

# H.B. NO. 2319

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## A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. Section 431:2-215, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) Sums from the compliance resolution fund expended by  
4 the commissioner shall be used to defray any administrative  
5 costs, including personnel costs, associated with the programs  
6 of the division, and costs incurred by supporting offices and  
7 divisions. Any law to the contrary notwithstanding, the  
8 commissioner may use the moneys in the fund to employ or retain,  
9 by contract or otherwise, without regard to chapter 76, hearings  
10 officers, attorneys, investigators, accountants, examiners, and  
11 other necessary professional, technical, administrative, and  
12 support personnel to implement and carry out the purposes of  
13 title 24; provided that any position, except any attorney  
14 position, that is subject to chapter 76 prior to July 1, 1999,  
15 shall remain subject to chapter 76."

16           SECTION 2. Section 431:2-216, Hawaii Revised Statutes, is  
17 amended by amending subsections (a) and (b) to read as follows:

1           "(a) Beginning with fiscal year 2000-2001, and including  
2 fiscal year 2001-2002, each mutual benefit society under article  
3 1 of chapter 432, health maintenance organization under chapter  
4 432D, and any other entity offering or providing health benefits  
5 or services under the regulation of the commissioner, except an  
6 insurer licensed to offer accident and health or sickness  
7 insurance under article 10A, shall deposit with the commissioner  
8 by July 1 of each year an assessment of \$10,000 for the first  
9 seventy thousand private, nongovernment members the entity  
10 covers and an additional assessment on a pro rata basis to be  
11 determined and imposed by the commissioner for covered members  
12 exceeding seventy thousand; provided that in the third year and  
13 each year thereafter, assessments shall be borne on a pro rata  
14 basis. The aggregate annual assessment shall not exceed  
15 \$1,000,000. ~~[The]~~ This assessment shall be credited to the  
16 compliance resolution fund. If assessments are increased, the  
17 commissioner shall provide to any organization or entity subject  
18 to the increased assessment, justification for the increase.

19           (b) The assessments shall be used to defray any  
20 administrative costs, including personnel costs, associated with  
21 ~~[insurance regulation,]~~ the programs of the division, and costs  
22 incurred by supporting offices and divisions. Any law to the

1 contrary notwithstanding, the commissioner may use the moneys  
2 from assessments to employ [~~without regard to chapter 76,~~  
3 ~~necessary professional, technical, administrative, and support~~  
4 ~~personnel to implement and~~ or retain, by contract or otherwise,  
5 without regard to chapter 76, hearings officers, attorneys,  
6 investigators, accountants, examiners, and other necessary  
7 professional, technical, administrative, and support personnel  
8 to implement and carry out the purposes of title 24 as it  
9 relates to accident and health or sickness insurance [-];  
10 provided that any position, except any attorney position, that  
11 is subject to chapter 76 prior to July 1, 1999, shall remain  
12 subject to chapter 76."

13 SECTION 3. Section 431:2-308, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

15 "(d) Application for a hearing made to the commissioner  
16 pursuant to this code shall be in writing and shall specify in  
17 what respects the person so applying was aggrieved and the  
18 grounds to be relied upon as a basis for the relief to be  
19 demanded at the hearing. Where the commissioner has used the  
20 authority contained in section [~~431:9-236~~] 431:9-235 or section  
21 431:9A-112 to suspend, revoke, or refuse to extend a license  
22 subject to the right of the licensee to have a hearing and has

1 suspended the license pending the hearing, the commissioner  
2 shall hold the hearing within thirty days after the  
3 commissioner's receipt of the application unless postponed by  
4 mutual consent."

5 SECTION 4. Section 431:3-212, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§431:3-212 Application for authority. To apply for an  
8 original certificate of authority, an insurer shall:

9 (1) File with the commissioner its request showing:

10 (A) Its name, home office location, type of insurer,  
11 organization date, and state or country of its  
12 domicile, and name and location of principal  
13 office of its attorney-in-fact if a reciprocal  
14 insurer;

15 (B) The classes of insurance it proposes to transact;  
16 and

17 (C) Additional information as prescribed by the  
18 National Association of Insurance Commissioners  
19 and as the commissioner may reasonably require;

20 (2) File with the commissioner:

21 (A) A copy of its charter as amended or [~~sueh~~] a copy  
22 certified by the proper public officer of the

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- 1 state or country of domicile if a foreign or alien  
2 insurer;
- 3 (B) A copy of its bylaws as amended, certified by its  
4 proper officer;
- 5 (C) A copy of its annual statement as of December 31  
6 last preceding;
- 7 (D) An appointment of the commissioner as its attorney  
8 to receive service of legal process, if a foreign  
9 or alien insurer, or a domestic reciprocal  
10 insurer;
- 11 (E) The name and business address of its authorized  
12 resident agent upon whom process may be served in  
13 all cases, if a foreign or alien insurer;
- 14 (F) A copy of the appointment and authority of its  
15 United States manager, certified by its proper  
16 officer, if an alien insurer;
- 17 (G) A certificate from the proper public official of  
18 its state or country of domicile showing that it  
19 is duly organized and is authorized to transact  
20 the classes of insurance proposed to be  
21 transacted, if a foreign or alien insurer;

- 1           (H) The declaration required by section 431:4-409 if a
- 2           domestic reciprocal insurer;
- 3           (I) Certificate of the proper public official as to
- 4           any deposit made or held in compliance with this
- 5           code;
- 6           (J) Copy of report of the last examination made of the
- 7           insurer certified by the insurance supervisory
- 8           official of its state of domicile or entry into
- 9           the United States, if a foreign or alien insurer;
- 10          and
- 11          (K) Other documents or stipulations as the
- 12          commissioner may reasonably require to evidence
- 13          compliance with this code; and
- 14          (3) Deposit with the commissioner the appropriate fees
- 15          required by this code."

16          SECTION 5. Section 431:8-202, Hawaii Revised Statutes, is

17 amended by amending subsection (a) to read as follows:

18          "(a) No person [~~in this State~~] shall directly or

19 indirectly act as producer for, or otherwise represent or aid on

20 behalf of another, any unauthorized insurer in the solicitation,

21 negotiation, procurement, or effectuation of insurance, or

22 renewals thereof, or forwarding of applications, or delivery of

1 policies or contracts or inspection of risks, or fixing of  
2 rates, or investigation or adjustment of claims or losses, or  
3 collection or forwarding of premiums, or in any other manner  
4 represent or assist [~~such~~] an unauthorized insurer in the  
5 transaction of an insurance business."

6 SECTION 6. Section 431:8-205, Hawaii Revised Statutes, is  
7 amended by amending subsection (c) to read as follows:

8 "(c) Gross premiums charged for the insurance, less any  
9 return premiums, are subject to a tax at the rate of 4.68 per  
10 cent. At the time of filing the report required in subsection  
11 (b), the insured shall pay the tax to the commissioner.

12 As used in this subsection, "gross premiums" mean the  
13 amount of the policy or coverage premium charged by the insurer  
14 in consideration for the insurance contract. Any charges for  
15 policy, survey, inspection, service, or similar fees or other  
16 charges added by the broker shall not be considered part of  
17 gross premiums."

18 SECTION 7. Section 431:8-207, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) Service of process in [~~such~~] an action or proceeding  
21 shall be made in accordance with section 431:2-206. [~~Such~~  
22 ~~service~~] Service is sufficient if:

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- 1           (1) Notice of [such] service and a copy of the court  
2           process or the notice, order, pleading, or process in  
3           [such] the administrative proceeding are sent within  
4           ten days by registered mail by the plaintiff or the  
5           plaintiff's attorney in the court proceeding, or by  
6           the commissioner in the administrative proceeding, to  
7           the defendant or defendant's agent or representative  
8           at the defendant's last known principal place of  
9           business;
- 10          (2) The defendant's receipt, or receipt issued by the post  
11          office with which the letter is registered, showing  
12          the name of the sender of the letter and the name and  
13          address of the person or insurer to whom the letter is  
14          addressed, and an affidavit of the plaintiff or the  
15          plaintiff's attorney in a court proceeding, or of the  
16          commissioner in an administrative proceeding, are  
17          filed with the clerk of the court in which [such] the  
18          proceeding is pending or with the commissioner in  
19          administrative proceedings, on or before the date the  
20          defendant is required to appear or respond, or within  
21          [such] any further time as the court or commissioner  
22          may allow."

1 SECTION 8. Section 431:8-209, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§431:8-209 Attorney's fees. In an action against an  
4 unauthorized insurer upon a contract of insurance issued or  
5 delivered to a person in this State [~~to a resident thereof or to~~  
6 ~~a corporation authorized to do business therein~~], if the insurer  
7 has failed for thirty days after demand prior to the  
8 commencement of the action to make payment in accordance with  
9 the terms of the contract, and it appears to the court that  
10 [~~such~~] the refusal was vexatious and without reasonable cause,  
11 the court may allow to the plaintiff reasonable attorney's fees  
12 and include [~~such~~] the fees in any judgment that may be rendered  
13 in [~~such~~] the action. The fee shall not exceed twelve and one-  
14 half per cent of the amount [~~which~~] that the court or jury finds  
15 the plaintiff is entitled to recover against the insurer, but in  
16 no event shall the fee be less than \$25. Failure of an insurer  
17 to defend any such action shall be deemed prima facie evidence  
18 that its failure to make payment was vexatious and without  
19 reasonable cause."

20 SECTION 9. Section 431:8-211, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:

1           "(a) Any person, other than an insured, who [~~in this~~  
2 state] represents or aids an unauthorized insurer in violation  
3 of this part may be subject to a fine not in excess of \$1,000."

