

Senate Bill 334

By: Senator Carter of the 1st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding health, so as to provide a short title; to provide for legislative
3 findings; to prohibit powers, assets, employees, agents, or contractors of the state or any
4 political subdivision, municipality, or other local government authority from engaging in an
5 activity that aids any agency in the enforcement of provisions of the federal Patient
6 Protection and Affordable Care Act of 2010; to endow the Attorney General with authority
7 to bring suit to enjoin violations of such prohibition and issue advisory rulings; to provide
8 that neither the State of Georgia nor any of its political subdivisions shall establish a health
9 care exchange for the purchase of health insurance nor participate in or purchase insurance
10 from a health care exchange established by a nonprofit organization; to provide for
11 exceptions; to provide for related matters; to provide for severability; to provide an effective
12 date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

15 This Act shall be known and may be cited as "The Georgia Health Care Freedom and ACA
16 Noncompliance Act."

17 SECTION 2.

18 The General Assembly finds that:

19 (1) The people of the several states comprising the United States of America created the
20 federal government to be their agent for certain enumerated purposes, and nothing more;

21 (2) The Tenth Amendment to the United States Constitution defines the total scope of
22 federal power as being that which has been delegated by the people of the several states
23 to the federal government, and all power not delegated to the federal government in the
24 Constitution of the United States is reserved to the states respectively, or to the people
25 themselves;

- 26 (3) Article I, Section 1 of the United States Constitution provides in pertinent part that
 27 "All legislative powers herein granted shall be vested in a Congress of the United States";
- 28 (4) The judicial decision of the United States Supreme Court upholding the
 29 constitutionality of the federal Patient Protection and Affordable Care Act of 2010
 30 directly contravenes Article I, Section 1 of the United States Constitution because, in
 31 upholding the law by recharacterizing the Act as a tax, even though Congress specifically
 32 refused to identify it as a tax, the United States Supreme Court legislated new law in
 33 violation of Article I, Section 1 of the United States Constitution;
- 34 (5) The assumption of power that the federal government has made by enacting the
 35 federal Patient Protection and Affordable Care Act of 2010 interferes with the right of the
 36 people of the State of Georgia to regulate health care as they see fit and makes a mockery
 37 of James Madison's assurance in Federalist No. 45 that the "powers delegated" to the
 38 federal government are "few and defined," while those of the states are "numerous and
 39 indefinite";
- 40 (6) The Tenth Amendment to the United States Constitution provides that the United
 41 States federal government is authorized to exercise only those powers delegated to it in
 42 the Constitution;
- 43 (7) Article VI, Clause 2 of the Constitution of the United States provides that laws of
 44 the United States are the supreme law of the land, provided that they are made in
 45 pursuance of the powers delegated to the federal government in the Constitution;
- 46 (8) It is the stated policy of the Georgia General Assembly that provisions of the federal
 47 Patient Protection and Affordable Care Act of 2010 grossly exceed the powers delegated
 48 to the federal government in the United States Constitution;
- 49 (9) The provisions of the federal Patient Protection and Affordable Care Act of 2010,
 50 which exceed the limited powers granted to Congress pursuant to the United States
 51 Constitution, cannot and should not be considered the supreme law of the land;
- 52 (10) The Georgia General Assembly has the absolute and sovereign authority to
 53 interpose and refuse to enforce the provisions of the federal Patient Protection and
 54 Affordable Care Act of 2010 that exceed the authority of Congress; and
- 55 (11) The Fourteenth Amendment of the United States Constitution provides that the
 56 people are to be free from deprivation of life, liberty, or property, without due process of
 57 law.

58 SECTION 3.

59 Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to general
 60 provisions regarding health, is amended by adding a new article to read as follows:

61

"ARTICLE 362 31-1-40.

63 (a) No powers, assets, officers, employees, agents, or contractors of the state, including the
64 University System of Georgia and its member institutions, or any political subdivision,
65 municipality, or other local government authority shall be used to assist in implementing
66 any provision of the federal Patient Protection and Affordable Care Act of 2010 or any
67 subsequent federal amendment to such act.

68 (b) The Georgia General Assembly is empowered to enact sanctions, fines, penalties, or
69 otherwise to ensure compliance with subsection (a) of this Code section.

70 31-1-41.

71 (a) The Attorney General is authorized to bring suit in a state or local court of proper
72 jurisdiction to enjoin any person or entity from violation of subsection (a) of Code
73 Section 31-1-40.

74 (b) The Attorney General shall establish procedures for providing advisory opinions as to
75 whether contemplated action by persons or entities would violate subsection (a) of Code
76 Section 31-1-40.

77 31-1-42.

78 (a) As used in this Code section, the term 'health care exchange' means an American
79 Health Benefit Exchange, the Small Business Health Option Program, or any other federal,
80 state, or regional exchange established by any state or political subdivision of a state, as
81 provided for in the federal Patient Protection and Affordable Care Act of 2010.

82 (b) Neither the State of Georgia nor any of its political subdivisions, including, but not
83 limited to, counties, municipalities, school districts, and other entities of the state, shall
84 establish a health care exchange for the purchase of health insurance unless the
85 establishment of such health care exchange has been expressly and specifically approved
86 by an Act of the General Assembly.

87 (c) Neither the State of Georgia nor any of its political subdivisions, including, but not
88 limited to, counties, municipalities, school districts, and other entities of the state, shall
89 participate in or purchase insurance from a health care exchange established by a nonprofit
90 organization unless such participation in or purchase of insurance from such health care
91 exchange has been expressly and specifically approved by an Act of the General Assembly.

92 (d) If any employee chooses to opt out of a health program provided by the State of
93 Georgia or any of its political subdivisions and to purchase health insurance through a
94 health care exchange, no state funds or funds allocated to those political subdivisions may

95 be used to pay any penalties, taxes, or other sanctions imposed under the federal Patient
 96 Protection and Affordable Care Act of 2010 unless the payment of such funds for such
 97 purposes has been expressly and specifically approved by an Act of the General Assembly.
 98 (e) A health insurance contract purchased or established in violation of this Code section
 99 shall be void and shall not be enforced by the courts of this state.

100 31-1-43.

101 (a) Nothing in this article shall apply to the provisions of Article 3 of Chapter 23 of
 102 Title 33.

103 (b) Any provision of the federal Patient Protection and Affordable Care Act of 2010 in
 104 which the state or any political subdivision of the state is implementing, participating, or
 105 receiving or appropriating funding on the effective date of this article, which would
 106 otherwise be prohibited under this article, may nevertheless continue in effect until July 1,
 107 2015. On and after that date, however, this article shall apply, and, unless such items are
 108 expressly and specifically authorized by an Act of the General Assembly, the state and its
 109 political subdivisions shall cease to implement, participate in, or receive or appropriate
 110 funds for such items on such date.

111 (c) Nothing in this article shall apply to the regulation of rates, rate filings, investigations,
 112 and administrative or judicial proceedings regarding health care insurers by the
 113 Commissioner of Insurance."

114 **SECTION 4.**

115 In the event any title, chapter, article, part, subpart, Code section, subsection, paragraph,
 116 subparagraph, item, sentence, clause, phrase, or word of this Act is declared or adjudged to
 117 be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining
 118 portions of this Act, which shall remain of full force and effect as if such portion so declared
 119 or adjudged invalid or unconstitutional were not originally a part of this Act. The General
 120 Assembly declares that it would have enacted the remaining parts of this Act even if it had
 121 known that such portion thereof would be declared or adjudged invalid or unconstitutional.

122 **SECTION 5.**

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

125 **SECTION 6.**

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