

113TH CONGRESS  
1ST SESSION

# S. 1164

To amend the Patient Protection and Affordable Care Act to clarify provisions with respect to church plans.

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IN THE SENATE OF THE UNITED STATES

JUNE 13, 2013

Mr. PRYOR (for himself and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Patient Protection and Affordable Care Act to clarify provisions with respect to church plans.

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 “Church Health Plan  
5 Act of 2013”.

6 **SEC. 2. CHURCH PLANS AS QUALIFIED HEALTH PLANS.**

7       (a) IN GENERAL.—Section 1301(a) of the Patient  
8 Protection and Affordable Care Act (42 U.S.C. 18021(a))  
9 is amended—

1           (1) by redesignating paragraphs (3) and (4) as  
2 paragraphs (4) and (5), respectively; and

3           (2) by inserting after paragraph (2), the fol-  
4 lowing:

5           “(3) INCLUSION OF QUALIFIED CHURCH  
6 PLANS.—

7           “(A) IN GENERAL.—Any reference in this  
8 title to a qualified health plan shall be deemed  
9 to include a qualified church plan, unless spe-  
10 cifically provided for otherwise.

11           “(B) REQUIREMENTS OF QUALIFIED  
12 CHURCH PLANS.—A qualified church plan is a  
13 church plan, as defined in section 414(e) of the  
14 Internal Revenue Code of 1986, that—

15           “(i) is a welfare plan, as defined in  
16 section 2(c) of Public Law 106–244, and  
17 provides health care coverage for the em-  
18 ployees of ten or more eligible common law  
19 employers, and if a majority of employees  
20 covered by the plan are employees of  
21 churches or qualified church-controlled or-  
22 ganizations within the meaning of sections  
23 3121(w)(3) (A) and (B) of the Internal  
24 Revenue Code of 1986, respectively;

1           “(ii) provides an essential health bene-  
2           fits package, as defined in section 1302(a);

3           “(iii) complies with the requirements  
4           under sections 2703, 2706, 2708, 2709,  
5           2711, 2712, 2713, 2714, 2715, 2719, and  
6           2719A of the Public Health Service Act;

7           “(iv) prohibits exclusions based on  
8           preexisting conditions or other health sta-  
9           tus, and prohibits discrimination against  
10          individual participants and beneficiaries  
11          based on health status for the purposes of  
12          enrollment, within the meaning of sections  
13          2704 and 2705 of the Public Health Serv-  
14          ice Act, except as provided under subpara-  
15          graph (C)(ii); and

16          “(v) limits, on average, the ratio of in-  
17          curred losses plus loss adjustment expenses  
18          to earned premiums, within the meaning of  
19          section 2718 of the Public Health Service  
20          Act, as calculated across the entire church  
21          plan, except that, for purposes of this  
22          paragraph, earned premiums include pay-  
23          ments by, or on behalf of, employees of a  
24          church, as defined in 414(e)(3)(B) of the  
25          Internal Revenue Code of 1986.

1           “(C) EXCLUSION OF QUALIFIED CHURCH  
2 PLANS FROM AMERICAN HEALTH BENEFIT EX-  
3 CHANGES.—

4           “(i) IN GENERAL.—A qualified church  
5 plan may not participate in an American  
6 Health Benefit Exchange established by a  
7 State under section 1311(b) or by the Sec-  
8 retary of Health and Human Services (re-  
9 ferred to in this paragraph as the ‘Sec-  
10 retary’) under 1321(c). The Secretary shall  
11 not assess a charge or make a payment to  
12 a qualified church plan to reflect actuarial  
13 risk pursuant to section 1343, and a quali-  
14 fied church plan shall be exempt from any  
15 other subsidies, payments, or requirements  
16 under this Act that apply to qualified  
17 health plans offered on American Health  
18 Benefit Exchanges, except as provided by  
19 this paragraph.

20           “(ii) PREMIUMS.—A qualified church  
21 plan may differentiate premiums using  
22 methods and criteria consistent with those  
23 that the Secretary uses to assess charges  
24 and payments to other qualified health  
25 plans based on the actuarial risks of enroll-

1           ees of such plans pursuant to section 1343  
2           and those described in section 422.308 of  
3           title 42, Code of Federal Regulations. A  
4           qualified church plan may develop addi-  
5           tional methods and criteria to define and  
6           account for the actuarial risk associated  
7           with the prohibition against qualified  
8           church plans enrolling a larger number  
9           and more diverse pool of enrollees as long  
10          as such additional methods and criteria are  
11          not inconsistent with the risk adjusters de-  
12          scribed in section 1343 and those described  
13          in section 422.308 of title 42, Code of  
14          Federal Regulations.