4           SECTION 10. Section 431:8-310, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§431:8-310 Surplus lines broker license required;**  
7 **qualifications for license.** (a) No person shall procure any  
8 contract of surplus lines insurance with an unauthorized insurer  
9 unless [~~such~~] the person is licensed as a surplus lines broker.

10           (b) The commissioner shall issue a surplus lines broker  
11 license to any producer licensed under article 9A when the  
12 producer has:

13           (1) Remitted the annual license fee to the commissioner as  
14 provided in article 7; and

15           (2) Submitted a completed license application on a form  
16 furnished by the commissioner.

17           (c) A surplus lines broker license shall be inactivated if  
18 a licensee fails to pay any required fee or penalty. A surplus  
19 lines broker who allows the surplus lines broker's license to  
20 become inactive for nonpayment of the renewal fee may reinstate  
21 that license without the necessity of a written examination;  
22 provided that the surplus lines broker:

1        (1) Pays the fee and a penalty in the amount of fifty per  
2                    cent of the then unpaid fees within twenty-four months  
3                    from the inactivation date; and

4        (2) Is in compliance with all requirements of chapter 431.

5        The license shall automatically expire if the surplus lines  
6        broker does not reinstate the surplus lines broker's license  
7        within the twenty-four-month period.

8        ~~[(e) Corporations, including foreign corporations,]~~ (d)  
9        Business entities shall be eligible to be surplus lines brokers,  
10        upon meeting the following conditions:

11        (1) The ~~[corporate]~~ business entity licensee shall list  
12                    individuals within the ~~[corporation]~~ business entity  
13                    who have satisfied all requirements of this part to  
14                    become surplus lines brokers; ~~[and]~~

15        (2) Only those individuals listed on the ~~[corporate]~~  
16                    business entity license shall transact surplus lines  
17                    business~~[-]~~; and

18        (3) An individual licensed as a surplus lines broker shall  
19                    be identified as the business entity's designated  
20                    representative.

21        ~~[(d)]~~ (e) Licensing procedure, duration, and related  
22        matters are governed by ~~[article]~~ articles 7 and 9A."

1 SECTION 11. Section 431:8-315, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) On or before March 15 of each year each surplus lines  
4 broker shall pay to the director of finance, through the  
5 commissioner, a premium tax on surplus lines insurance  
6 transacted by [~~such~~] the broker during the preceding calendar  
7 year. The tax shall be in the amount of 4.68 per cent of gross  
8 premiums, less return premiums, on taxable surplus lines  
9 insurance.

10 As used in this subsection, "gross premiums" mean the  
11 amount of the policy or coverage premium charged by the insurer  
12 in consideration for the insurance contract. Any charges for  
13 policy, survey, inspection, service, or similar fees or other  
14 charges added by the broker shall not be considered part of  
15 gross premiums."

16 SECTION 12. Section 431:8-316, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§431:8-316 Penalty for failure to file statement or remit  
19 tax. (a) If any surplus lines broker fails to:

- 20 (1) File an annual statement [7]; or  
21 (2) Pay the premium tax required by section 431:8-315 when  
22 the tax is due,

1 the surplus lines broker [~~shall~~] may be liable for a fine of up  
2 to \$25 for each day of delinquency. [~~The tax may be collected~~  
3 ~~by distraint, or the tax and fine for failure to pay the tax may~~  
4 ~~be recovered by action instituted by the commissioner in any~~  
5 ~~court of competent jurisdiction. The fine for failure to file~~  
6 ~~the annual statement may be recovered by an action instituted by~~  
7 ~~the commissioner in any court of competent jurisdiction.]~~

8 (b) The commissioner may:

9 (1) Collect the tax by distraint;

10 (2) Institute an action in any court of competent  
11 jurisdiction to recover the tax and fine for failure  
12 to pay the premium tax required by section 431:8-315;

13 or

14 (3) Institute an action in any court of competent  
15 jurisdiction to recover the fine for failure to file  
16 the annual statement."

17 SECTION 13. Section 431:8-317, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) The commissioner may suspend, revoke, or refuse to  
20 extend any surplus lines broker's license for any cause  
21 specified in any other provision of this chapter, or for any of  
22 the following causes:

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- 1 (1) Failure to file the annual statement required by  
2 section 431:8-313 or to pay the tax required by  
3 section 431:8-315;
- 4 (2) Failure [~~to maintain an office in this State, or~~] to  
5 keep records [7] or to allow the commissioner to  
6 examine [~~such~~] the surplus lines broker's records as  
7 provided in this article;
- 8 (3) Removal of office accounts and records from this State  
9 during the period in which [~~such~~] the accounts are  
10 required to be maintained under this article;
- 11 (4) Any of the causes for which a producer's license may  
12 be suspended or revoked under article 9A;
- 13 (5) Any cause for which issuance of the license could have  
14 been refused had it then existed and been known to the  
15 commissioner;
- 16 (6) If the licensee wilfully violates or knowingly  
17 participates in the violation of any provision of this  
18 code;
- 19 (7) If the licensee has obtained or attempted to obtain  
20 the license through wilful misrepresentation or fraud,  
21 or has failed to pass any examination required by  
22 section 431:9A-105;

- 1 (8) If the licensee has misappropriated, converted to the  
2 licensee's own use, or illegally withheld moneys  
3 required to be held in a fiduciary capacity;
- 4 (9) If the licensee [~~has~~], with intent to deceive, has  
5 materially misrepresented the terms or effect of any  
6 insurance contract, or has engaged or is about to  
7 engage in any fraudulent transaction;
- 8 (10) If the licensee has been guilty of any unfair practice  
9 or fraud as defined in article 13;
- 10 (11) If in the conduct of the licensee's affairs under the  
11 license, the licensee has been a source of injury and  
12 loss to the public;
- 13 (12) If the licensee issues or purports to issue any binder  
14 as to any insurer named therein as to which the  
15 licensee is not then authorized so to bind; or
- 16 (13) If the licensee has dealt with, or attempted to deal  
17 with, insurance or to exercise powers relative to  
18 insurance outside the scope of the licensee's  
19 licenses."

20 SECTION 14. Section 431:9-101, Hawaii Revised Statutes, is  
21 amended to read as follows:

1       "§431:9-101 **Scope.** This article shall govern the  
 2 qualifications and procedures for granting licenses to all  
 3 insurance adjusters[~~7~~] and independent bill reviewers[~~7~~, and  
 4 ~~limited service representatives~~]."

5       SECTION 15. Section 431:9-105, Hawaii Revised Statutes, is  
 6 amended to read as follows:

7       "§431:9-105 [~~Adjuster defined.~~ (a) ~~Adjuster means~~]

8 Definitions. As used in this article, unless the context  
 9 otherwise requires:

10       "Adjuster"

11       (1) Means any individual who:

12       [~~(1)~~] (A) Acts solely on behalf of either the insurer or  
 13 the insured, as an independent contractor or as  
 14 an employee of an independent contractor; and

15       [~~(2)~~] (B) Investigates for, reports to, or adjusts for the  
 16 individual's principal relative to claims arising  
 17 under insurance contracts[~~7~~];

18       (2) Does not include an individual who is:

19       (A) An attorney at law who adjusts insurance losses  
 20 from time to time incidental to the practice of  
 21 the attorney's profession;

22       (B) An adjuster of marine losses;

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- 1           (C) A salaried employee of an insurer or salaried  
2                   employee of an adjusting corporation or an  
3                   association owned or controlled by an insurer; or  
4           (D) An individual who acts for a self-insurer or for  
5                   an insured that administers its own group  
6                   insurance contract.

7           ~~[(b) Independent adjuster]~~ "Independent adjuster" means an  
8 adjuster representing the interests of the insurer.

9           "Independent bill reviewer":

10          (1) Means any individual who:

11           (A) Acts solely on behalf of either the insurer as an  
12                   independent contractor or as an employee of an  
13                   independent contractor; and

14           (B) Reviews or audits billings for medical services;  
15                   but

16          (2) Does not include an individual who is:

17           (A) A salaried employee of an insurer or salaried  
18                   employee of an adjusting corporation or an  
19                   association owned or controlled by an insurer; or

20           (B) A database provider for the insurer.

1       ~~[(e) Public adjuster]~~ "Public adjuster" means an adjuster  
2 employed by and solely representing the financial interests of  
3 the insured named in the policy.

4       ~~[(d) For the purposes of this article, the following~~  
5 ~~individuals are not deemed to be an adjuster:~~

6       ~~(1) An attorney at law who adjusts insurance losses from~~  
7       ~~time to time incidental to the practice of the~~  
8       ~~attorney's profession;~~

9       ~~(2) An adjuster of marine losses;~~

10       ~~(3) A salaried employee of a producer, an insurer, or of~~  
11       ~~an adjusting corporation or association owned and~~  
12       ~~controlled by insurers; and~~

13       ~~(4) An individual who acts for a self insurer or for an~~  
14       ~~insured which administers its own group insurance~~  
15       ~~contract.~~

16       ~~(e) Following a catastrophe in this State, a Hawaii~~  
17 ~~license shall not be required of a nonresident independent~~  
18 ~~adjuster for the adjustment of losses; provided that:~~

19       ~~(1) The common losses suffered that are to be adjusted are~~  
20       ~~a direct result of that catastrophe;~~

21       ~~(2) The adjuster provides to the licensing branch of the~~  
22       ~~insurance division a certified copy of the adjuster's~~

1 ~~current license in another state. That other state~~  
2 ~~shall have similar licensing requirements to section~~  
3 ~~431:9-222; and~~

4 ~~(3) Within three working days of when the nonresident~~  
5 ~~independent adjuster begins work, the insurance~~  
6 ~~company, independent adjusting company, or producer~~  
7 ~~that is utilizing the adjuster shall provide on its~~  
8 ~~letterhead to the licensing branch of the insurance~~  
9 ~~division:~~

