115TH CONGRESS
1ST SESSION
H. R. 640

To amend title I of the Patient Protection and Affordable Care Act to require that a State awarded a Federal grant to establish an Exchange and that terminates the State operation of such an Exchange provide for an audit of the use of grant funds and return funds to the Federal Government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2017

Mr. ALLEN (for himself, Mr. ROKITA, Mr. FARENTHOLD, Mr. PITTENGER, and Mr. ROE of Tennessee) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title I of the Patient Protection and Affordable Care Act to require that a State awarded a Federal grant to establish an Exchange and that terminates the State operation of such an Exchange provide for an audit of the use of grant funds and return funds to the Federal Government, 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 "Transparency and Ac-

5 countability of Failed Exchanges Act".

SEC. 2. STATES AWARDED EXCHANGE ESTABLISHMENT GRANTS THAT TERMINATE STATE OPER-ATION OF SUCH AN EXCHANGE REQUIRED TO PROVIDE AUDITS OF THE USE OF GRANT FUNDS AND RETURN FUNDS TO THE FED-ERAL GOVERNMENT.

(a) IN GENERAL.—Section 1311(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18031(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT IN CASE OF EXCHANGE TER-MINATION.—

"(A) IN GENERAL.—In the case of a State that is awarded a grant under this section to establish an Exchange and that terminates the operation of such Exchange or otherwise trans-fers the operation of such Exchange to an enti-ty other than such State—

"(i) not later than 30 days after the date of such termination or transfer (or, in the case of such a termination or transfer that occurred before the date of the enact-ment of this paragraph, not later than 30 days after such date of enactment), the State shall submit to Congress and the Secretary a report containing the results of

3

1 an audit of how amounts awarded to such

2 State pursuant to such grant were used;

3 and

4 "(ii) not later than 30 days after the

5 date of such termination or transfer (or, in

6 the case of such a termination or transfer

7 that occurred before the date of the enact-

8 ment of this paragraph, not later than 30

9 days after such date of enactment)—

10 "(I) in accordance with subpara-

11 graph (B), there are rescinded any

12 unobligated amounts awarded to such

13 State pursuant to such grant; and

14 "(II) in accordance with subpara-

15 graph (C), the State shall provide to

16 the Administrator of General Services

17 any property acquired by such State

18 with amounts awarded to such State

19 pursuant to such grant and shall sub-

20 mit to Congress and the Secretary a

21 record of the provision of such prop-

22 erty to the Administrator.

23 "(B) RETENTION OF FUNDS FOR DEFICIT

24 REDUCTION.—Funds rescinded under subpara-

25 graph (A)(ii)(I) shall be retained in the general

4

1 fund of the Treasury for Federal budget deficit

2 reduction.

3 ''(C) TREATMENT OF PROPERTY.—The

4 Administrator of General Services may—

5 ''(i) dispose of any property obtained

6 pursuant to subparagraph (A)(ii)(II)

7 through a public auction for cash and for

8 not less than the fair market value of the

9 property, as determined by the Adminis-

10 trator;

11 ''(ii) provide to any Federal agency

12 such property for official use by such agen-

13 cy; or

14 ''(iii) lease or hire such property, and

15 may insure such property.

16 ''(D) EXEMPTION FROM CERTAIN PROP-

17 ERTY DISPOSAL REQUIREMENTS.—Any disposal

18 of property conducted under subparagraph

19 (C)(i) shall not be subject to—

20 ''(i) subchapter IV of chapter 5 of

21 subtitle I of title 40, United States Code;

22 ''(ii) sections 550 and 553 of title 40,

23 United States Code;

1 "(iii) section 501 of the McKinney-
2 Vento Homeless Assistance Act (42 U.S.C.
3 11411);

4 "(iv) any other provision of law au-
5 thorizing the no-cost conveyance of prop-
6 erty owned by the Federal Government; or

7 "(v) any congressional notification re-
8 quirement other than that in section 545
9 of title 40, United States Code.

10 "(E) INCOME FROM PROPERTY.—The Ad-
11 ministrator shall deposit any income from the
12 disposition, lease, or hire of the property ob-
13 tained pursuant to subparagraph (A)(ii)(II) in
14 the general fund of the Treasury for Federal
15 budget deficit reduction.".

16 (b) APPLICATION OF THE FALSE CLAIMS ACT.—Sec-
17 tion 1313(a)(6)(A) of the Patient Protection and Afford-
18 able Care Act (42 U.S.C. 18033(a)(6)(A)) is amended by
19 adding at the end the following: "Further, except as other-
20 wise provided for expressly under this Act, the False
21 Claims Act preempts any State enforcement action of al-
22 leged fraud, waste, and abuse of funds issued pursuant
23 to this Act. States that terminate or transfer their ex-
24 change will refer all current and future matters involving
25 fraud, waste, and abuse of funds issued pursuant to this

1 Act to the United States Department of Justice. Any cur-

2 rent or future enforcement action shall be removed to or

3 brought in Federal court. All fines, penalties, damages,

4 or awards, monetary or otherwise, arising out of any cur-

5 rent or future enforcement action, represent Federal funds

6 that shall be returned to the United States.''.

7 (c) ENFORCEMENT ACTION.—The Attorney General

8 may bring an action before the appropriate district court

9 of the United States to enforce section 1311(a)(6) of the

10 Patient Protection and Affordable Care Act (42 U.S.C.

11 18031(a)(6)).

12 (d) EFFECTIVE DATE.—The provisions of this sec-

13 tion, including the amendment made by subsection (a),

14 shall apply with respect to grants made before, on, or after

15 the date of the enactment of this Act and to terminations

16 and transfers of Exchanges occurring before, on, or after

17 such date.

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