

## Chapter 734

(House Bill 1375)

AN ACT concerning

### Kids First Express Lane Eligibility Act

FOR the purpose of ~~requiring the Comptroller under certain circumstances to send information from a taxpayer's tax return to the Department of Health and Mental Hygiene for the purpose of determining eligibility of a certain dependent child for the Maryland Medical Assistance Program and the Maryland Children's Health Program; repealing a certain provision of law that requires the Comptroller to send certain applications and enrollment materials to a taxpayer under certain circumstances; authorizing the Comptroller under certain circumstances to send information from a taxpayer's tax return to the Department; repealing a certain provision of law that prohibits the Comptroller from sending a notice or information with certain applications and enrollment instructions; requiring the Department, based on certain information, to send certain applications and enrollment instructions to a taxpayer; requiring the Comptroller and the Secretary of Health and Mental Hygiene to enter into an interagency agreement that allows the sharing of information from the income tax return of a taxpayer for a certain purpose; requiring the Comptroller, in consultation with the Department of Health and Mental Hygiene, to provide a certain notice with the income tax return; requiring the Comptroller to provide a box on the income tax return for a certain purpose; prohibiting the Comptroller from sharing information with the Department if a taxpayer ~~opte~~ ~~out~~ fails to opt in; authorizing the Comptroller to disclose tax information ~~from the income tax return~~ to the Department in accordance with certain federal and State laws; extending the tax years for which the Comptroller must send certain applications and enrollment materials to a taxpayer under certain circumstances; requiring certain taxpayer instructions to explain a certain term; repealing certain obsolete provisions of law; altering a certain definition; ~~repealing~~ altering a certain termination provision; and generally relating to the use of information on income tax returns to promote health insurance for dependent children.~~

BY repealing and reenacting, without amendments,

Article – Insurance

Section 15–1301(f)(1)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10-211.1 and ~~13-202~~ 13-203(c)  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – Tax – General  
Section 13-202 and 13-203(b)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
 Chapter 692 of the Acts of the General Assembly of 2008  
 Section 6

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

**Article – Insurance**

15-1301.

- (f) (1) “Creditable coverage” means coverage of an individual under:
- (i) an employer sponsored plan;
  - (ii) a health benefit plan;
  - (iii) Part A or Part B of Title XVIII of the Social Security Act;
  - (iv) Title XIX or Title XXI of the Social Security Act, other than coverage consisting solely of benefits under § 1928 of that Act;
  - (v) Chapter 55 of Title 10 of the United States Code;
  - (vi) a medical care program of the Indian Health Service or of a tribal organization;
  - (vii) a State health benefits risk pool;
  - (viii) a health plan offered under the Federal Employees Health Benefits Program (FEHBP), Title 5, Chapter 89 of the United States Code;
  - (ix) a public health plan as defined by federal regulations authorized by the Public Health Service Act, § 2701(c)(1)(i), as amended by P.L. 104-191; or

(x) a health benefit plan under § 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e).

### Article – Tax – General

10–211.1.

(a) In this section, “health [care coverage] **INSURANCE**” means creditable coverage as defined in § 15–1301 of the Insurance Article.

(b) [(1) If the income, reported on the tax return for tax year 2007, of a taxpayer with a dependent child does not exceed the highest income eligibility standard for the Maryland Medical Assistance Program or the Maryland Children’s Health Program, the Comptroller shall send a notice to the taxpayer:

(i) indicating that the dependent child may be eligible for the Maryland Medical Assistance Program or the Maryland Children’s Health Program; and

(ii) providing information about how to enroll in the programs.

(2) The notice required under paragraph (1) of this subsection shall be developed by the Department of Health and Mental Hygiene.

(c) (1) (i) Beginning with the tax return for tax year 2008, [the] A taxpayer shall report on the income tax return, in the form required by the Comptroller, the presence or absence of health [care coverage] **INSURANCE** for each dependent child for whom an exemption is claimed.

(ii) Notwithstanding any other provision of law, a taxpayer may not be penalized in any manner for not providing the information required under subparagraph (i) of this paragraph or providing information required under subparagraph (i) of this paragraph that is inaccurate.

(2) [(i) If [the] A taxpayer indicates on [the] AN income tax return ~~for tax year 2008 or 2009~~ **FOR TAX YEARS 2008 THROUGH 2012** that a dependent child does not have health [care coverage] **INSURANCE**, and the income on the taxpayer’s tax return does not exceed the highest level income eligibility standard for the Maryland Medical Assistance Program or the Maryland Children’s Health Program, the Comptroller shall send ~~the taxpayer applications and enrollment instructions~~ **INFORMATION FROM THE TAXPAYER’S TAX RETURN TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR THE PURPOSE OF DETERMINING ELIGIBILITY OF A DEPENDENT CHILD OF THE TAXPAYER** for the Maryland Medical Assistance Program and the Maryland Children’s Health Program.