10 ~~(A) The name of the adjuster;~~

11 ~~(B) The adjuster's Hawaii mailing and business~~  
12 ~~addresses and phone numbers; and~~

13 ~~(C) The adjuster's permanent home and business~~  
14 ~~addresses and phone numbers.~~

15 ~~For the purpose of this subsection, a catastrophe exists~~  
16 ~~when due to a sudden, specific, and natural or manmade disaster~~  
17 ~~or phenomenon, there arises property losses in Hawaii that are~~  
18 ~~covered by insurance. These losses must be so severe that~~  
19 ~~resident licensed and independent adjusters will be unable to~~  
20 ~~adjust the losses within a reasonable time as determined by the~~  
21 ~~insurance division.~~

1       ~~(f) Upon satisfaction of all the requirements in~~  
2 ~~subsection (c), the nonresident independent adjuster may be~~  
3 ~~registered with the licensing branch of the insurance division~~  
4 ~~and adjust catastrophic losses in this State for up to one~~  
5 ~~hundred twenty days from the date of registration or for a~~  
6 ~~period of time determined by the commissioner, whichever is~~  
7 ~~less.] "~~

8       SECTION 16. Section 431:9-201, Hawaii Revised Statutes, is  
9 amended to read as follows:

10       "§431:9-201 License required[-]; exception. (a) No  
11 person engaging in the business of insurance in this State shall  
12 act as, be appointed as, or hold oneself out to be an adjuster  
13 or independent bill reviewer unless so licensed by this State.

14       (b) Notwithstanding subsection (a), following a  
15 catastrophe in this State, a Hawaii license shall not be  
16 required of a nonresident independent adjuster for the  
17 adjustment of losses; provided that:

18       (1) The common losses suffered that are to be adjusted are  
19 a direct result of the catastrophe and shall be so  
20 severe that licensed adjusters and licensed  
21 independent adjusters who are residents of this State

1 will be unable to adjust the losses within a  
2 reasonable time as determined by the commissioner;

3 (2) The nonresident independent adjuster provides to the  
4 commissioner a certified copy of the adjuster's  
5 current license in another state. The other state  
6 shall have substantially similar licensing  
7 requirements to section 431:9-222; and

8 (3) Within three working days of the commencement of work  
9 by the nonresident independent adjuster, the insurance  
10 company, independent adjusting company, or producer  
11 that is using the adjuster shall provide on its  
12 letterhead to the commissioner:

13 (A) The name of the nonresident independent adjuster;

14 (B) The nonresident independent adjuster's Hawaii  
15 mailing and business addresses and phone numbers;  
16 and

17 (C) The nonresident independent adjuster's permanent  
18 home and business addresses and phone numbers.

19 Upon satisfaction of all of these requirements, the  
20 nonresident independent adjuster may be registered with the  
21 commissioner and adjust catastrophic losses in this State for up  
22 to one hundred twenty days from the date of registration or for

1 a period of time determined by the commissioner, whichever is  
2 less.

3 As used in this subsection, "catastrophe" means insured  
4 property losses in Hawaii that result from a sudden, specific,  
5 and natural or manmade disaster or phenomenon, as determined by  
6 the commissioner.

7 ~~[(b)]~~ (c) Any person violating this section shall be  
8 assessed a civil penalty not to exceed \$5,000 for each factually  
9 different violation.

10 ~~[(e)]~~ (d) Any person who knowingly violates this section  
11 shall be assessed a civil penalty of not less than \$1,000 and  
12 not more than \$10,000 for each violation.

13 ~~[(d)]~~ (e) Each repetition of an act that constitutes a  
14 violation subject to subsection ~~[(b)] or [(c)]~~ or (d) shall  
15 constitute a separate violation."

16 SECTION 17. Section 431:9-203, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§431:9-203 **General qualifications for license.** (a) For  
19 the protection of the public, the commissioner shall not issue  
20 or extend any ~~[such]~~ license ~~[except]~~ for an adjuster or  
21 independent bill reviewer:

1        (1) Except [in compliance with this article, and shall not  
2            issue or extend any such license to] as provided by  
3            this article; or

4        (2) To any individual less than eighteen years of age.

5        (b) An applicant for a license under this article shall  
6        notify the commissioner of the applicant's legal name and trade  
7        name, if applicable. An applicant doing business under any name  
8        other than applicant's legal name shall notify the commissioner  
9        prior to using the assumed name.

10       (c) A licensee shall:

11       (1) Inform the commissioner by any means acceptable to the  
12       commissioner of any change of status within thirty  
13       days of the change; and

14       (2) Report any change of status to the business  
15       registration division if the licensee is a business  
16       entity registered with the department of commerce and  
17       consumer affairs pursuant to title 23 or title 23A or  
18       if the licensee has registered a trade name pursuant  
19       to part I of chapter 482.

20       Failure to timely inform the commissioner or business  
21       registration division of a change of status shall result in a  
22       penalty pursuant to section 431:2-203.

1        (d) As used in this section, "change of status" includes  
2 but shall not be limited to change of legal name, assumed name,  
3 trade name, business address, home address, business phone  
4 number, business fax number, business electronic mail address,  
5 business website address, or home phone number."

6        SECTION 18. Section 431:9-222, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8        "(a) To qualify for an adjuster's license, an applicant  
9 shall comply with this article and shall:

- 10        (1) Be domiciled in this State, or in a state [~~which~~] that  
11        will permit residents of this State to act as  
12        adjusters in [~~such~~] the other state;
- 13        (2) Have had experience, special education, or training  
14        with reference to the handling of loss claims under  
15        insurance contracts, of sufficient duration and extent  
16        reasonably to make the individual competent to fulfill  
17        the responsibilities of an adjuster;
- 18        (3) Have successfully passed any examination required  
19        under section 431:9-206; and
- 20        (4) Have paid the license [~~fee-~~] fees required by section  
21        431:7-101."

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1 SECTION 19. Section 431:9-232, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) A license for an adjuster or independent bill  
4 reviewer shall be inactivated if a licensee fails to pay any  
5 required fees or penalties.

6 An adjuster or independent bill reviewer who allows the  
7 adjuster's or independent bill reviewer's license to become  
8 inactive for nonpayment of the renewal fee may reinstate that  
9 license without the necessity of a written examination; provided  
10 that the adjuster or independent bill reviewer:

11 (1) Pays the fee and a penalty in the amount of fifty per  
12 cent of the then unpaid fees within twenty-four months  
13 from the inactivation date; and

14 (2) Is in compliance with all requirements of chapter 431.  
15 The license shall automatically expire if the adjuster or  
16 independent bill reviewer does not reinstate the license within  
17 the twenty-four-month period."

18 SECTION 20. Section 431:9-235, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§431:9-235 Denial, suspension, revocation of licenses.

21 (a) The commissioner may suspend, revoke, or refuse to extend  
22 any license issued under this article for any cause specified in

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1 any other provision of this article, or for any of the following  
2 causes:

3 (1) For any cause for which issuance of the license could  
4 have been refused had it then existed and been known  
5 to the commissioner;

6 (2) If the licensee wilfully violates or knowingly  
7 participates in the violation of any provision of this  
8 code;

9 (3) If the licensee has obtained or attempted to obtain  
10 any [~~such~~] license issued under this article through  
11 wilful misrepresentation or fraud, or has failed to  
12 pass any examination required by section 431:9-206;

13 (4) If the licensee has misappropriated, [~~or~~] converted to  
14 the licensee's own use, or [~~has~~] illegally withheld  
15 moneys required to be held in a fiduciary capacity;

16 (5) If the licensee [~~has~~], with intent to deceive, has  
17 materially misrepresented the terms or effect of any  
18 insurance contract; or has engaged or is about to  
19 engage in any fraudulent transaction;

20 (6) If the licensee has been guilty of any unfair practice  
21 or fraud as defined in article 13;

1           (7) If in the conduct of the licensee's affairs under the  
2           license, the licensee has shown oneself to be a source  
3           of injury and loss to the public; or

4           (8) If the licensee has dealt with, or attempted to deal  
5           with, insurance or to exercise powers relative to  
6           insurance outside the scope of the licensee's  
7           licenses.

8           (b) The license of any partnership or corporation may be  
9           so suspended, revoked, or refused for any of [~~such~~] the causes  
10          [~~as~~] that relate to any individual designated in the license to  
11          exercise its powers.

12          (c) The holder of any license, which has been revoked or  
13          suspended, shall surrender the license certificate to the  
14          commissioner at the commissioner's request.

15          (d) The commissioner shall not renew or reinstate, or  
16          shall deny, suspend, or revoke any license or application, if  
17          the commissioner has received certification from an  
18          administering entity pursuant to chapter 436C that the licensee  
19          or applicant is in default or breach of any obligation under any  
20          student loan, student loan repayment contract, or scholarship  
21          contract that financed the licensee's or applicant's education,  
22          or has failed to comply with a repayment plan.

1           The commissioner in receipt of a certification pursuant to  
2 chapter 436C shall, as applicable, and without further review or  
3 hearing:

4           (1) Suspend the license;

5           (2) Deny the application or request for renewal of the  
6 license; or

7           (3) Deny the request for reinstatement of the license,  
8 and unless otherwise provided by law, shall renew, reinstate, or  
9 grant the license only upon receipt of an authorization from the  
10 administering entity.

11           (e) The commissioner may suspend, revoke, or refuse to  
12 extend any license for any cause specified in this article by an  
13 order:

14           (1) Given to the licensee not fewer than fifteen days  
15 prior to the effective date thereof, subject to the  
16 right of the licensee to have a hearing as provided in  
17 section 431:2-308, and pending that hearing, the  
18 license shall be suspended; or

19           (2) Made after a hearing, conducted as provided in section  
20 431:2-308, effective ten days after the date the order  
21 is given to the licensee, subject to the right of the  
22 licensee to appeal to the circuit court of the first

1           judicial circuit of this State as provided in chapter  
2           91."

