

112TH CONGRESS
1ST SESSION

H. R. 767

To permit individuals to choose to opt out of the requirement to maintain health insurance minimum essential coverage if such individuals also opt out of specified insurance reform protections.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2011

Mr. DEFAZIO introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and the Judiciary, 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 permit individuals to choose to opt out of the requirement to maintain health insurance minimum essential coverage if such individuals also opt out of specified insurance reform protections.

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 “Personal Responsibility
5 in Health Care Insurance Act”.

1 **SEC. 2. OPT OUT OF REQUIREMENT FOR INDIVIDUALS TO**
2 **MAINTAIN HEALTH INSURANCE MINIMUM ES-**
3 **SENTIAL COVERAGE AND CERTAIN HEALTH**
4 **INSURANCE PROTECTIONS.**

5 (a) ABILITY TO OPT OUT OF MINIMUM ESSENTIAL
6 COVERAGE REQUIREMENT.—

7 (1) IRC.—Section 5000A(d) of the Internal
8 Revenue Code of 1986 is amended—

9 (A) by striking “or (4)” and inserting
10 “(4), or (5)”; and

11 (B) by adding at the end the following new
12 paragraph:

13 “(5) INDIVIDUALS WHO HAVE CHOSEN TO OPT
14 OUT.—Such term shall not include any individual, or
15 a dependent of such individual, for any month dur-
16 ing a taxable year if such individual, or dependent,
17 has in effect an exemption under section
18 1311(d)(4)(H) of the Patient Protection and Afford-
19 able Care Act which certifies that there is in effect
20 for such month, with respect to such individual, or
21 such dependent, an affidavit of personal responsi-
22 bility described in section 1411(j) of such Act.”.

23 (2) PPACA.—Section 1411 of the Patient Pro-
24 tection and Affordable Care Act is amended by add-
25 ing at the end the following new subsection:

26 “(j) EXCLUSION BASED ON OPT OUT SELECTION.—

1 “(1) IN GENERAL.—For purposes of section
2 5000A(d)(5) of the Internal Revenue Code of 1986,
3 section 1311, and this section, an affidavit of per-
4 sonal responsibility described in this subsection, with
5 respect to an individual or any dependent of such in-
6 dividual, is a statement, that indicates each of the
7 following:

8 “(A) Such individual chooses for such indi-
9 vidual or such dependent, respectively, to opt
10 out of the application of subsections (a) and
11 (b)(1) of section 5000A of the Internal Revenue
12 Code of 1986 for the period described in para-
13 graph (2).

14 “(B) Such individual acknowledges that
15 such choice results in such individual or de-
16 pendent, respectively, waiving each of the fol-
17 lowing during such period:

18 “(i) Eligibility to enroll in a qualified
19 health plan through an Exchange estab-
20 lished pursuant to section 1311.

21 “(ii) The application of section 2704
22 of the Public Health Service Act (relating
23 to prohibition of preexisting condition ex-
24 clusions or other discrimination based on
25 health status), including as applied under

1 section 1255(2) of the Patient Protection
2 and Affordable Care Act (relating to indi-
3 viduals who are under 19 years of age).

4 “(C) Such individual acknowledges that
5 any health care related debts assumed by the
6 individual or dependent, respectively, while the
7 individual or dependent, respectively, has in ef-
8 fect such affidavit, will not be discharged under
9 chapter 7 of title 11 of the United States Code.

10 “(2) OPT OUT SELECTION PERIOD.—

11 “(A) IN GENERAL.—An affidavit of per-
12 sonal responsibility described in paragraph (1),
13 with respect to an individual or, if applicable, a
14 dependent of such individual, shall be in effect
15 for each month during the 3-year period begin-
16 ning with the first month after the applicable
17 certification under section 1311(d)(4)(H) has
18 been made.

19 “(B) RENEWABILITY.—An individual may
20 file an affidavit of personal responsibility, with
21 respect to the individual or any dependent of
22 the individual, under this subsection, and be
23 certified under section 1311(d)(4)(H) with re-
24 spect to such affidavit, for more than one pe-
25 riod described in subparagraph (A).

1 “(3) ELIGIBILITY.—

2 “(A) IN GENERAL.—An individual may file
3 an affidavit of personal responsibility under this
4 section, with respect to such individual, only if,
5 as of the date of submission of such affidavit,
6 the individual—

7 “(i) is not eligible for any exemption
8 described in such subsection other than by
9 application of this subsection; and

10 “(ii) is not enrolled in any program
11 described in section 5000A(f) of the Inter-
12 nal Revenue Code of 1986.

