

Senator Hill of the 32nd offered the following substitute to HB 1328:

**WITHDRAWN**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to  
2 provide for legislative intent; to provide an exemption from insurance premium taxes for  
3 certain insurance products; to provide for the Commissioner of Insurance to adopt policies  
4 to promote, approve, and encourage health savings account eligible high deductible plans in  
5 Georgia; to provide for exemptions from certain unfair trade practices for certain wellness  
6 and health promotion programs, condition or disease management programs, health risk  
7 appraisal programs, and similar provisions in such plans; to provide for certain requirements  
8 for such plans; to provide for health reimbursement arrangement only plans that encourage  
9 employer financial support of health insurance or health related expenses under certain  
10 circumstances; to revise a provision relating to consumer choice options under the state  
11 employees' health insurance plan; to amend Chapter 7 of Title 48 of the Official Code of  
12 Georgia Annotated, relating to income taxes, so as to provide for an income tax deduction  
13 for high deductible health plans established and used with a health savings account; to  
14 provide for an income tax credit for certain employers who provide high deductible health  
15 plans established and used with a health savings account; to provide for procedures,  
16 conditions, and limitations; to provide for powers, duties, and authority of the state revenue  
17 commissioner with respect to the foregoing; to provide for related matters; to provide for  
18 applicability and effective dates; to repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

20 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
21 adding a new subsection (c) in Code Section 33-8-4, relating to amount and method of  
22 computing tax on insurance premiums generally, to read as follows:  
23

24 "(c) For all taxable years beginning on or after January 1, 2009, insurers shall be exempt  
25 from otherwise applicable state premium taxes as provided for in subsection (a) of this  
26 Code section on premiums paid by Georgia residents for high deductible health plans sold

1 or maintained in connection with a health savings account under the applicable provisions  
2 of Section 223 of the Internal Revenue Code."

### 3 SECTION 2.

4 Said title is further amended by adding a new subsection (a.1) in Code Section 33-8-8.2,  
5 relating to amount and method of computing local insurance premium taxes on insurance  
6 companies other than life insurance companies, to read as follows:

7 "(a.1) For all taxable years beginning on or after January 1, 2009, insurers shall be exempt  
8 from otherwise applicable local premium taxes as provided for in subsection (a) of this  
9 Code section on premiums paid by Georgia residents for high deductible health plans sold  
10 or maintained in connection with a health savings account under the applicable provisions  
11 of Section 223 of the Internal Revenue Code. The provisions of this subsection shall expire  
12 on January 1, 2015, unless the General Assembly acts to extend these provisions."

### 13 SECTION 3.

14 Said title is further amended by revising subsection (c) of Code Section 33-20A-9.1, relating  
15 to consumer choice options offered by managed care plans, as follows:

16 "(c) Except for managed care plans offering a consumer choice option under  
17 subparagraph (d)(2)(C) of this Code section, every managed care plan ~~offered pursuant~~  
18 ~~to Article 1 of Chapter 18 of Title 45 or~~ offered by a managed care entity shall offer a  
19 separate consumer choice option to enrollees at least annually with the following  
20 provisions:

21 (1) Every enrollee of a managed care plan shall have the right to nominate one or more  
22 out of network health care providers or hospitals for use by that enrollee and that  
23 enrollee's eligible dependents, if:

24 (A) Such health care provider or hospital is located within and licensed by the state;

25 (B) Such health care provider or hospital agrees to accept reimbursement from both the  
26 plan and the enrollee at the rates and on the terms and conditions applicable to similarly  
27 situated participating providers and hospitals. The reimbursement rates for the plan  
28 may be proportionally reduced from those paid to participating providers if the  
29 cost-sharing provisions in paragraph (3) of subsection (d) of this Code section are  
30 utilized in the consumer choice option;

31 (C) Such health care provider or hospital agrees to adhere to the managed care plan's  
32 quality assurance requirements and to provide the plan with necessary medical  
33 information related to such care; and

34 (D) Such health care provider or hospital meets all other reasonable criteria as required  
35 by the managed care plan of in network providers and hospitals; and

1 (2) Each nominated health care provider or hospital which meets the requirements of  
 2 subparagraphs (A), (B), (C), and (D) of paragraph (1) of this subsection shall be  
 3 reimbursed by the plan, subject to the agreement in subparagraph (B) of paragraph (1) of  
 4 this subsection, as though it belonged to the managed care plan's provider network. Such  
 5 reimbursement shall be full and final payment for the health care services provided to the  
 6 enrollee and no health care provider or hospital shall bill the enrollee for any portion of  
 7 a payment exclusive of the requirements of subparagraph (B) of paragraph (1) of this  
 8 subsection."

#### 9 SECTION 4.

10 Said title is further amended by striking Chapter 51 in its entirety and inserting in lieu thereof  
 11 a new Chapter 51 to read as follows:

#### 12 "CHAPTER 51

13 33-51-1.

14 This chapter shall be known and may be cited as the 'Georgia Affordable HSA Eligible  
 15 High Deductible Health Plan.'

16 33-51-2.

