

Honolulu, Hawaii

March 3, 2017

RE: H.B. No. 407  
H.D. 2

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 407, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Authorize the issuance of employer-sponsored high deductible health plans and corresponding health savings accounts; and
- (2) Require employers offering high deductible health plans to:
  - (A) Contract with a third party to offer and manage health savings accounts; and
  - (B) Deposit an amount equal to the applicable deductible amount in each corresponding health savings account.

University Health Alliance testified in support of this measure. The ILWU Local 142 testified in opposition to this measure. The Department of the Attorney General, Department of



Labor and Industrial Relations, and Hawaii Medical Service Association provided comments.

While your Committee understands that this measure provides a mechanism that allows employers to offer their employees more tax-free health insurance alternatives, your Committee shares some of the concerns raised by the Attorney General. Specifically, your Committee is concerned that requiring employers to contract with a third party to offer and manage health savings accounts and deposit funds in an amount equal to the applicable deductible amount of the high deductible health plan into each health savings account may be interpreted as requiring an employer to provide a specific employee benefit plan and therefore, risk a preemption challenge under the Employee Retirement Income Security Act.

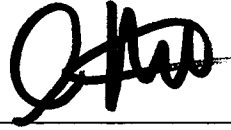
Accordingly, your Committee has amended this measure by:

- (1) Deleting language requiring employers to contract with a third party to offer and manage health savings accounts and deposit funds in an amount equal to the applicable deductible amount of the high deductible health plan into each health savings account;
- (2) Requiring insurers and mutual benefit societies to ensure that high deductible health plans are offered in conjunction with health savings plans to each eligible insured;
- (3) Changing its effective date to July 1, 2017; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 407, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 407, H.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Consumer  
Protection & Commerce,



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ANGUS L.K. MCKELVEY, Chair



