**South Carolina General Assembly**

120th Session, 2013-2014

**H. 3473**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Delleney, Quinn, Simrill, Pope, D.C. Moss, G.R. Smith, Owens, Taylor, Loftis, Putnam, H.A. Crawford, Hamilton, J.R. Smith, Newton, Allison, Bannister, Barfield, Bedingfield, Clemmons, Cole, Erickson, Felder, Finlay, Gagnon, Gambrell, Goldfinch, Hardee, Henderson, Herbkersman, Hiott, Hixon, Horne, Kennedy, Long, Lowe, McCoy, V.S. Moss, Murphy, Norman, Pitts, Sandifer, G.M. Smith, Stringer, Tallon, Toole, Wells, White, Whitmire, Wood and Hardwick

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Introduced in the House on January 31, 2013

Currently residing in the House Committee on **Judiciary**

Summary: American Health Benefit Exchange

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/31/2013 House Introduced and read first time ([House Journal‑page 26](file:///h:\HJ%20Archive\2013\01-31-13.docx))

1/31/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 26](file:///h:\HJ%20Archive\2013\01-31-13.docx))

3/20/2013 House Member(s) request name added as sponsor: Wood, Hardwick

**VERSIONS OF THIS BILL**

[1/31/2013](file:///p:\pprever\2013-14\3473_20130131.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑285 SO AS TO PROHIBIT THE STATE AND OTHER ENTITIES FROM ESTABLISHING, OPERATING, OR PURCHASING INSURANCE FROM AN AMERICAN HEALTH BENEFIT EXCHANGE AND TO MAKE SUCH HEALTH INSURANCE CONTRACTS VOID; BY ADDING SECTION 12‑6‑3577 SO AS TO GIVE AN INDIVIDUAL A TAX CREDIT IF TAXED UNDER 26 U.S.C. SECTION 5000A OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT; AND BY ADDING SECTION 1‑7‑180 SO AS TO ALLOW THE ATTORNEY GENERAL TO BRING AN ACTION AGAINST A PERSON OR ENTITY CAUSING HARM WHEN IMPLEMENTING THE PATIENT PROTECTION AND AFFORDABLE CARE ACT.

Whereas, the General Assembly finds that the Constitution of the United States sets forth powers and limitations of powers, which must be followed and protected for the good of the nation and the good of our State; and

Whereas, the United States Constitution’s Tenth Amendment sets forth such a limitation of power on the federal government stating, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”; and

Whereas, the General Assembly finds when the federal government attempts to expand its power outside the limitations set forth in the Constitution, it is the duty of the General Assembly to protect South Carolinians from such an aggression. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑285. (A) ‘Health Care Exchange’ means the same as ‘American Health Benefit Exchange’, as provided for in the Patient Protection and Affordable Care Act of 2010 and any subsequent federal act that amends that definition, and may refer to an entity or a process established pursuant to the Patient Protection and Affordable Care Act of 2010.

(B) Neither South Carolina nor a political subdivision including, but not limited to, counties, municipalities, or special purpose districts of the State may establish a Health Care Exchange for the purchase of health insurance.

(C) Neither South Carolina nor a political subdivision including, but not limited to, counties, municipalities, or special purpose districts, may participate in or purchase insurance from a health care exchange established by a nonprofit organization.

(D) A health insurance contract purchased or established in violation of this section is void and must not be enforced by the courts of this State.”

SECTION 2. Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3577. A South Carolina resident taxpayer who is subjected to a tax by the Internal Revenue Code under 26 U.S.C. Section 5000A of the Patient Protection and Affordable Care Act shall receive a tax credit in an amount sufficient to offset the taxes paid the federal government pursuant to 26 U.S.C. Section 5000A. The tax credit allowed by this section is nonrefundable and must be used in the year it is generated.”

SECTION 3. Article 1, Chapter 7, Title 1 of the 1976 Code is amended by adding:

“Section 1‑7‑180. Whenever the Attorney General has reasonable cause to believe that a person or business is being harmed by implementation of the Patient Protection and Affordable Care Act and that proceedings would be in the public interest, the Attorney General may bring an action in the name of the State against such person or entity causing the harm to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such method, act, or practice. Unless the Attorney General determines in writing that the purposes of this section will be substantially impaired by delay in instituting legal proceedings, the Attorney General shall, at least three days before instituting a legal proceeding as provided in this section, give notice to the person or entity against whom the proceeding is contemplated and give such person or entity an opportunity to present reasons to the Attorney General why a proceeding should not be instituted. The action may be brought in a court of competent jurisdiction. Whenever the court issues a permanent injunction in connection with an action, which has become final, the court shall award reasonable costs to the State.”

SECTION 4. This act takes effect upon approval by the Governor.

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