15               “(D) DEEMED STATUS OF QUALIFIED  
16          CHURCH PLANS.—A qualified church plan shall  
17          be deemed to be—

18                       “(i) minimum essential coverage  
19                       under an eligible employer-sponsored plan,  
20                       as defined under section 5000A(f)(2) of  
21                       the Internal Revenue Code of 1986; and

22                       “(ii) for the purposes of subparagraph  
23                       (F), equivalent to a health plan offered  
24                       through an American Health Benefit Ex-

1 change, within the meaning of section  
2 1311(b).

3 “(E) EMPLOYERS PARTICIPATING IN  
4 QUALIFIED CHURCH PLANS.—

5 “(i) ELIGIBLE SMALL EMPLOYERS.—  
6 An employer participating in a qualified  
7 church plan shall be deemed an eligible  
8 small employer under section 45R(d) of the  
9 Internal Revenue Code of 1986, if—

10 “(I) the employer has not more  
11 than 25 full-time equivalent employ-  
12 ees, as defined under section  
13 45R(d)(2) of the Internal Revenue  
14 Code of 1986, for the taxable year;  
15 and

16 “(II) the average annual wages  
17 of such full-time equivalent employees  
18 do exceed an amount equal to twice  
19 the dollar amount in effect under sec-  
20 tion 45R(d)(3)(B) of the Internal  
21 Revenue Code of 1986 for the taxable  
22 year, and if no employee of the em-  
23 ployer who is enrolled in the qualified  
24 church plan receives premium tax

1 credits or reductions in cost-sharing  
2 under subparagraph (F).

3 “(ii) NO EXCLUSION FROM WAGES.—  
4 Any employer participating in a qualified  
5 church plan shall not exclude from wages  
6 and other compensation, for any individual  
7 receiving premium tax credits under sec-  
8 tion 1401, any employer contribution for  
9 minimum essential coverage under a quali-  
10 fied church plan under section 106 of the  
11 Internal Revenue Code of 1986.

12 “(iii) EMPLOYERS PARTICIPATING IN  
13 QUALIFIED CHURCH PLANS.—Any em-  
14 ployer participating in a qualified church  
15 plan shall be deemed to be a ‘religious em-  
16 ployer’ as defined in section 147.131 of  
17 title 45, Code of Federal Regulations.

18 “(F) PREMIUM TAX CREDITS, REDUCTIONS  
19 IN COST-SHARING, AND QUALIFIED CHURCH  
20 PLANS.—An individual receiving minimum es-  
21 sential coverage under a qualified church  
22 plan—

23 “(i) shall be deemed to satisfy the in-  
24 dividual responsibility requirements under

1 section 5000A of the Internal Revenue  
2 Code of 1986;

3 “(ii) shall be deemed to qualify as an  
4 applicable taxpayer eligible to receive pre-  
5 mium tax credits under section 1401, if  
6 the individual’s household income for the  
7 taxable year equals or exceeds 100 percent  
8 but does not exceed 400 percent of an  
9 amount equal to the poverty line for a fam-  
10 ily of the size involved; and

11 “(iii) shall be deemed to qualify as an  
12 eligible insured eligible to receive reduc-  
13 tions in cost-sharing under section  
14 1402(b), if the individual’s household in-  
15 come exceeds 100 percent but does not ex-  
16 ceed 400 percent of the poverty line for a  
17 family of the size involved.

18 “(G) REGULATIONS.—The Secretary and  
19 the Secretary of the Treasury shall promulgate  
20 regulations—

21 “(i) under subparagraph (E) to en-  
22 sure that an eligible small employer offer-  
23 ing a qualified church plan receives the  
24 same tax credit as any other eligible small



1 employer under section 45R of the Internal  
2 Revenue Code of 1986;

3 “(ii) under subparagraph (F)(ii) to  
4 ensure that an applicable taxpayer receiv-  
5 ing minimum essential coverage under a  
6 qualified church plan receives the same  
7 premium tax credit as any other applicable  
8 taxpayer under section 1401;

9 “(iii) under subparagraph (F)(iii) to  
10 ensure that an eligible insured receiving  
11 minimum essential coverage under a quali-  
12 fied church plan receives the same reduc-  
13 tion in cost-sharing as any other eligible  
14 insured under section 1402; and

15 “(iv) providing church plans sufficient  
16 opportunity to make appropriate transi-  
17 tions in order to meet the definition of  
18 qualified church plan under subparagraph  
19 (B).”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 this Act shall take effect as if enacted as part of the Pa-  
22 tient Protection and Affordable Care Act (Public Law  
23 111–148).

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