17 It is the intent of the General Assembly:

18 (1) To authorize the Commissioner to establish flexible guidelines for health savings  
 19 account eligible high deductible plan designs which will be affordable to Georgians and  
 20 to increase the availability of these types of plans by accident and sickness insurers  
 21 licensed to transact such insurance in this state;

22 (2) To encourage the offering of affordable health savings account eligible high  
 23 deductible plans, as required under the rules of the federal Internal Revenue Service  
 24 related to the establishment of health savings accounts, with the specific intent of  
 25 reaching many otherwise uninsured Georgians and the general intent of creating  
 26 affordable comprehensive health insurance for all Georgians; and

27 (3) To enhance the affordability of insurance with the flexible health savings account  
 28 eligible high deductible plans allowed under this chapter by allowing rewards and  
 29 incentives for participation in and adherence to health behaviors that recognize the value  
 30 of the personal responsibility of each citizen to maintain good health, seek preventative  
 31 care services, and comply with approved treatments.

1 33-51-3.

2 (a) The Commissioner shall develop flexible guidelines for coverage and approval of  
3 health savings account eligible high deductible plans which are designed to qualify under  
4 federal and state requirements as high deductible health plans for use with health savings  
5 accounts which comply with federal requirements under the applicable provisions of the  
6 federal Internal Revenue Code for high deductible health plans sold in connection with  
7 health savings accounts.

8 (b) The Commissioner shall be authorized to encourage and promote the marketing of  
9 health savings account eligible high deductible plans by accident and sickness insurers in  
10 this state; provided, however, that nothing in this Code section shall be construed to  
11 authorize the sale of insurance in violation of Chapter 3 of this title or interstate sales of  
12 insurance.

13 (c) The Commissioner shall be authorized to conduct a national study of health savings  
14 account eligible high deductible plans available in other states and to determine if and how  
15 these products serve the uninsured and if they should be made available to Georgians.

16 (d) The Commissioner shall be authorized to develop an automatic or fast track approval  
17 process for health savings account eligible high deductible plans already approved under  
18 the laws and regulations of this state or other states.

19 (e) The Commissioner shall be authorized to promulgate such rules and regulations as he  
20 or she deems necessary and appropriate for the design, promotion, and regulation of health  
21 savings account eligible high deductible plans, including rules and regulations for the  
22 expedited review of standardized policies, advertisements and solicitations, and other  
23 matters deemed relevant by the Commissioner.

24 33-51-4.

25 Insurers that include and operate wellness and health promotion programs, disease and  
26 condition management programs, health risk appraisal programs, and similar provisions in  
27 their high deductible health policies in keeping with federal requirements shall not be  
28 considered to be engaging in unfair trade practices under Code Section 33-6-4 with respect  
29 to references to the practices of illegal inducements, unfair discrimination, and rebating.

30 33-51-5.

31 There shall be no required relationship between preferred provider and nonpreferred  
32 provider plan reimbursements for health savings account eligible high deductible plans  
33 using nonpreferred provider reimbursements. Such plans, however, shall not:

34 (1) Unfairly deny health benefits for medically necessary covered services;

1 (2) Have differences in benefit levels payable to preferred providers compared to other  
2 providers that unfairly deny benefits for covered services;

3 (3) Have a plan coinsurance percentage applicable to benefit levels for services provided  
4 by nonpreferred providers that is less than 60 percent of the benefit levels under the  
5 policy for such services; or

6 (4) Have an adverse effect on the availability or the quality of services.

7 33-51-6.

8 (a) The Commissioner shall be authorized to allow health reimbursement arrangement  
9 only plans that encourage employer financial support of health insurance or health related  
10 expenses recognized under the rules of the federal Internal Revenue Service to be approved  
11 for sale in connection with or packaged with individual health insurance policies otherwise  
12 approved by the Commissioner.

13 (b) Health reimbursement arrangement only plans that are not sold in connection with or  
14 packaged with individual health insurance policies shall not be considered insurance under  
15 this title.

16 (c) Individual insurance policies offered or funded through health reimbursement  
17 arrangements shall not be considered employer sponsored or group coverage for purposes  
18 of this title, and nothing in this Code section shall be interpreted to require an insurer to  
19 offer an individual health insurance policy for sale in connection with or packaged with a  
20 health reimbursement arrangement or to accept premiums from health reimbursement  
21 arrangement plans for individual health insurance policies.

22 33-51-7.

23 Notwithstanding the provisions of paragraphs (2) and (3) of Code Section 33-51-5, health  
24 benefit plans providing incentives for covered persons to use pharmaceutical or dental  
25 services of preferred providers shall provide, and clearly indicate, that the payment or  
26 reimbursement for a noncontracting provider of covered pharmaceutical or dental services  
27 shall be the same as the payment or reimbursement for a preferred provider of covered  
28 pharmaceutical or dental services; provided, however, that the health benefit plan shall not  
29 be required to make payment or reimbursement in an amount which is greater than the  
30 actual fee charged by the provider for such dental or pharmaceutical services."

### 31 **SECTION 5.**

32 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
33 amended by adding a new paragraph in subsection (a) of Code Section 48-7-27, relating to  
34 computation of taxable net income, to read as follows:



1 (d) The commissioner shall be authorized to promulgate any rules and regulations  
2 necessary to implement and administer the provisions of this Code section.

3 (e) The credit allowed by this Code section shall apply only with regard to qualified health  
4 insurance expenses."

5 **SECTION 7.**

6 (a) Sections 1, 2, 5, and 6 of this Act shall become effective on January 1, 2009, and shall  
7 be applicable to all taxable years beginning on or after January 1, 2009. The remaining  
8 sections of this Act shall become effective upon its approval by the Governor or upon its  
9 becoming law without such approval.

10 (b) Section 2 of this Act shall expire on January 1, 2015, unless the General Assembly acts  
11 to extend these provisions.

12 **SECTION 8.**

13 All laws and parts of laws in conflict with this Act are repealed.