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# A BILL FOR AN ACT

RELATING TO INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to facilitate the  
2 availability in Hawaii of high deductible health plans that may  
3 be purchased by members of the labor force for use with a health  
4 savings account. Maintenance of a health savings account is  
5 intended to be a required condition of maintenance of a high  
6 deductible health plan. It is the intent of the legislature  
7 that health savings accounts shall be used to pay for or  
8 reimburse qualifying medical expenses and to maximize favorable  
9 tax treatment through year-to-year accumulation of  
10 contributions, which may be distributed on a tax-free basis.

11           This Act shall be liberally construed to allow employers  
12 and employees to receive maximum tax benefits provided in  
13 federal or state law through the use of a high deductible health  
14 plan.

15           SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
16 amended by adding a new section to article 10A to be  
17 appropriately designated and to read as follows:



1           "§431:10A-       High deductible health plan; limitations.

2    (a) On or after January 1, 2018, and subject to regulation by  
3    the commissioner and the department of labor and industrial  
4    relations, an insurer may offer, sell, or renew a high  
5    deductible health plan to employers that are subject to chapter  
6    393; provided that:

7           (1) The insurer shall also sell the employer a prepaid  
8           health care plan group accident and health or sickness  
9           insurance policy that is not a high deductible health  
10          plan;

11          (2) The insurer shall ensure that a prepaid health care  
12          plan group accident and health or sickness insurance  
13          policy that is not a high deductible health plan is  
14          offered to each eligible insured; and

15          (3) The insurer shall ensure that in conjunction with the  
16          high deductible health plan, a health savings account  
17          is also offered to each eligible insured.

18          (b) Nothing in this section shall allow an employer  
19          subject to chapter 393 to avoid providing a prepaid health care  
20          plan. It shall be a violation of this section for any insurer  
21          subject to this section to offer, sell, or renew a high



1 deductible health plan without a health savings account, or vice  
2 versa, to an employer that is subject to chapter 393.

3 (c) If this section or any provision of this section  
4 conflicts at any time with any federal law, then the federal law  
5 shall prevail and this section or the relevant provisions of  
6 this section shall become ineffective and invalid. The  
7 ineffectiveness or invalidity of this section or any of its  
8 provisions shall not affect any other provisions or applications  
9 of this section, which shall be given effect without the invalid  
10 provision or application, and to this end, the provisions of  
11 this section are severable.

12 (d) Nothing in this section shall require an insurer to  
13 provide a health savings account to an employer.

14 (e) Nothing in this section shall be construed to affect  
15 collectively bargained agreements.

16 (f) As used in this section, unless the context clearly  
17 requires otherwise:

18 "Health savings account" means a health savings account  
19 authorized under section 223 of the Internal Revenue Code of  
20 1986.



1       "High deductible health plan" shall have the same meaning  
2 as in section 223 of the Internal Revenue Code of 1986.

3       "Prepaid health care plan" shall have the same meaning as  
4 in section 393-3."

5       SECTION 3. Chapter 432, Hawaii Revised Statutes, is  
6 amended by adding a new section to article 1 to be appropriately  
7 designated and to read as follows:

8       "§432:1- High deductible health plan; limitations. (a)

9 On or after January 1, 2018, and subject to regulation by the  
10 commissioner and the department of labor and industrial  
11 relations, a mutual benefit society may offer, sell, or renew a  
12 high deductible health plan to employers that are subject to  
13 chapter 393; provided that:

14       (1) The mutual benefit society shall also sell the  
15 employer a prepaid health care plan group hospital and  
16 medical service plan that is not a high deductible  
17 health plan;

18       (2) The mutual benefit society shall ensure that prepaid  
19 health care plan group hospital and medical service  
20 plan that is not a high deductible health plan is  
21 offered to each eligible member; and



1       (3) The mutual benefit society shall ensure that in  
2       conjunction with the high deductible health plan, a  
3       health savings account is also offered to each  
4       eligible insured.

5       (b) Nothing in this section shall allow an employer  
6       subject to chapter 393 to avoid providing a prepaid health care  
7       plan. It shall be a violation of this section for any mutual  
8       benefit society subject to this section to offer, sell, or renew  
9       a high deductible health plan without a health savings account,  
10      or vice versa, to an employer that is subject to chapter 393.

11      (c) If this section or any provision of this section  
12      conflicts at any time with any federal law, then the federal law  
13      shall prevail and this section or the relevant provisions of  
14      this section shall become ineffective and invalid. The  
15      ineffectiveness or invalidity of this section or any of its  
16      provisions shall not affect any other provisions or applications  
17      of this section, which shall be given effect without the invalid  
18      provision or application, and to this end, the provisions of  
19      this section are severable.

20      (d) Nothing in this section shall require a mutual benefit  
21      society to provide the health savings account to an employer.



1       (e) Nothing in this section shall be construed to affect  
2 collectively bargained agreements.

3       (f) As used in this section, unless the context clearly  
4 requires otherwise:

5       "Health savings account" means a health savings account  
6 authorized under section 223 of the Internal Revenue Code of  
7 1986.

8       "High deductible health plan" shall have the same meaning  
9 as in section 223 of the Internal Revenue Code of 1986.

10       "Prepaid health care plan" shall have the same meaning as  
11 in section 393-3."

12       SECTION 4. Section 432D-23, Hawaii Revised Statutes, is  
13 amended to read as follows:

14       **"§432D-23 Required provisions and benefits.**

15 Notwithstanding any provision of law to the contrary, each  
16 policy, contract, plan, or agreement issued in the State after  
17 January 1, 1995, by health maintenance organizations pursuant to  
18 this chapter, shall include benefits provided in sections  
19 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116,  
20 431:10A-116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119,  
21 431:10A-120, 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126,



1 431:10A-132, 431:10A-133, 431:10A-134, 431:10A-140, and  
2 [~~431:10A-134~~,] 431:10A-\_\_\_\_\_, and chapter 431M."

3 SECTION 5. Notwithstanding section 432D-23, Hawaii Revised  
4 Statutes, the high deductible health plan in conjunction with a  
5 health savings account to be provided by a health maintenance  
6 organization under section 4 of this Act shall apply to all  
7 group policies, contracts, plans, or agreements issued or  
8 renewed in this State by a health maintenance organization on or  
9 after January 1, 2018.

10 SECTION 6. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16 SECTION 7. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2017, and  
19 shall be repealed on June 30, 2022, and section 423D-23, Hawaii  
20 Revised Statutes, shall be reenacted in the form in which it  
21 read on the day prior to enactment of this Act.



**Report Title:**

High Deductible Health Plans; Health Savings Accounts; Insurance

**Description:**

Authorizes the issuance of employer-sponsored high deductible health plans. Requires maintenance of health savings accounts in conjunction with high deductible health plans. Specifies that employers and insurers that buy or sell high deductible health plans remain subject to the Prepaid Health Care Act.  
(HB407 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

