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# A BILL FOR AN ACT

RELATING TO MUTUAL BENEFIT SOCIETIES.

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

1           SECTION 1. The legislature finds that mutual benefit  
2 societies hold a unique position in the State's economy and  
3 business community. Mutual benefit societies are organized and  
4 carried on for the primary benefit of their members and their  
5 beneficiaries and not for profit and, as a result, are tax-  
6 exempt or receive preferential tax treatment. Mutual benefit  
7 societies are self-controlling and the operation of mutual  
8 benefit societies is in the sole and self-perpetuating control  
9 of the management. The management of a mutual benefit society  
10 does not have to answer either to shareholders or, in reality,  
11 to its members.

12           The purpose of this Act is to ensure that mutual benefit  
13 societies do in fact operate for the primary benefit of members  
14 and their beneficiaries by increasing the supervisory authority  
15 of the insurance commissioner and authorizing the insurance  
16 commissioner to provide, as *parens patriae* on behalf of the  
17 members of mutual benefit societies, equitable relief and legal



1 remedies on behalf of aggrieved members of mutual benefit  
2 societies.

3 SECTION 2. Section 432:1-202, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§432:1-202 Constitution and bylaws; officers; government**  
6 **of society.** (a) Mutual benefit societies promising or offering  
7 to pay death, sick, disability, or other benefits in an amount  
8 equal to or in excess of \$25 [~~shall~~], subject to the approval of  
9 the commissioner, shall have the power to make a constitution  
10 and bylaws for the government of the society, the admission of  
11 its members, the management of its affairs, and the fixing and  
12 readjusting of the rates of contribution of its members. The  
13 societies shall have the power to amend the constitution and  
14 bylaws and such other powers as are necessary to carry into  
15 effect the object and purpose of the society, but shall not  
16 suspend temporarily any part of its constitution or bylaws as  
17 the same are governed by this article.

18 (b) Each mutual benefit society shall elect or otherwise  
19 appoint among its officers a president and a treasurer, who  
20 shall be residents of the State.

21 (c) After the organization of a society is completed and a  
22 certificate of compliance with law is granted by the



1 commissioner, the society shall be governed by its  
2 [~~administrative~~] board [~~or body~~] of directors in accordance with  
3 its constitution and bylaws[~~-~~] and in accordance with this  
4 article. The members of the board of directors shall be  
5 residents of this State and shall be members of the mutual  
6 benefit society, but shall not be employees of the mutual  
7 benefit society. No member of the board shall serve more than  
8 six years. All mutual benefit societies organized under this  
9 article shall comply with this requirement within six months of  
10 the effective date of this Act.

11 (d) Upon compliance with this article any society engaged  
12 in transacting business or operating in this State may exercise  
13 all of the rights conferred by this article, and all of the  
14 rights, powers, and privileges possessed by it under its  
15 constitution and bylaws, rules and regulations, or articles of  
16 incorporation or charter not inconsistent with this article.

17 (e) Any member of a mutual benefit society that is  
18 aggrieved by the governance of the society may apply to the  
19 commissioner for relief. The commissioner may order any  
20 equitable relief, including, but not limited to, reviewing the  
21 society's bylaws and constitution to determine whether the  
22 bylaws and constitution sufficiently protect the rights of the



1 members. In the event the commissioner deems the society's  
2 bylaws or constitution, in part or in whole, to insufficiently  
3 protect the rights of the members, the commissioner may order  
4 the society to remove and revise the relevant provisions of the  
5 bylaws or constitution, as the commissioner may deem appropriate  
6 under the circumstances.

7 (f) Notwithstanding any other provision of this article,  
8 if a mutual benefit society fails to comply with the  
9 requirements of this section, the commissioner may take  
10 appropriate action to ensure that the continued operation of the  
11 mutual benefit society is for the benefit of its members.  
12 Appropriate action by the commissioner includes any applicable  
13 penalty provided in section 432:1-105. In addition, if the  
14 mutual benefit society fails to comply with the requirements of  
15 this section within sixty days from being notified of the  
16 violation by the commissioner, the following penalties may also  
17 apply:

18 (1) Denial of an application for a certificate of  
19 authority or revocation of a previously issued  
20 certificate of authority if the commissioner  
21 determines that the mutual benefit society's bylaws or  
22 constitution insufficiently protects the rights of its



1           members and the mutual benefit society fails to submit  
2           revised bylaws or a revised constitution acceptable to  
3           the commissioner;  
4           (2) Revocation of the tax exemption provided to the mutual  
5           benefit society under subsection 432:1-403; and  
6           (3) Prohibition of further soliciting and enrolling of  
7           members."

8           SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10           SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Bruce Harbin*  
JAN 25 2006

HB 2754

**Report Title:**

Mutual Benefit Societies

**Description:**

Increases the insurance commissioner's powers over mutual benefit societies.