~~[(ii) The Comptroller may not send any notice or information with the applications and enrollment instructions required under subparagraph (i) of this paragraph, other than a notice developed by the Department of Health and Mental Hygiene.]~~

~~(3) IF A TAXPAYER DOES NOT INDICATE ON THE INCOME TAX RETURN THE PRESENCE OR ABSENCE OF HEALTH INSURANCE FOR A DEPENDENT CHILD FOR WHOM AN EXEMPTION IS CLAIMED AND THE INCOME ON THE TAXPAYER'S TAX RETURN DOES NOT EXCEED THE HIGHEST LEVEL INCOME ELIGIBILITY STANDARD FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE COMPTROLLER:~~

~~(i) MAY SEND INFORMATION FROM THE TAXPAYER'S TAX RETURN TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR THE PURPOSE OF DETERMINING ELIGIBILITY OF A DEPENDENT CHILD OF THE TAXPAYER FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND~~

~~(ii) SHALL INDICATE TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN ANY INFORMATION SENT UNDER ITEM (i) OF THIS PARAGRAPH THAT THE TAXPAYER DID NOT INDICATE ON THE INCOME TAX RETURN THE PRESENCE OR ABSENCE OF HEALTH INSURANCE FOR THE DEPENDENT CHILD.~~

~~(4) BASED ON THE INFORMATION SENT BY THE COMPTROLLER UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL SEND A TAXPAYER APPLICATIONS AND ENROLLMENT INSTRUCTIONS FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM.~~

(c) (1) THE COMPTROLLER AND THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL ENTER INTO AN INTERAGENCY AGREEMENT THAT ALLOWS THE SHARING OF INFORMATION FROM THE INCOME TAX RETURN OF A TAXPAYER FOR THE PURPOSE OF IDENTIFYING CHILDREN WHO MAY BE ELIGIBLE FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM AND ENROLLING ELIGIBLE CHILDREN IN THE PROGRAMS.

(2) THE INTERAGENCY AGREEMENT SHALL:

(i) PROHIBIT THE UNAUTHORIZED USE, DISCLOSURE, OR MODIFICATION OF INFORMATION FROM THE INCOME TAX RETURN OF A TAXPAYER;

(II) COMPLY WITH FEDERAL REQUIREMENTS SAFEGUARDING PRIVACY AND DATA SECURITY; AND

(III) REQUIRE SHARED INFORMATION FROM THE INCOME TAX RETURN OF A TAXPAYER TO BE USED SOLELY FOR THE PURPOSE OF IDENTIFYING AND ENROLLING ELIGIBLE CHILDREN IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM.

(D) (1) THE COMPTROLLER, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, SHALL PROVIDE A NOTICE WITH AN INCOME TAX RETURN THAT INFORMATION FROM THE INCOME TAX RETURN OF A TAXPAYER MAY BE SHARED WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR THE PURPOSE DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION ~~UNLESS IF~~ THE TAXPAYER CHECKS A BOX ON THE INCOME TAX RETURN TO OPT ~~OUT OF~~ INTO THE INFORMATION-SHARING.

(2) THE COMPTROLLER SHALL PROVIDE A BOX ON THE INCOME TAX RETURN THAT ALLOWS A TAXPAYER TO OPT ~~OUT OF~~ INTO SHARING INFORMATION FROM THE TAXPAYER'S INCOME TAX RETURN WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(3) IF A TAXPAYER ~~OPTS OUT OF~~ FAILS TO OPT INTO SHARING INFORMATION AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, OR OTHERWISE PROVIDE WRITTEN AUTHORIZATION TO SHARE INFORMATION, THE COMPTROLLER MAY NOT PROVIDE INFORMATION FROM THE TAXPAYER'S TAX RETURN TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

13-202.

~~(A)~~ Except as otherwise provided in this subtitle, an officer, employee, former officer, or former employee of the State or of a political subdivision of the State may not disclose, in any manner, any tax information.

~~(B) THE COMPTROLLER MAY DISCLOSE TAX INFORMATION TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN ACCORDANCE WITH:~~

~~(1) THE FEDERAL CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009; AND~~

~~(2) § 10-211.1 OF THIS ARTICLE.~~

13-203.

(b) Tax information may be disclosed in accordance with a proper judicial order or a legislative order.

(c) Tax information may be disclosed to:

(1) an employee or officer of the State who, by reason of that employment or office, has the right to the tax information;

(2) another tax collector;

(3) the Maryland Tax Court;

(4) a legal representative of the State, to review the tax information about a taxpayer:

(i) who applies for review under this title;

(ii) who appeals from a determination under this title; or

(iii) against whom an action to recover tax or a penalty is pending or will be initiated under this title;

(5) any license issuing authority of the State required by State law to verify through the Comptroller that an applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor, Licensing, and Regulation or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection;

(6) a local official as defined in § 13-925 of this title to the extent necessary to administer Subtitle 9, Part V of this title; [and]

(7) a federal official as defined in § 13-930 of this title to the extent necessary to administer Part VI of this subtitle; AND

**(8) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN ACCORDANCE WITH:**

**(I) THE FEDERAL CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009; AND**

**(II) § 10-211.1 OF THIS ARTICLE.**

**Chapter 692 of the Acts of 2008**

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. ¶It shall remain effective for a period of ~~3~~ **6** years and, at the end of June 30, ~~2011~~ **2014**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.¶

SECTION 2. AND BE IT FURTHER ENACTED, That the instructions developed by the Comptroller for a taxpayer to report the presence or absence of health insurance for a dependent child in accordance with § 10-211.1(b) of the Tax – General Article, as enacted by Section 1 of this Act, shall explain that “health insurance” includes insurance purchased individually or through an employer or other group, the Maryland Medical Assistance Program, or the Maryland Children’s Health Program.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 20, 2010.**