3           SECTION 21. Section 431:9-235.5, Hawaii Revised Statutes,  
4 is amended to read as follows:

5           " ~~[†]~~ §431:9-235.5 ~~[†]~~ **Suspension or denial of license for**  
6 **noncompliance with support order.** In addition to any other acts  
7 or conditions provided by law, the commissioner shall refuse to  
8 renew, reinstate, or restore, or shall deny or suspend any  
9 license if the commissioner has received certification from the  
10 child support enforcement agency pursuant to the terms of  
11 section 576D-13 that the licensee or applicant is not in  
12 compliance with an order of support or has failed to comply with  
13 a subpoena or warrant relating to a paternity or child support  
14 proceeding. Unless otherwise provided by law, following receipt  
15 of certification pursuant to this section, the commissioner  
16 shall renew, reinstate, restore, or grant the license only upon  
17 receipt of an authorization from the child support enforcement  
18 agency, office of child support hearings, or the family court.  
19 Sections 92-17, 431:9-235, ~~[431:9-236,]~~ 431:9-237, 431:9-238,  
20 431:9-239, and 431:9-240 shall not apply to a refusal to renew,  
21 reinstate, or restore a license or to a license suspension or  
22 denial pursuant to this section."

1 SECTION 22. Section 431:9-243, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§431:9-243 Qualification for independent bill reviewer's  
4 license. To qualify for an independent bill reviewer's license,  
5 an applicant shall comply with this article and shall:

6 (1) Be domiciled in this State, or in a state that will  
7 permit residents of this State to act as independent  
8 bill reviewers in [~~such~~] the other state;

9 (2) Have experience, special education, or training with  
10 reference to the review or audit of billings for  
11 medical services under insurance contracts, of  
12 sufficient duration and extent to reasonably make the  
13 individual competent to fulfill the responsibilities  
14 of an independent bill reviewer;

15 (3) Have successfully passed any examination required  
16 under section 431:9-206; and

17 (4) Pay the license [~~fee~~] fees required by section 431:7-  
18 101;

19 provided that any applicant who holds the credential of  
20 certified professional coder granted by the American Academy of  
21 Professional Coders or the credential of registered health  
22 information administrator, registered health information

1 technician, certified coding specialist, or certified coding  
2 associate granted by the American Health Information Management  
3 Association shall be exempt from the requirements in paragraphs  
4 (1) to (3)."

5 SECTION 23. Section 431:9A-101, Hawaii Revised Statutes,  
6 is amended to read as follows:

7 "§431:9A-101 Scope. This article governs qualifications  
8 and procedures for the licensing of insurance producers. It  
9 simplifies and organizes statutory language to improve  
10 efficiency, to permit the use of new technology, and to reduce  
11 costs associated with issuing and renewing insurance licenses.

12 ~~[This article does not apply to excess and surplus lines~~  
13 ~~brokers licensed through article 8, except as provided in~~  
14 ~~sections 431:9A-108 and 431:9A-116.]"~~

15 SECTION 24. Section 431:9A-102, Hawaii Revised Statutes,  
16 is amended by amending the definition of "limited lines  
17 insurance" to read as follows:

18 "Limited lines insurance" means those lines of insurance a  
19 producer may be licensed to sell pursuant to section 431:9A-  
20 107.5 or any other line of insurance sold to individuals under  
21 state law or rule for which an insurance producer license in one

1 or more of the lines of authority set forth in section 431:9A-  
2 107(a) (1) to [~~(5)~~] (4) is not required."

3 SECTION 25. Section 431:9A-105, Hawaii Revised Statutes,  
4 is amended by amending subsection (a) to read as follows:

5 "(a) [~~A resident applicant applying~~] An applicant for an  
6 insurance producer license shall pass a written examination  
7 unless exempt pursuant to section 431:9A-109. The examination  
8 shall test the knowledge of the applicant concerning the lines  
9 of authority for which application is made, the duties and  
10 responsibilities of an insurance producer, and the insurance  
11 laws and rules of this State."

12 SECTION 26. Section 431:9A-106, Hawaii Revised Statutes,  
13 is amended to read as follows:

14 "**§431:9A-106 Application for license.** (a) A person  
15 applying for [~~a resident~~] an insurance producer license shall  
16 make application to the commissioner on the uniform application  
17 and declare under penalty of denial, suspension, or revocation  
18 of the license that the statements made in the application are  
19 true, accurate, and complete to the best of the applicant's  
20 knowledge and belief. Before approving the application, the  
21 commissioner shall find that the applicant:

22 (1) Is at least eighteen years of age;

- 1           (2) Has not committed any act that is a ground for a  
2           licensure sanction set forth in section 431:9A-112;
- 3           (3) Has paid the applicable fee set forth in section  
4           431:7-101; and
- 5           (4) Has passed, within the two years immediately preceding  
6           the date of the examination or issuance of the  
7           license, whichever is later, the applicable  
8           examination for each line of authority for which the  
9           applicant has applied.
- 10          (b) A business entity acting as an insurance producer is  
11          required to obtain an insurance producer license. Application  
12          shall be made using the uniform business entity application.  
13          Before approving the application, the commissioner shall find  
14          that:
- 15           (1) The business entity has paid all applicable fees;
- 16           (2) The business entity has designated a licensed producer  
17           who is a natural person responsible for the business  
18           entity's compliance with the insurance laws and rules  
19           of this State; and
- 20           (3) Any licensed producer so designated or empowered by a  
21           corporation or partnership may not be so designated or  
22           empowered by more than one corporation or partnership,

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1           except when the corporations or partnerships are  
2           affiliates of each other.

3           As used herein [~~, a corporation or partnership is~~]:

4           "Corporation or partnership" includes an affiliate of  
5 another corporation or partnership, if the same person, directly  
6 or indirectly through one or more intermediaries, controls both  
7 corporations or partnerships. [~~As used herein, "control"~~]

8           "Control" has the same meaning as in section 431:11-102.

9           (c) The commissioner may require any documents reasonably  
10 necessary to verify the information contained in an application.

11          [~~(d) Each insurer that sells, solicits, or negotiates any~~  
12 ~~form of limited line credit insurance shall provide to each~~  
13 ~~person whose duties will include selling, soliciting, or~~  
14 ~~negotiating limited line credit insurance a program of~~  
15 ~~instruction that shall be subject to approval by the~~  
16 ~~commissioner.] "~~

17          SECTION 27. Section 431:9A-107, Hawaii Revised Statutes,  
18 is amended by amending subsection (f) to read as follows:

19          "(f) [~~Licensees~~] A licensee shall [~~inform~~]:

20          (1) Inform the commissioner by any means acceptable to the  
21 commissioner of [~~a change of legal name or address~~]

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1           any change of status within thirty days of the  
2           change [-]; and  
3           (2) Report any change of status to the business  
4           registration division if the licensee is a business  
5           entity registered with the department of commerce and  
6           consumer affairs pursuant to title 23 or title 23A or  
7           if the licensee has registered a trade name pursuant  
8           to part I of chapter 482.

9           Failure to timely inform the commissioner or the business  
10 registration division of a change of [~~legal name or address~~  
11 ~~shall~~] status may result in a penalty pursuant to section 431:2-  
12 203.

13           As used in this subsection, "change of status" includes but  
14 shall not be limited to change of legal name, assumed name,  
15 trade name, business address, home address, business phone  
16 number, business fax number, business electronic mail address,  
17 business website address, or home phone number."

18           SECTION 28. Section 431:9A-107.5, Hawaii Revised Statutes,  
19 is amended by amending subsection (a) to read as follows:

20           "(a) Notwithstanding any other provision of this article,  
21 the commissioner may issue:

- 1 (1) A limited license to persons selling travel tickets of  
2 a common carrier of persons or property who shall act  
3 only as to travel ticket policies of accident and  
4 health or sickness insurance or baggage insurance on  
5 personal effects;
- 6 (2) A limited license to each individual who has charge of  
7 vending machines used in this State for the  
8 effectuation of travel insurance;
- 9 (3) A limited license to any individual who sells policies  
10 of accident and health or sickness insurance as a  
11 promotional device to improve the circulation of a  
12 newspaper in this State;
- 13 ~~[(4) A limited license to creditors for the purposes of~~  
14 ~~enrolling debtors under a group credit life insurance~~  
15 ~~or group credit disability insurance policy, issuing~~  
16 ~~certificates of insurance pursuant thereto, or issuing~~  
17 ~~individual credit life insurance or credit disability~~  
18 ~~insurance policies to debtors,] or~~
- 19 ~~[(5)]~~ (4) A limited line credit insurance producer license  
20 to any individual who sells ~~[policies of individual or~~  
21 ~~group credit life, credit disability, credit~~  
22 ~~involuntary unemployment, or credit property~~

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1           ~~insurance; provided the individual satisfactorily~~  
2           ~~passes a pre licensing examination that is limited to~~  
3           ~~the kinds of insurance marketed through creditors.],~~  
4           solicits, or negotiates limited line credit  
5           insurance."

6           SECTION 29. Section 431:9A-108, Hawaii Revised Statutes,  
7 is amended as follows:

8           1. By amending subsection (a) to read:

9           "(a) Except as provided in section 431:9A-112, a  
10 nonresident applicant shall receive a nonresident producer  
11 license if:

12           (1) The applicant is currently licensed as a resident and  
13           is in good standing in the applicant's home state;

14           (2) The applicant has submitted the proper request for  
15           licensure and has paid the fees required by section  
16           431:7-101;

17           (3) The applicant has submitted or transmitted to the  
18           commissioner the application for licensure that the  
19           applicant submitted to the applicant's home state, or  
20           in lieu of the same, a completed uniform application;  
21           and

1 (4) The applicant's home state awards [a] nonresident  
2 producer [~~license~~] licenses to [~~a resident~~] residents  
3 of this State on the same basis."

