

House Bill 977 (AS PASSED HOUSE AND SENATE)

By: Representatives Knox of the 24th, Keen of the 179th, and Channell of the 116th

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 amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
11 relating to income taxes, so as to provide for an income tax deduction for high deductible
12 health plans established and used with a health savings account; to provide for an income tax
13 credit for certain employers who provide high deductible health plans established and used
14 with a health savings account; to provide for procedures, conditions, and limitations; to
15 provide for powers, duties, and authority of the state revenue commissioner with respect to
16 the foregoing; to provide for related matters; to provide for applicability and effective dates;
17 to repeal conflicting laws; and for other purposes.

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

19 **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 "(c) Insurers shall be exempt from otherwise applicable state premium taxes as provided
24 for in subsection (a) of this Code section on premiums paid by Georgia residents for high
25 deductible health plans sold or maintained in connection with a health savings account
26 under the applicable provisions of Section 223 of the Internal Revenue Code."

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

16 **SECTION 4.**

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

20 "(13.1) An amount equal to 100 percent of the premium paid by the taxpayer during the
 21 taxable year for high deductible health plans established and used with a health savings
 22 account under the applicable provisions of Section 223 of the Internal Revenue Code to
 23 the extent the deduction has not been included in federal adjusted gross income, as
 24 defined under the Internal Revenue Code of 1986, and the expenses have not been
 25 provided from a health reimbursement arrangement and have not been included in
 26 itemized nonbusiness deductions;"

27 **SECTION 5.**

28 Said title is further amended by adding a new Code section to read as follows:

29 "48-7-29.13.

30 (a) As used in this Code section, the term:

31 (1) 'Qualified health insurance' means a high deductible health plan that includes, at a
 32 minimum, catastrophic health care coverage which is established and used with a health
 33 savings account under the applicable provisions of Section 223 of the Internal Revenue
 34 Code.

1 (2) 'Qualified health insurance expense' means the expenditure of funds of at least
2 \$250.00 annually for health insurance premiums for qualified health insurance.

3 (3) 'Taxpayer' means an employer who employs directly, or who pays compensation to
4 individuals whose compensation is reported on Form 1099, 50 or fewer persons and for
5 whom the taxpayer provides high deductible health plans that include, at a minimum,
6 catastrophic health care coverage which are established and used with a health savings
7 account under the applicable provisions of Section 223 of the Internal Revenue Code and
8 in which such employees are enrolled.

9 (b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20
10 or 48-7-21, as applicable, for qualified health insurance expenses in an amount of \$250.00
11 for each employee enrolled for twelve consecutive months in a qualified health insurance
12 plan if such qualified health insurance is made available to all of the employees and
13 compensated individuals of the employer pursuant to the applicable provisions of Section
14 125 of the Internal Revenue Code.

15 (c) In no event shall the total amount of the tax credit under this Code section for a taxable
16 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
17 taxpayer against succeeding years' tax liability. No such credit shall be allowed the
18 taxpayer against prior years' tax liability.

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

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

23 SECTION 6.

24 (a) Sections 1, 4, and 5 of this Act shall become effective on January 1, 2009, and shall be
25 applicable to all taxable years beginning on or after January 1, 2009. The remaining sections
26 of this Act shall become effective upon its approval by the Governor or upon its becoming
27 law without such approval.

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

30 SECTION 7.

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