13 “(B) TREATMENT OF DEPENDENTS.—An
14 individual may specify a dependent of such indi-
15 vidual within the affidavit of personal responsi-
16 bility of such individual (or may file a separate
17 affidavit of personal responsibility on behalf of
18 such a dependent) for purposes of this sub-
19 section, but only if such dependent meets the
20 criteria specified in clauses (i) and (ii) of sub-
21 paragraph (A).”.

22 (3) CONFORMING AMENDMENTS.—

23 (A) Section 1311(d)(4) of the Patient Pro-
24 tection and Affordable Care Act is amended—

1 (i) in subparagraph (H)(ii), by insert-
2 ing before the period at the end the fol-
3 lowing: “, including with respect to an affi-
4 davit of personal responsibility described in
5 section 1411(j)”;

6 (ii) in subparagraph (J), by striking
7 at the end “and”;

8 (iii) in subparagraph (K), by striking
9 the period and inserting “; and”; and

10 (iv) by adding at the end the following
11 new subparagraph:

12 “(L) in the case of an individual (or de-
13 pendent of an individual) with respect to whom
14 there is filed an affidavit of personal responsi-
15 bility described in section 1411(j) and who is el-
16 igible for any program described in section
17 5000A(f)(1)(A) of the Internal Revenue Code of
18 1986, provide notification to such individual of
19 such eligibility, including information necessary
20 for the individual (or dependent) to enroll in
21 such program.”.

22 (B) Section 1411(b)(5) of such Act is
23 amended by adding at the end the following
24 new subparagraph:

1 “(C) In the case of an individual (or de-
2 pendent of such individual) seeking exemption
3 based on the individual (or dependent) having
4 in effect an affidavit of personal responsibility
5 described in subsection (j), such information as
6 the Secretary, in consultation with the Sec-
7 retary of the Treasury, shall prescribe, which
8 shall include sufficient information to verify the
9 individual (or dependent) meets the criteria
10 specified in clauses (i) and (ii) of subsection
11 (j)(3)(A).”.

12 (b) INDIVIDUALS OPTING OUT OF MINIMUM ESSEN-
13 TIAL COVERAGE REQUIREMENT EXCLUDED FROM CER-
14 TAIN HEALTH-RELATED PROGRAMS.—

15 (1) ELIGIBILITY TO PARTICIPATE IN EX-
16 CHANGES.—Section 1312(f)(1)(A) of the Patient
17 Protection and Affordable Care Act is amended—

18 (A) in clause (i), by striking at the end
19 “and”;

20 (B) in clause (ii), by striking at the end
21 the period and inserting “; and”; and

22 (C) by adding at the end the following new
23 clause:

24 “(iii) is not an individual (or depend-
25 ent of such individual) who has in effect an

1 exemption under section 1311(d)(4)(H)
2 which certifies that there is in effect, with
3 respect to such individual (or dependent),
4 an affidavit of personal responsibility de-
5 scribed in section 1411(j).”.

6 (2) PREEXISTING CONDITION EXCLUSION.—
7 Section 2704 of the Public Health Service Act, as
8 inserted by section 1201 of the Patient Protection
9 and Affordable Care Act, is amended by inserting
10 before the period at the end the following: “, except
11 that this section shall not apply to an individual (or
12 dependent of such individual) with respect to whom
13 there is in effect an exemption under section
14 1311(d)(4)(H) of the Patient Protection and Afford-
15 able Care Act which certifies that there is in effect,
16 with respect to such individual (or dependent), an
17 affidavit of personal responsibility described in sec-
18 tion 1411(j) of such Act”.

19 (3) HEALTH RELATED DEBTS NONDISCHARGE-
20 ABLE UNDER CHAPTER 7 IN CASES OF INDIVIDUALS
21 WHO OPT OUT OF MINIMUM ESSENTIAL COVERAGE
22 REQUIREMENT.—Notwithstanding any provision of
23 title 11 of the United States Code, a discharge in a
24 case under chapter 7 of such title does not discharge
25 an individual (or dependent of such individual) from

1 a health care related debt if such debt was assumed
2 while such individual (or dependent) has in effect an
3 exemption under section 1311(d)(4)(H) of the Pa-
4 tient Protection and Affordable Care Act which cer-
5 tifies that there is in effect, with respect to such in-
6 dividual (or dependent), an affidavit of personal re-
7 sponsibility described in section 1411(j) of such Act.

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