4 2. By amending subsection (d) to read:

5 "(d) Notwithstanding any other provision of this article,  
6 an applicant licensed as a surplus lines producer in the  
7 applicant's home state shall receive a [~~nonresident~~] surplus  
8 lines broker license if [~~the~~]:

9 (1) The applicant complies with subsection (a) [~~— Except~~  
10 as to subsection (a), nothing in this section  
11 otherwise amends or supersedes any provision of  
12 article 8.]; and

13 (2) The applicant's home state issues nonresident surplus  
14 lines broker licenses to residents of this State on  
15 the same basis."

16 SECTION 30. Section 431:9A-110, Hawaii Revised Statutes,  
17 is amended to read as follows:

18 "[~~§~~] §431:9A-110 [~~— Assumed~~] Legal, trade, and assumed  
19 names. (a) Every insurance producer doing business in this  
20 State shall notify the commissioner in writing of the insurance  
21 producer's legal name and trade name, if applicable.

1        (b) An insurance producer doing business under any name  
2 other than the producer's legal name shall [~~be required to~~]  
3 notify the commissioner in writing prior to using the assumed  
4 name."

5        SECTION 31. Section 431:9A-112, Hawaii Revised Statutes,  
6 is amended by amending subsection (b) to read as follows:

7        "(b) [~~In the event that~~] If the commissioner takes action  
8 pursuant to subsection (a), the commissioner shall notify the  
9 applicant or licensee in writing of the reason for that action.  
10 The applicant or licensee may make written demand upon the  
11 commissioner within ten days of the date of receipt of the  
12 notice for a hearing before the commissioner to determine the  
13 reasonableness of the commissioner's action. The hearing shall  
14 be held within [~~twenty~~] thirty days of receipt of the written  
15 demand and shall be held pursuant to chapter 91; provided that  
16 this subsection shall not apply to an action taken pursuant to  
17 subsection (a)(15), and following [~~such~~] that action, unless  
18 otherwise provided by law, the commissioner shall without  
19 further review or hearing renew, reinstate, or grant the license  
20 only upon receipt of an authorization from the administering  
21 entity."

1 SECTION 32. Section 431:9A-124, Hawaii Revised Statutes,  
2 is amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) To qualify for a license renewal a licensee shall:

5 (1) During the [~~twenty-three~~] twenty-four months preceding  
6 a license renewal, complete the required number of  
7 credit hours as set forth in subsection (b) in  
8 approved continuing education courses; and

9 (2) Pay the fees as required under section 431:7-101."

10 2. By amending subsections (d) and (e) to read:

11 "(d) Unless an extension of time has been granted in  
12 advance by the commissioner, a licensee's failure to satisfy all  
13 of the continuing education requirements [~~one month prior to~~] by  
14 the renewal date shall result in that licensee's license being  
15 automatically placed on an inactive status. To reactivate a  
16 license, the licensee shall submit proof to the insurance  
17 division that the requisite number of credit hours [~~have~~] has  
18 been completed and the licensee shall pay any required fees and  
19 penalties.

20 (e) After a licensee completes an approved continuing  
21 education course, the approved course provider shall issue to  
22 the licensee a certificate of completion in a form approved by

1 the commissioner that certifies that the licensee has  
2 successfully completed the course. Both the licensee and a  
3 person authorized to sign on behalf of the approved course  
4 provider shall sign the certificate of completion. The approved  
5 course provider shall electronically submit the certificate of  
6 completion to the insurance division [~~not later than one month~~  
7 ~~prior to the renewal date for the license.~~] within fifteen days  
8 of course completion."

9 SECTION 33. Section 431:9A-142, Hawaii Revised Statutes,  
10 is amended as follows:

11 1. By amending subsection (b) to read:

12 "(b) The commissioner may issue a limited lines motor  
13 vehicle rental company producer license to a motor vehicle  
14 rental company; provided[+] that:

15 (1) A motor vehicle rental company having a limited lines  
16 motor vehicle rental company producer's license shall  
17 also authorize employees of the motor vehicle rental  
18 company to act individually on behalf of, and under  
19 the supervision of, the motor vehicle rental company  
20 in solicitation and sale of insurance coverages;

21 (2) Except as set forth in this section, a limited lines  
22 motor vehicle rental company producer and its

1 employees shall not advertise or otherwise represent  
2 themselves as licensed insurers, insurance agents,  
3 insurance producers, or insurance brokers;

4 (3) A limited lines motor vehicle rental company producer  
5 may solicit or sell insurance at the rental office or  
6 by preselecting coverages in master, corporate, group  
7 rental, or individual agreements [~~on policy forms~~  
8 ~~approved by the commissioner~~] in any of the following  
9 general categories:

10 (A) Personal accident insurance covering the risks of  
11 travel to the motor vehicle renter and other  
12 occupants of the rental vehicle for accident and  
13 health or sickness insurance covering accidental  
14 death or dismemberment and reimbursement for  
15 medical expenses resulting from an occurrence  
16 during the rental period;

17 (B) Liability insurance, uninsured motorist  
18 insurance, or underinsured motorist insurance  
19 covering the motor vehicle renter and other  
20 authorized drivers of the rental vehicle for  
21 liability and damage arising from the operation  
22 of the rental vehicle;

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- 1 (C) Personal effects insurance covering the motor  
2 vehicle renter and other vehicle occupants for  
3 the loss of or damage to personal effects that  
4 occur during the rental period;
- 5 (D) Roadside assistance and emergency sickness  
6 protection programs; and
- 7 (E) Incidental travel or vehicle related coverages,  
8 which the motor vehicle rental company solicits  
9 or sells in connection with the rental of its  
10 vehicles;
- 11 (4) The limited lines motor vehicle rental company  
12 producer shall have brochures or other written  
13 materials readily available for review and  
14 dissemination to prospective motor vehicle renters  
15 that:
- 16 (A) Summarize clearly and correctly the material  
17 terms of coverages solicited or sold by the motor  
18 vehicle rental company producer, including the  
19 identity of the insurer;
- 20 (B) Discloses that the coverages solicited by the  
21 motor vehicle rental company producer may provide  
22 a duplication of coverages already provided by a

1           renter's personal motor vehicle insurance policy  
2           or other sources of coverage;

3           (C) States that purchases by the motor vehicle renter  
4           of the kinds of coverages offered by the motor  
5           vehicle rental company producer is not required  
6           to rent a vehicle; and

7           (D) Describes the process for filing a claim if the  
8           renter elects to purchase coverages;

9           (5) The motor vehicle rental company producer shall  
10           disclose in the motor vehicle rental agreement  
11           evidence of insurance coverages elected or declined by  
12           the motor vehicle renter;

13           (6) The motor vehicle rental company producer shall  
14           conduct training programs [~~which shall be approved by~~  
15           ~~the commissioner~~] for its employees who solicit and  
16           sell the rental company producer's insurance  
17           coverages;

18           (7) The motor vehicle rental company producer shall not be  
19           required to hold funds collected as payments for  
20           insurance in a separate trust account; and

21           (8) The motor vehicle rental company producer shall comply  
22           with all provisions of chapter 437D."

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1           2. By amending subsection (d) to read:

2           "(d) The limited license shall not be issued until all  
3 applicable licensing fees required by article 7 have been paid.

4 ~~[The commissioner shall collect in advance of issuance of the  
5 limited license the following fees:~~

6           ~~(1) Issuance of limited line motor vehicle rental company  
7 producer's license: \$1,000; and~~

8           ~~(2) The fees for services of the department of commerce  
9 and consumer affairs subsequent to the issuance of  
10 license: \$600 a year for all services (including  
11 extension of the license) for a limited line motor  
12 vehicle company producer.~~

13 ~~The services referred to in paragraphs (1) and (2) shall not  
14 include services in connection with examinations,  
15 investigations, hearings, appeals, and deposits with a  
16 depository other than the department of commerce and consumer  
17 affairs.] "~~

18           SECTION 34. Section 431:9A-151, Hawaii Revised Statutes,  
19 is amended as follows:

20           1. By amending subsection (a) to read:

21           "(a) An approved continuing education course shall be  
22 offered only by a person who has a valid continuing education

1 course provider certificate. Any person seeking a continuing  
2 education course provider certificate shall submit to the  
3 commissioner at least sixty days prior to the date the course  
4 will be offered:

5 (1) An application in duplicate on a form prescribed by  
6 the commissioner; and

7 (2) The appropriate application fee."

8 2. By amending subsection (d) to read:

9 "(d) An application may be denied, or the continuing  
10 education course provider certificate may be suspended or  
11 revoked, if the commissioner determines that the applicant or an  
12 officer, director, partner, or owner of an applicant entity:

13 (1) Is not qualified to perform the duties and  
14 responsibilities listed in this chapter;

15 (2) Engaged in false, fraudulent, or deceptive advertising  
16 or in making false or untruthful statements to the  
17 public or the commissioner;

18 (3) Procured any past license or regulatory approval  
19 through fraud, misrepresentation, or deceit;

20 (4) Aided and abetted an unlicensed person in performing,  
21 directly or indirectly, any activities requiring a  
22 license;

- 1 (5) Failed to maintain a record or history of competency,  
2 trustworthiness, fair dealing, [~~and~~] or financial  
3 integrity;
- 4 (6) Engaged in business under a past or present license  
5 issued pursuant to licensing laws, in a matter causing  
6 injury to one or more members of the public;
- 7 (7) Failed to comply, observe, or adhere to any law in a  
8 manner such that the commissioner deems the applicant  
9 to be unfit for approval;
- 10 (8) Has been refused a professional, occupational, or  
11 vocational license, has had such a license suspended,  
12 revoked, or restricted, or has been fined or placed on  
13 probation by any licensing authority; or
- 14 (9) Has been convicted of a felony or a misdemeanor  
15 involving a fraudulent act or an act of dishonesty in  
16 the acceptance, custody, or payment of money or  
17 property."

