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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 establishment of health savings accounts in the State and  
3 require employers to make contributions to health savings  
4 accounts, which receive favorable tax treatment in that the  
5 contributions may be accumulated over the years, or distributed  
6 on a tax-free basis, to pay or reimburse qualifying medical  
7 expenses.

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

11           "§431:10A-       Health savings account program; limitations;

12 definitions. (a) Each group accident and health or sickness  
13 insurance policy issued or renewed in this State after July 1,  
14 2016, may include an option for a group health savings program.

15           (b) An employer subject to chapter 393 may offer a health  
16 savings account program to employees in addition to the group  
17 accident and health or sickness insurance policy provided by an



1 insurer. An employer offering a health savings account program  
2 shall be subject to the following limitations. The employer  
3 shall:

4 (1) Provide the program to employees only as an  
5 alternative option to a group accident and health or  
6 sickness insurance policy, in which both the program  
7 and the group accident and health or sickness  
8 insurance policy provide aggregate benefits that are  
9 determined pursuant to chapter 393 to be equivalent  
10 and meet the qualifications in either subsection 393-  
11 7(a) or (b);

12 (2) Make an annual employer contribution to the health  
13 savings account of an employee enrolled in the  
14 program, and upon enrollment of a new employee that  
15 enrolls in the program;

16 (3) Make an employer contribution of an amount equal to or  
17 greater than eighty per cent of the annual deductible  
18 of a high deductible health plan for self-only  
19 coverage and equal to or greater than eighty per cent  
20 of the annual deductible of a high deductible health  
21 plan for family coverage, with the total annual



- 1           employer contribution not to exceed the maximum  
2           contribution amount pursuant to section 223 of the  
3           Internal Revenue Code of 1986;
- 4       (4) Contribute the annual amount to the employee's health  
5           savings account prior to the first day the employee is  
6           covered by the program;
- 7       (5) Increase the contribution amount to an employee's  
8           health savings account if an employee's status changes  
9           from self-only coverage to family coverage during  
10          program;
- 11       (6) Cooperate with the insurer regarding proof of  
12          compliance with the limitations for offering a health  
13          savings account program to employees;
- 14       (7) Provide the declaration of understanding from the  
15          insurer with the program application;
- 16       (8) Provide the certification obtained from the insurer  
17          regarding the employer's compliance with the  
18          limitations of the program to the insurer; and
- 19       (9) Immediately remove any employee and dependents, if  
20          any, from the program and place the employee and  
21          dependents, if any, in the group accident and health



1           or sickness insurance policy if the employer knows the  
2           program is not in compliance with this section, by  
3           notifying the insurer immediately.

4           (c) Every insurer that offers, sells, or renews a group  
5           accident and health or sickness insurance policy with an option  
6           for a health savings account program shall:

7           (1) Include the employer limitations in this section in  
8           any policy, contract, certificate, or agreement,  
9           regardless of form;

10          (2) Encourage informed decisions by providing employers a  
11          one-page, double-sided declaration of understanding,  
12          to be included with any program application that  
13          explains in plain and simple language certain terms of  
14          the program, including covered services, applicable  
15          deductibles, claims processing, and the effective use  
16          of the program for favorable tax treatment;

17          (3) Retain the employer's certification as to compliance  
18          with the limitations of the program for five years;  
19          and

20          (4) Submit to the insurance commissioner, no later than  
21          June 30 of each calendar year, a statewide basis



1 report in such form and detail as the insurance  
2 commissioner shall prescribe, on the preceding  
3 calendar year stating the participation rate, the  
4 total dollars contributed by employers, the total  
5 dollars contributed by employees and the disbursement  
6 of the deposits as a percentage of the deposits in the  
7 health savings accounts.

8 (d) Unused funds in a health savings account shall become  
9 the property of the health savings account holder at the end of  
10 a taxable year.

11 (e) Notwithstanding any provision of law to the contrary,  
12 the rights of an employee or dependent, if any, of a health  
13 savings account to hold or to receive moneys paid into or out  
14 of, the assets of, and the income of the health savings account:

15 (1) Shall be exempt from creditor process;

16 (2) Shall not be liable to attachment, garnishment, or  
17 other process; and

18 (3) Shall not be seized, taken, appropriated, or applied  
19 by any legal or equitable process or operation of law  
20 to pay any debt or liability of the employee or  
21 beneficiary of the account.



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

10       (g) As used in this section, unless the context clearly  
11 requires otherwise:

12       "Family coverage" shall have the same meaning as defined in  
13 section 223 of the Internal Revenue Code of 1986.

14       "Health savings account" means a health savings account  
15 authorized under section 223 of the Internal Revenue Code of  
16 1986.

17       "Health savings account program" or "program" means a high  
18 deductible health plan with a health savings account that has  
19 been approved pursuant to chapter 393 to be offered, sold or  
20 renewed with an employer-sponsored plan to an employer subject  
21 to chapter 393.



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

3 "Self-only coverage" means coverage only for the employee  
4 and not for dependents."

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- Health savings account program; limitations;**  
9 **definitions.** (a) Each group hospital and medical service plan  
10 contract issued or renewed in this State after July 1, 2016, may  
11 include an option for a group health savings program.

