, as
 141 established pursuant to Code Section 33-65-6;

142 (10) To deposit or invest funds held by it in any state depository or in any investment
 143 which is authorized for the investment of proceeds of state general obligation bonds and
 144 to use for its corporate purposes or redeposit or reinvest interest earned on such funds;

145 (11) To exercise any power granted by the laws of this state to public or private
 146 corporations which is not in conflict with the public purpose of the authority; and

147 (12) To do all things necessary or convenient to carry out the powers conferred by this
 148 chapter.

149 33-65-5.

150 (a) The board may seek federal funding and other grants necessary to plan and implement
 151 the Health Insurance Marketplace.

152 (b) The authority shall be the entity designated to operate this state's American Health
 153 Benefit Exchange and Small Business Health Options Program Exchange pursuant to the
 154 federal act contingent on legislation authorizing the Health Insurance Marketplace to sell
 155 qualified health insurance plans in compliance with the federal act.

156 (c) The authority may establish a Small Business Health Options Program Exchange to
 157 facilitate enrollment of qualified small employers in qualified health plans offered in the
 158 small group insurance market.

159 (d) The authority may coordinate the planning and future policy and operations of the
 160 Health Insurance Marketplace with those of other state agencies whose policies and
 161 operations relate to those of the Health Insurance Marketplace, including, but not limited
 162 to, the state agency that administers Title XIX of the federal Social Security Act, the state
 163 agency that administers Title XXI of the federal Social Security Act, the department, and
 164 other state agencies as necessary.

165 (e) The authority may contract with or enter into a memorandum of understanding with
166 an eligible entity for any of its functions described in this chapter. An eligible entity
167 includes, but is not limited to, the Department of Community Health or an entity that has
168 experience in individual and small group health insurance, benefit administration, or other
169 experience relevant to the responsibilities to be assumed by the entity, but a health
170 insurance carrier or an affiliate of a health insurance carrier shall not be an eligible entity.
171 (f) Prior to January 1, 2015, in the event of a decrease in anticipated funding from the
172 federal government or other sources, the board may reassess the feasibility of meeting each
173 of the requirements contained in this Code section and make appropriate adjustments to the
174 functions of the Health Insurance Marketplace as are deemed necessary.

175 33-65-6.

176 (a) There is created the Georgia Health Insurance Marketplace Trust Fund as a separate
177 fund in the state treasury. The trust fund shall be administered by the authority.

178 (b) The trust fund shall consist of such moneys as provided by grants from the federal
179 government and revenue from and private contributions from any source.

180 33-65-7.

181 (a) The board shall appoint two advisory committees consisting of up to ten members
182 each. The Business Advisory Committee shall be composed of the broadest possible
183 spectrum of geographical and business characteristics of business health insurance
184 purchasers throughout this state and in the Georgia Health Insurance Marketplace. The
185 Consumer Advisory Committee shall reflect the broadest possible geographic
186 characteristics of consumer purchasers and members of the Georgia Health Insurance
187 Marketplace. Members of both advisory committees must be active purchasers or members
188 of the Georgia Health Insurance Marketplace.

189 (b) The function of the advisory committees shall be to advise the board on aspects of the
190 health insurance marketplace and to present the concerns of purchasers and members
191 throughout this state, but shall have no authority to promulgate rules or regulations or enter
192 into contracts on behalf of the authority.

193 (c) Members appointed to the advisory committees shall serve terms of two years;
194 however, to provide staggered terms, five of the initial appointees of each advisory
195 committee shall serve initial terms of one year.

196 (d) The advisory committees will appoint their own chairpersons, vice chairpersons, and
197 secretary-treasurers, who will serve for a period of two years, and may be reelected for no
198 more than one additional term.

199 (e) The advisory committees shall abide by the rules and regulations noted in the Georgia
200 Health Insurance Marketplace bylaws, and by internal operating procedures. Members of
201 the advisory committees shall serve without compensation or reimbursement of expenses.
202 The advisory committees may report to the board in writing at any time, but no less than
203 once yearly. The board may invite the advisory committees to make an oral presentation
204 to the board of directors at regular meetings of the board.

205 33-65-8.

206 (a) The authority shall not be liable for any acts or omissions of an insurer related to its
207 participation in the Health Insurance Marketplace.

208 (b) Consumer complaints relating to health care products and programs purchased or
209 enrolled in through the Health Insurance Marketplace shall be handled in the same manner
210 as would be applicable if the consumer purchased or enrolled in the health care product or
211 program through other means.

212 33-65-9.

213 The authority and the Commissioner, as appropriate, shall be authorized to adopt rules and
214 regulations to effect the implementation of this chapter.

215 33-65-10.

216 The accounts of the authority created in this chapter shall be kept as separate and distinct
217 accounts and shall be audited by the Department of Audits and Accounts of this state."

218 **SECTION 3.**

219 This Act shall become effective upon its approval by the Governor or upon its becoming law
220 without such approval.

221 **SECTION 4.**

222 All laws and parts of laws in conflict with this Act are repealed.