18 SECTION 35. Section 431:9A-152, Hawaii Revised Statutes,  
19 is amended to read as follows:

20 "[~~+~~] §431:9A-152 [~~+~~] Continuing education course provider  
21 additional duties. In addition to other duties and obligations

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1 imposed by law, a continuing education course provider shall be  
2 responsible for:

- 3 (1) Ensuring that each course is taught by a qualified  
4 instructor;
- 5 (2) Providing course schedules at least thirty days prior  
6 to the start date of each class;
- 7 (3) Monitoring attendance by having licensees who are  
8 taking the continuing education course, sign-in at the  
9 time of entrance to the course, and sign-out upon  
10 completion of the course, for courses other than self-  
11 study courses;
- 12 (4) Supervising and evaluating courses and instructors;
- 13 (5) Administering examinations when applicable;
- 14 (6) Verifying and submitting in the appropriate format, on  
15 a timely basis, course attendance and completion  
16 rosters and other information required by law;
- 17 (7) Signing and issuing to a licensee, in a form approved  
18 by the commissioner, a certificate of completion  
19 within [~~forty five~~] fifteen days of completion of a  
20 continuing education course;
- 21 (8) Providing continuing education course application  
22 materials, including a detailed course content outline

1 and a copy of the provider's tuition and fee refund  
2 policy, upon a licensee's request; and  
3 (9) Publishing and abiding by a refund policy that  
4 complies with rules adopted by the commissioner."

5 SECTION 36. Section 431:9A-153, Hawaii Revised Statutes,  
6 is amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) [~~A continuing education course provider shall obtain~~  
9 ~~prior approval for the course from the commissioner before~~  
10 ~~advertising or soliciting for a course.] No continuing education  
11 course hours shall be credited for a course unless the provider  
12 conducting the course has a valid continuing education course  
13 provider certificate at the time the course is conducted."~~

14 2. By amending subsections (c) and (d) to read:

15 "(c) The commissioner [~~may refuse to~~] shall not grant  
16 continuing education credit for any course work that focuses on:

- 17 (1) Personal development;  
18 (2) Motivational or public speaking;  
19 (3) Salesmanship;  
20 (4) Product presentation;

1           (5) Mechanical office skills, including but not limited to  
2           typing, speed reading, use of calculators, computers,  
3           or other office machinery; or

4           (6) Other subject matter not related to the business of  
5           insurance as determined by the commissioner.

6           (d) ~~[A continuing education course provider shall apply to~~  
7 ~~the commissioner for course approval whenever changes are~~  
8 ~~proposed in the course material, course hours, method of~~  
9 ~~presentation, or method of examination.]~~ A continuing education  
10 course provider shall submit for approval to the commissioner a  
11 course application at least sixty days prior to the date the  
12 course will be offered. Course applications shall be submitted  
13 to the commissioner for approval for new courses, renewals of  
14 course certificates, or whenever changes are proposed in the  
15 course material, course hours, method of presentation, or method  
16 of examination. A continuing education course provider shall  
17 obtain the commissioner's prior approval for the course before  
18 advertising or soliciting for the course."

19           3. By amending subsection (g) to read:

20           "(g) The continuing education course [provider]  
21 certificate[-

22           (-1) ~~shall]~~ shall expire:

1        ~~[(A)]~~ (1) On July 1 of the calendar year immediately  
2            following the calendar year the application for the  
3            initial certificate was received, if the application  
4            was received in the months of January through June; or

5        ~~[(B)]~~ (2) On July 1 of the second calendar year following  
6            the calendar year the application for the initial  
7            certificate was received, if the application was  
8            received in the months of July through December ~~[, and~~  
9            ~~(2) May thereafter]~~.

10        The certificate may be renewed once for a two-year period  
11 by application ~~[for a period of one year]~~ beginning on July 1  
12 and ending on July 1 of the ~~[following]~~ second calendar year ~~[,~~  
13 ~~unless the certificate is earlier]~~; provided that the  
14 certificate is not suspended, expired, or revoked by the  
15 commissioner."

16        SECTION 37. Section 431:9A-154, Hawaii Revised Statutes,  
17 is amended by amending subsection (d) to read as follows:

18        "(d) The effective date of a completed examination  
19 pursuant to this section shall be the date the continuing  
20 education course provider receives the completed examination.

21 Upon receipt of the completed examination, the continuing  
22 education course provider or the continuing education course

1 provider's agent shall grade the examination and mail the  
2 results to the licensee within [~~thirty days for a multiple~~  
3 ~~choice examination, and within forty five days for an essay~~  
4 ~~examination.~~] fifteen days."

5 SECTION 38. Section 431:9A-158, Hawaii Revised Statutes,  
6 is amended to read as follows:

7 "[+]§431:9A-158[+] **Reporting credit hours and**  
8 **recordkeeping.** Continuing education course providers shall:

9 (1) Submit course completion information as prescribed by  
10 the commissioner to the insurance division within  
11 [~~forty five~~] fifteen days after the course is  
12 completed or the competency examination is scored[~~,~~  
13 ~~whichever is later~~]. The information shall be  
14 transmitted in an electronic form in the format  
15 prescribed by the commissioner; and

16 (2) Maintain adequate records to verify the attendance and  
17 successful course completion pursuant to section  
18 431:9A-125(b)."

19 SECTION 39. Section 431:10A-603, Hawaii Revised Statutes,  
20 is amended to read as follows:

21 "[+]§431:10A-603[+] **Self-employed persons, exemption.** The  
22 requirements of this article related to mandated coverages for

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1 persons insured under accident and health or sickness policies  
2 shall not apply to accident and health or sickness policies for  
3 self-employed persons in this State; provided that this  
4 exemption shall apply only to those portions of the accident and  
5 health or sickness policies that cover self-employed persons in  
6 this State[-] and individuals included in the self-employed  
7 person's family coverage."

8 SECTION 40. Section 431:14-104, Hawaii Revised Statutes,  
9 is amended by amending subsection (a) to read as follows:

10 "(a) Every insurer shall file [~~in triplicate~~] with the  
11 commissioner [~~, except as to specific inland marine risks which~~  
12 ~~by general custom of the business are not written according to~~  
13 ~~manual rate or rating plans and bail bonds subject to section~~  
14 ~~804-62,~~] every manual of classifications, rules, and rates,  
15 every rating plan, every other rating rule, and every  
16 modification of any of the foregoing [~~which~~] that it proposes to  
17 use [~~. Every filing shall state its proposed effective date, and~~  
18 ~~shall indicate the character and extent of the coverage~~  
19 ~~contemplated. The filing also shall include a report on~~  
20 ~~investment income.]; provided that filings with regard to  
21 specific inland marine risks, which by general custom of the  
22 business are not written according to manual rate or rating~~

1 plans, and bail bonds, subject to section 804-62, shall not be  
2 required pursuant to this subsection.

3 Every filing shall:

- 4 (1) Consist of two printed copies and one copy filed by  
5 electronic, telephonic, or optical means;  
6 (2) State its proposed effective date;  
7 (3) Indicate the character and extent of the coverage  
8 contemplated; and  
9 (4) Include a report on investment income."

10 SECTION 41. Section 431:14F-105, Hawaii Revised Statutes,  
11 is amended by amending subsection (a) to read as follows:

12 "(a) Every managed care plan shall file [~~in triplicate~~]  
13 with the commissioner, every rate, charge, classification,  
14 schedule, practice, or rule and every modification of any of the  
15 foregoing [~~which~~] that it proposes to use. Every filing shall  
16 [~~state its proposed effective date and shall indicate the~~  
17 ~~character and extent of the coverage contemplated. The filing~~  
18 ~~also shall include a report on investment income.]:~~

- 19 (1) Consist of two printed copies and one copy filed by  
20 electronic, telephonic, or optical means;  
21 (2) State its proposed effective date;

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1           (3) Indicate the character and extent of the coverage  
2           contemplated; and

3           (4) Include a report on investment income."

4           SECTION 42. Section 431:20-103, Hawaii Revised Statutes,  
5 is amended to read as follows:

6           "§431:20-103 General insurance law applicable. The  
7 following provisions shall apply to title insurance and to title  
8 insurers:

9           (1) Sections 431:1-103 and 431:1-105;

10           (2) Sections 431:1-212, 431:1-213, and 431:1-214;

11           (3) Sections 431:2-101 to 431:2-106, and sections 431:2-  
12           108 to 431:2-110;

13           (4) Sections 431:2-201 to 431:2-204, [~~and~~] sections 431:2-  
14           207 to 431:2-212 [~~+~~], and section 431:2-215;

15           (5) Sections 431:2-302, 431:2-303, 431:2-305, and 431:2-  
16           306;

17           (6) Sections 431:3-101 to 431:3-105;

18           (7) Sections 431:3-201 to 431:3-203, 431:3-205, and 431:3-  
19           206, and sections 431:3-209 to 431:3-220;

20           (8) Sections 431:3-301, 431:3-305, 431:3-307, and 431:3-  
21           308;

22           (9) Sections 431:4-102 to 431:4-127;

- 1 (10) Sections 431:4-202 to 431:4-207;
- 2 (11) Section 431:5-101;
- 3 (12) Sections 431:5-201 to 431:5-203;
- 4 (13) Sections 431:5-305 and 431:5-306, and sections 431:5-
- 5 308 to 431:5-311;
- 6 (14) Article 6;
- 7 (15) Article 7;
- 8 (16) Article 9A;
- 9 (17) Sections 431:10-211, 431:10-216 to 431:10-218, and
- 10 431:10-220, 431:10-221, and 431:10-224, 431:10-225,
- 11 and sections 431:10-235 to 431:10-238;
- 12 (18) Article 13; and
- 13 (19) Article 15."

