

113TH CONGRESS
1ST SESSION

H. R. 3358

To provide for an exemption from the individual mandate under the Patient Protection and Affordable Care Act for individuals residing in States in which the Exchange Websites are not fully functional, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2013

Mr. MESSER introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for an exemption from the individual mandate under the Patient Protection and Affordable Care Act for individuals residing in States in which the Exchange Websites are not fully functional, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for Individ-
5 uals Using Exchange Websites Act of 2013”.

1 **SEC. 2. EXEMPTION FROM ACA INDIVIDUAL MANDATE FOR**
2 **INDIVIDUALS RESIDING IN STATES WITH AN**
3 **EXCHANGE FOR WHICH THE WEBSITE HAS**
4 **NOT RECEIVED A CERTIFICATION OF**
5 **FUNCTIONALITY.**

6 (a) HHS CERTIFICATION.—The Inspector General of
7 the Department of Health and Human Services shall cer-
8 tify the Website of an Exchange established under title
9 I of the Patient Protection and Affordable Care Act (Pub-
10 lic Law 111–148) once such Website is determined, based
11 on the criteria specified under subsection (b), to be fully
12 functional for the purpose of enrolling through such Ex-
13 change in qualified health plans (as defined in section
14 1301(a) of such Act (42 U.S.C. 18021(a))).

15 (b) CRITERIA.—Not later than 30 days after the date
16 of the enactment of this Act, the Comptroller General of
17 the United States shall specify criteria for determining
18 whether the Website of an Exchange described in sub-
19 section (a) is fully functional for the purpose described
20 in such subsection.

21 (c) SPECIAL ENROLLMENT PERIOD FOLLOWING
22 DATE OF CERTIFICATION.—Section 1311(c)(6) of the Pa-
23 tient Protection and Affordable Care Act (42 U.S.C.
24 18031(c)(6)) is amended—

25 (1) in subparagraph (C), by striking at the end
26 “and”;

1 (2) in subparagraph (D), by striking the period
2 and inserting “; and”; and

3 (3) by adding at the end the following new sub-
4 paragraph:

5 “(E) in the case of an Exchange for which
6 the Website is certified under section 2(a) of
7 the Fairness for Individuals Using Exchange
8 Websites Act of 2013 after December 31, 2013,
9 a special enrollment period of at least 3 months
10 beginning after the date of such certification.”.

11 (d) EXEMPTION FROM ACA INDIVIDUAL MAN-
12 DATE.—Section 5000A(e) of the Internal Revenue Code
13 of 1986 is amended by adding at the end the following
14 new paragraph:

15 “(6) INDIVIDUALS UNABLE TO ENROLL IN A
16 HEALTH PLAN ONLINE.—

17 “(A) INDIVIDUALS RESIDING IN STATES
18 WITH UNCERTIFIED EXCHANGE WEBSITES.—
19 Any applicable individual for any month during
20 which the individual resides in a State for
21 which the Exchange Website is not certified
22 under section 2(a) of the Fairness for Individ-
23 uals Using Exchange Websites Act of 2013.

24 “(B) INDIVIDUALS RESIDING IN STATES
25 WITH EXCHANGE WEBSITES CERTIFIED AFTER

1 DECEMBER 31, 2013.—In the case of an Ex-
2 change for a State with respect to which the
3 Website is certified under section 2(a) of the
4 Fairness for Individuals Using Exchange
5 Websites Act of 2013 after December 31, 2013,
6 any applicable individual for any month—

7 “(i) beginning before the last day of
8 the special enrollment period provided by
9 such Exchange pursuant to section
10 1311(c)(6)(E) of the Patient Protection
11 and Affordable Care Act; and

12 “(ii) during which the individual re-
13 sides in such State.”.

14 (e) EFFECTIVE DATE.—The amendments made by—

15 (1) subsection (c) shall take effect as if included
16 in the enactment of section 1311 of the Patient Pro-
17 tection and Affordable Care Act (42 U.S.C. 18031);
18 and

19 (2) subsection (d) shall take effect as if in-
20 cluded in the amendments made by section 1501 of
21 such Act.

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