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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, they 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 to either shareholders or, in reality,  
11 to its members.

12           The purpose of this Act is to ensure that mutual benefit  
13 societies do operate for the primary benefit of members and  
14 their beneficiaries by increasing the supervisory authority of  
15 the insurance commissioner and authorizing the insurance  
16 commissioner to provide, as *parens patriae* on behalf of the  
17 members of mutual benefit societies, supervision over certain  
18 aspects of governance of the society.



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

3 "§432:1-202 Constitution and bylaws; officers; government  
4 of society. (a) Mutual benefit societies promising or offering  
5 to pay death, sick, disability, or other benefits in an amount  
6 equal to or in excess of \$25 [~~shall~~], subject to the approval of  
7 the commissioner, shall have the power to make a constitution  
8 and bylaws for the government of the society, the admission of  
9 [~~its~~] their members, the management of [~~its~~] their affairs, and  
10 the fixing and readjusting of the rates of contribution of [~~its~~]  
11 their members. The societies shall have the power to amend the  
12 constitution and bylaws and such other powers as are necessary  
13 to carry into effect the object and purpose of the society, but  
14 shall not suspend temporarily any part of [~~its~~] their  
15 constitution or bylaws as the same are governed by this article.

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

19 (c) After the organization of a society is completed and a  
20 certificate of compliance with law is granted by the  
21 commissioner, the society shall be governed by its



1 ~~[administrative]~~ board ~~[or body]~~ of directors in accordance with  
2 its constitution and bylaws~~[-]~~ and this article.

3 (d) Upon compliance with this article any society engaged  
4 in transacting business or operating in this State may exercise  
5 all of the rights conferred by this article, and all of the  
6 rights, powers, and privileges possessed by it under its  
7 constitution and bylaws, rules and regulations, or articles of  
8 incorporation or charter not inconsistent with this article.

9 (e) An aggrieved member of a mutual benefit society who  
10 has a concern relating to the governance of the society may  
11 apply to the commissioner for relief. The commissioner may  
12 order equitable relief to ensure that the mutual benefit society  
13 operates for the benefit of members, including reviewing the  
14 mutual benefit society's bylaws and constitution to determine  
15 whether the bylaws and constitution sufficiently protect the  
16 rights of the members. If the commissioner deems that the  
17 mutual benefit society's bylaws or constitution, in part or in  
18 whole, insufficiently protects the rights of its members, the  
19 commissioner may order the mutual benefit society to remove and  
20 revise the relevant provisions of the bylaws or constitution, as  
21 the commissioner deems appropriate.



1        (f) In exercising the authority established under this  
2 section, the commissioner may order a mutual benefit society to  
3 disclose to its members information such as executive  
4 compensation, political campaign involvement and contributions,  
5 whether through political action committees or directly,  
6 contracts with or other activity involving subsidiary companies  
7 and contracts with or other activity with companies or  
8 organizations providing administrative services to the mutual  
9 benefit society, and any other information that may otherwise be  
10 considered confidential.

11        (g) Notwithstanding any other provision of this article,  
12 if a mutual benefit society fails to comply with the  
13 requirements of this section, the commissioner may take  
14 appropriate action to ensure that the continued operation of the  
15 mutual benefit society will not be hazardous to its members.  
16 Appropriate action by the commissioner shall include any  
17 applicable penalty provided in section 432:1-105. In addition,  
18 if the mutual benefit society fails to comply with the  
19 requirements of this section within sixty days from being  
20 notified of a violation by the commissioner, the commissioner  
21 may impose the following penalties:



1       (1) Denial of an application for a certificate of  
 2       authority or revocation of a previously issued  
 3       certificate of authority if the mutual benefit  
 4       society's bylaws or constitution insufficiently  
 5       protects the rights of its members and the mutual  
 6       benefit society fails to submit revised bylaws or a  
 7       revised constitution acceptable to the commissioner;

8       (2) Revocation of the tax exemption provided to the mutual  
 9       benefit society under subsection 432:1-403; and

10       (3) Prohibition of further soliciting and enrolling of  
 11       members.

12       (h) Any order of the commissioner issued under this  
 13 section shall be:

14       (1) Considered a final administrative decision; and

15       (2) Served upon the society by certified mail;

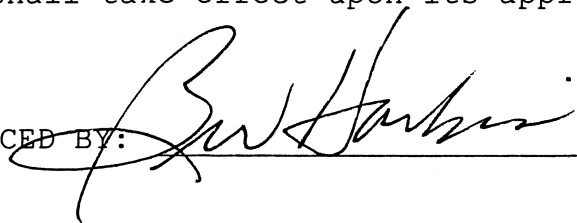
16 provided that the commissioner's order may be appealed pursuant  
 17 to chapter 91."

18       SECTION 3. Statutory material to be repealed is bracketed  
 19 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:




HB 2811

**Report Title:**

Mutual Benefit Societies; Insurance Commissioner; Oversight

**Description:**

Provides the insurance commissioner with the necessary authority to oversee and regulate the administration of mutual benefit societies.