14 SECTION 43. Section 431K-8, Hawaii Revised Statutes, is  
 15 amended by amending subsection (a) to read as follows:

16 "(a) A purchasing group located in this State may not  
 17 purchase insurance from [a]:

- 18 (1) A risk retention group that is not chartered in this
- 19 State [~~or from an~~]; or
- 20 (2) An insurer not authorized in this State,
- 21 unless the purchase is [~~effected~~] made through a licensed
- 22 producer acting pursuant to the surplus lines laws [~~of the~~]

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1 ~~licensed producer's state of domicile.] set forth in article 8~~  
2 of chapter 431."

3 SECTION 44. Section 432:1-301, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Before doing business or engaging in any act, any  
6 society as defined in section 432:1-104(2) shall file with the  
7 commissioner:

8 (1) Copies of its constitution or organic instrument under  
9 which it purports to operate, and the bylaws, and  
10 rules and regulations, if any;

11 (2) If a society promising or offering to pay death, sick,  
12 disability, or other benefits in an amount equal to or  
13 in excess of \$25:

14 (A) Copies of all proposed forms of benefit  
15 certificates, applications, and circulars to be  
16 issued by the society; and

17 (B) A bond in the sum of \$25,000 with sureties  
18 approved by the commissioner. The bond shall be  
19 conditioned upon the return of the advance  
20 payments referred to in section 432:1-304, if the  
21 organization is not completed within one year;  
22 and

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1           (3) Any additional information as prescribed by the  
2                   National Association of Insurance Commissioners or as  
3           the commissioner may require."

4           SECTION 45. Section 432:2-609, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) Fraternal benefit society producers shall be licensed  
7 in accordance with the provisions governing producers in  
8 [~~article~~] articles 7 and 9A of chapter 431, except that the  
9 appointment shall be made by the fraternal benefit society.  
10 Fraternal benefit society producers are not prohibited from  
11 obtaining additional licenses provided for in article 9[-] of  
12 chapter 431. No examination shall be required of an individual  
13 licensed to represent a fraternal benefit society prior to July  
14 1, 1988."

15           SECTION 46. Section 432D-2, Hawaii Revised Statutes, is  
16 amended by amending subsection (c) to read as follows:

17           "(c) Each application for a certificate of authority shall  
18 be verified by an officer or authorized representative of the  
19 applicant, shall be in a form prescribed by the commissioner,  
20 and shall set forth or be accompanied by the following:

21           (1) A copy of the organizational documents of the  
22           applicant, such as the articles of incorporation,

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1 articles of association, partnership agreement, trust  
2 agreement, or other applicable documents, and all  
3 amendments thereto;

4 (2) A copy of the bylaws, rules and regulations, or  
5 similar document, if any, regulating the conduct of  
6 the internal affairs of the applicant;

7 (3) A list of the names, addresses, official positions,  
8 and biographical information on forms acceptable to  
9 the commissioner of the persons who are to be  
10 responsible for the conduct of the affairs and day-to-  
11 day operations of the applicant, including all members  
12 of the board of directors, board of trustees,  
13 executive committee or other governing board or  
14 committee, and the principal officers in the case of a  
15 corporation, or the partners or members in the case of  
16 a partnership or association;

17 (4) A copy of any contract form made or to be made between  
18 any class of providers and the health maintenance  
19 organization and a copy of any contract made or to be  
20 made between third party administrators, marketing  
21 consultants, or persons listed in paragraph (3) and  
22 the health maintenance organization;

- 1           (5) A copy of the form of evidence of coverage to be  
2           issued to the enrollees;
- 3           (6) A copy of the form of group contract, if any, which is  
4           to be issued to employers, unions, trustees, or other  
5           organizations;
- 6           (7) Financial statements showing the applicant's assets,  
7           liabilities, and sources of financial support, and  
8           both a copy of the applicant's most recent certified  
9           financial statement and an unaudited current financial  
10          statement;
- 11          (8) A financial feasibility plan which includes detailed  
12          enrollment projections, the methodology for  
13          determining premium rates to be charged during the  
14          first twelve months of operations certified by an  
15          actuary or other qualified person, a projection of  
16          balance sheets, cash flow statements showing any  
17          capital expenditures, purchase and sale of  
18          investments, deposits with the State, income and  
19          expense statements anticipated from the start of  
20          operations until the organization has had net income  
21          for at least one year, and a statement as to the

1 sources of working capital as well as any other  
2 sources of funding;

3 (9) A power of attorney duly executed by [~~such~~] the  
4 applicant, if not domiciled in this State, appointing  
5 the commissioner and the commissioner's successors in  
6 office, and duly authorized deputies, as the true and  
7 lawful attorney of [~~such~~] the applicant in and for  
8 this State upon whom all lawful process in any legal  
9 action or proceeding against the health maintenance  
10 organization on a cause of action arising in this  
11 State may be served;

12 (10) A statement or map reasonably describing the  
13 geographic area or areas to be served;

14 (11) A description of the internal grievance procedures to  
15 be utilized for the investigation and resolution of  
16 enrollee complaints and grievances;

17 (12) A description of the proposed quality assurance  
18 program, including the formal organizational  
19 structure, methods for developing criteria, procedures  
20 for comprehensive evaluation of the quality of care  
21 rendered to enrollees, and processes to initiate  
22 corrective action and reevaluation when deficiencies

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1 in provider or organizational performance are  
2 identified;

3 (13) A description of the procedures to be implemented to  
4 meet the protection against insolvency requirements in  
5 section 432D-8;

6 (14) A list of the names, addresses, and license numbers of  
7 all providers or groups of providers with which the  
8 health maintenance organization has agreements; and

9 (15) Such other information as prescribed by the National  
10 Association of Insurance Commissioners and as the  
11 commissioner may require."

12 SECTION 47. Section 481X-2, Hawaii Revised Statutes, is  
13 amended by amending the definition of "provider" to read as  
14 follows:

15 ""Provider" means a person who is contractually obligated  
16 to the service contract holder under the terms of the service  
17 contract [~~, including all sellers of motor vehicle service~~  
18 ~~contracts~~]."

19 SECTION 48. Section 481X-4, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "[+]§481X-4[+] **Financial responsibility.** A provider shall  
22 comply with the requirements under any one of the following

1 paragraphs, and shall not be subject to any other financial  
2 security requirements under state law:

3 (1) The provider shall insure all service contracts under  
4 a contractual liability insurance policy issued by an  
5 insurer authorized to transact insurance in this State  
6 or issued pursuant to part III of article 8 of chapter  
7 431;

8 (2) The provider shall:

9 (A) Maintain a funded reserve account for all  
10 obligations under service contracts issued and in  
11 force in this State. The reserves shall not be  
12 less than forty per cent of the gross  
13 consideration received from the sale of the  
14 service contract, less claims paid, for all in  
15 force contracts. The reserve account shall be  
16 subject to examination by the commissioner; and

17 (B) Place in trust with the commissioner, for all  
18 service contracts issued and in force in this  
19 State, a financial security deposit having a  
20 value that is [~~not less than~~] the larger of  
21 \$25,000[7] or five per cent of the gross  
22 consideration received less claims paid for the

1 sale of the service contracts. The financial  
2 security deposit shall consist of one of the  
3 following:

- 4 (i) A surety bond issued by an authorized  
5 surety;
- 6 (ii) Securities of the type eligible for deposit  
7 by authorized insurers in this State;
- 8 (iii) Cash;
- 9 (iv) A letter of credit issued by a qualified  
10 financial institution; or
- 11 (v) Another form of security authorized by the  
12 commissioner by rule; or

13 (3) The provider or its parent company shall:

- 14 (A) Maintain a net worth or stockholders' equity of  
15 at least \$100,000,000; and
- 16 (B) Upon request, provide the commissioner with a  
17 copy of the provider's or the provider's parent  
18 company's most recent Form 10-K or Form 20-F  
19 filed with the Securities and Exchange Commission  
20 within the last calendar year, or if the company  
21 does not file with the Securities and Exchange  
22 Commission, a copy of the provider's or the

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1 provider's parent company's audited financial  
2 statements.

3 If the financial responsibility requirement under this  
4 paragraph is to be maintained by the provider's parent  
5 company, the parent company shall guarantee the  
6 provider's obligations under service contracts sold by  
7 the provider in this State."

8 SECTION 49. Section 804-10.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10 "(b) No person shall be sufficient surety who:

11 (1) Has been convicted of perjury for submitting a false  
12 statement under section 804-11.5;

13 (2) Does not satisfy the requirements of section 804-11.5;  
14 or

15 (3) Does not satisfy the requirements of article [97] 9A,  
16 chapter 431, if posting an insurance bond as defined in  
17 section 431:1-210(1)."