12 (b) An employer subject to chapter 393 may offer a health  
13 savings account program to employees in addition to the group  
14 hospital and medical service plan contract provided by a mutual  
15 benefit society. An employer offering a health savings account  
16 program shall be subject to the following limitations. The  
17 employer shall:

18 (1) Provide the program to employees only as an  
19 alternative option to a group hospital and medical  
20 service plan contract, in which both the program and  
21 the group hospital and medical service plan contract



- 1 provide aggregate benefits that are determined  
2 pursuant to chapter 393 to be equivalent and meet the  
3 qualifications in either subsection 393-7(a) or (b);
- 4 (2) Make an annual employer contribution to the health  
5 savings account of an employee enrolled in the  
6 program, and upon enrollment of a new employee that  
7 enrolls in the program;
- 8 (3) Make an employer contribution of an amount equal to or  
9 greater than eighty per cent of the annual deductible  
10 of a high deductible health plan for self-only  
11 coverage and equal to or greater than eighty per cent  
12 of the annual deductible of a high deductible health  
13 plan for family coverage, with the total annual  
14 employer contribution not to exceed the maximum  
15 contribution amount pursuant to section 223 of the  
16 Internal Revenue Code of 1986;
- 17 (4) Contribute the annual amount to the employee's health  
18 savings account prior to the first day the employee is  
19 covered by the program;
- 20 (5) Increase the contribution amount to an employee's  
21 health savings account if an employee's status changes





- 1           from self-only coverage to family coverage during  
2           program;
- 3           (6) Cooperate with the mutual benefit society regarding  
4           proof of compliance with the limitations for offering  
5           a health savings account program to employees;
- 6           (7) Provide the declaration of understanding from the  
7           mutual benefit society with the program application;
- 8           (8) Provide the one-page, double-sided declaration of  
9           understanding from the mutual benefit society with the  
10           program application;
- 11           (9) Provide the certification obtained from the mutual  
12           benefit society as to the employer's compliance with  
13           the limitations of the program to the mutual benefit  
14           society; and
- 15           (10) Immediately remove any employee and dependents, if  
16           any, from the program and place the employee and  
17           dependents, if any, in the group hospital and medical  
18           service plan contract if the employer knows the  
19           program is not in compliance with this section, by  
20           notifying the mutual benefit society immediately.



1       (c) Every mutual benefit society that offers, sells, or  
2 renews a group hospital and medical service plan contract with  
3 an option for a health savings account program shall:

4       (1) Include the employer limitations in this section in  
5 any policy, contract, certificate, or agreement,  
6 regardless of form;

7       (2) Encourage informed decisions by providing employers a  
8 one-page, double-sided declaration of understanding,  
9 to be included with any program application that  
10 explains in plain and simple language certain terms of  
11 the program, including covered services, applicable  
12 deductibles, claims processing, and the effective use  
13 of the program for favorable tax treatment;

14       (3) Retain the employer's certification as to compliance  
15 with the limitations of the program for five years;  
16 and

17       (4) Submit to the insurance commissioner, no later than  
18 June 30 of each calendar year, a statewide basis  
19 report in such form and detail as the insurance  
20 commissioner shall prescribe, on the preceding  
21 calendar year stating the participation rate, the



1           total dollars contributed by employers, the total  
2           dollars contributed by employees and the disbursement  
3           of the deposits as a percentage of the deposits in the  
4           health savings accounts.

5           (d) Unused funds in a health savings account shall become  
6           the property of the health savings account holder at the end of  
7           a taxable year.

8           (e) Notwithstanding any provision of law to the contrary,  
9           the rights of an employee or dependent, if any, of a health  
10           savings account to hold or to receive moneys paid into or out  
11           of, the assets of, and the income of the health savings account:

12           (1) Shall be exempt from creditor process;

13           (2) Shall not be liable to attachment, garnishment, or  
14           other process; and

15           (3) Shall not be seized, taken, appropriated, or applied  
16           by any legal or equitable process or operation of law  
17           to pay any debt or liability of the employee or  
18           beneficiary of the account.

19           (f) If this section or any provision of this section  
20           conflicts at any time with any federal law, then the federal law  
21           shall prevail and this section or the relevant provisions of



1 this section shall become ineffective and invalid. The  
2 ineffectiveness or invalidity of this section or any of its  
3 provisions shall not affect any other provisions or applications  
4 of this section, which shall be given effect without the invalid  
5 provision or application, and to this end, the provisions of  
6 this section are severable.

7 (g) As used in this section, unless the context clearly  
8 requires otherwise:

9 "Family coverage" shall have the same meaning as defined in  
10 section 223 of the Internal Revenue Code of 1986.

11 "Health savings account" means a health savings account  
12 authorized under section 223 of the Internal Revenue Code of  
13 1986.

14 "Health savings account program" or "program" means a high  
15 deductible health plan with a health savings account that has  
16 been approved pursuant to chapter 393 to be offered, sold or  
17 renewed with an employer-sponsored plan to an employer subject  
18 to chapter 393.

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



1       "Self-only coverage" means coverage only for the employee  
2 and not for dependents."

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

5       **"§432D-23 Required provisions and benefits.**

6 Notwithstanding any provision of law to the contrary, each  
7 policy, contract, plan, or agreement issued in the State after  
8 January 1, 1995, by health maintenance organizations pursuant to  
9 this chapter, shall include benefits provided in sections  
10 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-  
11 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,  
12 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,  
13 431:10A-133, [~~and~~] 431:10A-140, 431:10A- if a health savings  
14 account is provided, and chapter 431M."

15       SECTION 5. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17       SECTION 6. Notwithstanding section 432D-23, Hawaii Revised  
18 Statutes, the group health savings account program to be  
19 provided by a health maintenance organization under section 4 of  
20 this Act shall apply to all group policies, contracts, plans, or



1 agreements issued or renewed in this State by a health  
2 maintenance organization after July 1, 2016.

3 SECTION 7. This Act shall take effect on July 1, 2016.



**Report Title:**

Health Savings Account Program; Insurance

**Description:**

Facilitates the establishment of health savings accounts in Hawaii. (HD1 Proposed)

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