18 SECTION 50. Section 431:9-236, Hawaii Revised Statutes, is  
19 repealed.

20 [~~"§431:9-236 Procedure for refusal, suspension, or~~  
21 ~~revocation. The commissioner may suspend, revoke, or refuse to~~  
22 ~~extend any such license for any cause specified in this article.~~

- 1       ~~(1) By order given to the licensee not less than fifteen~~  
2           ~~days prior to the effective date thereof, subject to~~  
3           ~~the right of the licensee to have a hearing as~~  
4           ~~provided in section 431:2-308 and pending such hearing~~  
5           ~~the license shall be suspended; or~~
- 6       ~~(2) By an order on hearing made as provided in section~~  
7           ~~431:2-308 effective ten days after the date the order~~  
8           ~~is given to the licensee, subject to the right of the~~  
9           ~~licensee to appeal to the circuit court of the first~~  
10          ~~judicial circuit of this State as provided in chapter~~  
11          ~~91." ]~~

12       SECTION 51. Section 431:9-241, Hawaii Revised Statutes, is  
13       repealed.

14       ~~[ "§431:9-241] Independent bill reviewer. (a)~~

15       ~~"Independent bill reviewer" means any individual who:~~

- 16       ~~(1) Acts solely on behalf of either the insurer as an~~  
17           ~~independent contractor or as an employee of an~~  
18           ~~independent contractor; and~~
- 19       ~~(2) Reviews or audits billings for medical services.~~
- 20       ~~(b) For the purposes of this section, an individual is not~~  
21       ~~deemed an independent bill reviewer if the individual is:~~



JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.

PURPOSE: To update and streamline insurance statutes in conformity with federal law and national standards and to improve efficiency of department operations.

MEANS: Amend sections 431:2-215(b), 431:2-216(a) and (b), 431:2-308(d), 431:3-212, 431:8-202(a), 431:8-205(c), 431:8-207(b), 431:8-209, 431:8-211(a), 431:8-310, 431:8-315(a), 431:8-316, 431:8-317(a), 431:9-101, 431:9-105, 431:9-201, 431:9-203, 431:9-222(a), 431:9-232(b), 431:9-235, 431:9-235.5, 431:9-243, 431:9A-101, 431:9A-102, 431:9A-105(a), 431:9A-106, 431:9A-107(f), 431:9A-107.5(a), 431:9A-108(a) and (d), 431:9A-110, 431:9A-112(b), 431:9A-124(a), (d), and (e), 431:9A-142(b) and (d), 431:9A-151(a) and (d), 431:9A-152, 431:9A-153(a), (c), (d), and (g), 431:9A-154(d), 431:9A-158, 431:10A-603, 431:14-104(a), 431:14F-105(a), 431:20-103, 431K-8(a), 432:1-301(a), 432:2-609(a), 432D-2(c), 481X-2, 481X-4, and 804-10.5(b), Hawaii Revised Statutes (HRS); and repeal sections 431:9-236 and 431:9-241, HRS.

JUSTIFICATION: The Department of Commerce and Consumer Affairs is continuing its efforts to modernize Hawaii's insurance laws and ease insurers' filing requirements, while protecting consumer interests and bringing Hawaii's insurance laws into conformity with federal law and national standards, particularly in light of proposed federal legislation seeking a national system of state-based regulation known as the State Modernization and Regulatory Transparency (SMART) Act.

In 2001, Hawaii enacted Act 216, Session Laws of Hawaii (SLH) 2001, the producer license

model act (PLMA), in compliance with the federal mandates of the Gramm-Leach-Bliley Act (GLBA). In 2002 and 2003, Acts 155 and 212, respectively, were passed to comply with federal law and national standards. Since the end of the 2003 legislative session, the department has continued to review existing statutes and to conform them with PLMA and GLBA, as well as to make them more streamlined, more understandable, more technically correct, and less burdensome.

This bill:

1. Conforms hiring provisions in sections 431:2-215 and 431:2-216 to reflect the same requirements (sections 431:2-215 and 431:2-216);
2. Clarifies state residency requirements (sections 431:8-202(a), 431:8-209, 431:8-211(a), and 431:8-317(a));
3. Defines "gross premiums" as the amount of the policy or coverage premium charged by the insurer in consideration of the insurance contract. In addition, any charges for policy, survey, inspection, service, or similar fees or other charges added by the broker shall not be considered part of gross premium (sections 431:8-205(c) and 431:8-315(a));
4. Allows service of process on a defendant's agent (section 431:8-207(b));
5. Inactivates a license if a licensee fails to pay any required fees or penalties. Allows reinstatement of a license that became inactive for nonpayment of the renewal fee without the necessity of a written examination if the licensee pays the fee and penalty in the amount of 50 percent of then unpaid fees within 24 months from the inactivation date and if the licensee is in compliance with the Insurance Code. The license will expire

automatically if the licensee does not reinstate the license within the 24-month period (section 431:8-310 for surplus lines brokers and section 431:9-232(b) for adjusters and independent bill reviewers);

6. Makes the penalty for failure to file an annual statement or remit tax for surplus lines brokers discretionary instead of mandatory (section 431:8-316);
7. Repeals reference to "limited service representatives" because the term is not used anywhere else in the Insurance Code (section 431:9-101);
8. Designates a general definitions section to better conform with drafting conventions. Defines "adjuster," "independent adjuster," "independent bill reviewer," and "public adjuster," based on the existing definitions found in sections 431:9-105 and 431:9-241 (section 431:9-105);
9. Moves the licensing exception for nonresident independent adjusters during catastrophes from section 431:9-105 to section 431:9-201 (section 431:9-201);
10. Requires licensees to notify the Commissioner:
  - a. Of the applicant's legal name and trade name;
  - b. Before using an assumed name;
  - c. Of any change of status (including change of legal name, assumed name, trade name, business address, home address, business phone number, business fax number, business email address, business website address, or home phone number) within 30 days of the change;

Also requires licensees to report any changes of status to the Business Registration Division if the licensee is

- a business entity registered with the Department of Commerce and Consumer Affairs or if the licensee has registered a trade name. Failure to timely inform the Commissioner of a change of status may result in a penalty pursuant to section 431:2-203, HRS (sections 431:9-203, 431:9A-107, and 431:9A-110);
11. Includes reference to license fees required by section 431:7-101 (sections 431:9-222(a) and 431:9-243);
  12. Inserts the substance of section 431:9-236 as section 431:9-235(e). Also repeals section 431:9-236 (sections 431:9-235 and 431:9-236);
  13. Corrects references made to repealed section 431:9-236 (sections 431:2-308(d) and 431:9-235.5);
  14. Corrects what appears to be an unnecessary limitation on surplus lines brokers (section 431:9A-101);
  15. Amends "limited lines insurance", removes requirement that insurers provide a program of instruction on limited line credit insurance, and clarifies that the Commissioner may issue a limited line credit insurance producer license to any individual who sells, solicits, or negotiates limited line credit insurance (sections 431:9A-102, 431:9A-106, 431:9A-107, and 431:9A-107.5);
  16. Removes the resident restriction thereby enabling all applicants to acquire a producer's license by examination (section 431:9A-105(a));
  17. Allows for reciprocal treatment of surplus lines brokers (section 431:9A-108(d));
  18. Allows a hearing to be held within 30

- instead of 20 days of receipt of the written demand to conform with section 431:2-308(d) (section 431:9A-112(b));
19. Provides that for a license renewal, a licensee must complete the required number of credit hours during the 24 months preceding renewal. Unless extension of time has been granted in advance, a licensee's failure to satisfy all of the continuing education requirements on the renewal date will result in that licensee's license being automatically placed on inactive status. Requires the approved course provider to electronically submit the certificate of completion to the Insurance Division within 15 days of course completion (section 431:9A-124(a), (d), (e));
  20. Removes fee requirements that are found in article 7 (section 431:9A-142);
  21. Ensures that approved continuing education classes are offered by persons with valid continuing education course provider certificates. Also allows the Commissioner to suspend or revoke a certificate under enumerated circumstances (section 431:9A-151(a) and (d));
  22. Reduces time for reporting completion of continuing education courses from 45 to 15 days (sections 431:9A-152, 431:9-154(d), and 431:9A-158);
  23. Ensures that approved continuing education classes are offered by a person with a valid continuing education certificate. Requires the continuing education provider to submit a course application for approval to the Commissioner at least 60 days before the date the course will be offered. Requires course application to be submitted for approval of new courses,

- renewal of course certificates, or other proposed changes. Requires prior approval before advertising or soliciting for the course. Clarifies that a continuing education course certificate may be renewed once for a two-year period (section 431:9A-153);
24. Clarifies that the effective date of a completed examination is the date the continuing education course provider receives the completed examination (section 431:9A-154(d));
  25. Clarifies that the exemption applying to accident and sickness policies for self-employed persons includes individuals included in the self-employed person's family coverage (section 431:10A-603);
  26. Allows electronic filings so that filings require two printed copies and one electronic copy (sections 431:14-104(a) and 431:14F-105(a));
  27. Clarifies that title insurers are subject to assessments pursuant to section 431:2-215 (section 431:20-103);
  28. Clarifies that surplus lines brokers are subject to Hawaii law, rather than the surplus lines broker's state of domicile (section 431K-8(a));
  29. Clarifies that fraternal benefit society producers are subject to articles 7 and 9A (section 432:2-609);
  30. Amends requirements affecting service contract providers by:
    - a. Removing sellers of motor vehicle service contracts from the definition of "provider" (section 481X-2); and
    - b. Clarifying that a provider must place in trust a financial security deposit having a value that is the larger of \$25,000 or 5% of the gross

consideration received less claims paid for the sale of the service contracts (section 481X-4);

- 31. Makes numerous technical, nonsubstantive amendments for purposes of clarity, consistency, and style.

Impact on the public: There should be a positive impact on the public as the appropriate amendments are being incorporated into the insurance laws. Insurers and licensees will now have statutes that reflect the national modernization of insurance laws.

Impact on the department and other agencies: The Department of Commerce and Consumer Affairs will be able to better able to serve the public and allocate its resources more effectively and efficiently by reducing time, costs, and manpower in its operations.

GENERAL FUND:

None.

OTHER FUNDS:

Minimal impact on the compliance resolution fund.

PPBS PROGRAM  
DESIGNATION:

CCA-106.

OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

July 1, 2006.