

---

---

# A BILL FOR AN ACT

RELATING TO ACTIVITIES REGULATED BY THE INSURANCE COMMISSIONER.

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

1           SECTION 1. Section 431:7-101, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§431:7-101 Fees. (a) The commissioner shall collect in  
4 advance the following fees:

5           (1) Certificate of authority: Issuance . . . . . \$900

6           (2) Organization of domestic insurers and affiliated  
7 corporations:

8           (A) Application and all other papers required  
9 for issuance of solicitation permit,  
10 filing . . . . . \$1,500

11           (B) Issuance of solicitation permit . . . . . \$150

12           (3) Producer's license:

13           (A) Issuance, regular license . . . . . \$50

14           (B) Issuance, temporary license . . . . . \$50

15           (4) Nonresident producer's license: Issuance . . . . . \$75

16           (5) Independent adjuster's license: Issuance . . . . . \$75

17           (6) Public adjuster's license: Issuance . . . . . \$75



1	(7)	Workers' compensation claim adjuster's limited	
2		license: Issuance . . . . .	\$75
3	(8)	Independent bill reviewer's license:	
4		Issuance . . . . .	\$80
5	(9)	Limited producer's license: Issuance . . . . .	\$60
6	(10)	Managing general agent's license:	
7		Issuance . . . . .	\$75
8	(11)	Reinsurance intermediary's license:	
9		Issuance . . . . .	\$75
10	(12)	Surplus lines broker's license: Issuance . . . . .	\$150
11	(13)	Service contract provider's registration:	
12		Issuance . . . . .	\$75
13	(14)	Approved course provider certificate:	
14		Issuance . . . . .	\$100
15	(15)	Approved continuing education course	
16		certificate: Issuance . . . . .	\$30
17	(16)	Vehicle protection product warrantor's	
18		registration: Issuance . . . . .	\$75
19	(17)	Criminal history record check . . . . .	\$20
20	(18)	Limited line motor vehicle rental company producer's	
21		license: Issuance . . . . .	\$1,000



1           (19) Examination for license: For each examination, a fee  
2           to be established by the commissioner.

3           (b) The fees for services of the department of commerce  
4 and consumer affairs subsequent to the issuance of a certificate  
5 of authority, license, or other certificate are as follows:

6           (1) \$600 per year for all services (including extension of  
7           the certificate of authority) for an authorized  
8           insurer;

9           (2) \$50 per year for all services (including extension of  
10           the license) for a regularly licensed producer;

11           (3) \$75 per year for all services (including extension of  
12           the license) for a regularly licensed nonresident  
13           producer;

14           (4) \$45 per year for all services (including extension of  
15           the license) for a regularly licensed independent  
16           adjuster;

17           (5) \$45 per year for all services (including extension of  
18           the license) for a regularly licensed public adjuster;

19           (6) \$45 per year for all services (including extension of  
20           the license) for a workers' compensation claims  
21           adjuster's limited license;



- 1           (7)   \$60 per year for all services (including extension of  
2           the license) for a regularly licensed independent bill  
3           reviewer;
- 4           (8)   \$45 per year for all services (including extension of  
5           the license) for a producer's limited license;
- 6           (9)   \$75 per year for all services (including extension of  
7           the license) for a regularly licensed managing general  
8           agent;
- 9           (10)  \$75 per year for all services (including extension of  
10           the license) for a regularly licensed reinsurance  
11           intermediary;
- 12          (11)  \$45 per year for all services (including extension of  
13           the license) for a licensed surplus lines broker;
- 14          (12)  \$75 per year for all services (including renewal of  
15           registration) for a service contract provider;
- 16          (13)  \$65 per year for all services (including extension of  
17           the certificate) for an approved course provider;
- 18          (14)  \$20 per year for all services (including extension of  
19           the certificate) for an approved continuing education  
20           course;



1 (15) \$75 per year for all services (including renewal of  
2 registration) for a vehicle protection product  
3 warrantor;

4 (16) \$20 for a criminal history record check; and

5 (17) \$600 per year for all services (including extension of  
6 the license) for a regularly licensed limited line  
7 motor vehicle rental company producer.

8 The services referred to in paragraphs (1) to (17) shall not  
9 include services in connection with examinations,  
10 investigations, hearings, appeals, and deposits with a  
11 depository other than the department of commerce and consumer  
12 affairs.

13 (c) The commissioner shall notify the holder of a  
14 certificate of authority issued under article 3 by written  
15 notice at least thirty days prior to the extension date of the  
16 certificate of authority, license, or other certificate. If the  
17 fee is not paid before or on the extension date, the fee shall  
18 be increased by a penalty in the amount of fifty per cent of the  
19 fee. If the fee and the penalty are not paid within the thirty  
20 days immediately following the extension date, the commissioner  
21 may revoke, suspend, or inactivate the certificate of authority,  
22 license, or other certificate, and shall not reissue, remove the



1 suspension of, or reactivate the certificate of authority,  
2 license, or other certificate until the fee and penalty have  
3 been paid.

4 (d) Failure to pay the fee before or on the extension date  
5 for a license or other certificate issued under article 8, 9  
6 ~~[e]~~, 9A, 9B, or 9C shall cause the automatic inactivation of  
7 the license or certificate effective as of the extension date.

8 (e) Failure of a vehicle protection product warrantor or a  
9 service contract provider to make timely payment of the annual  
10 renewal of registration fee under chapter 481R or 481X shall  
11 result in the automatic inactivation of the registration of the  
12 vehicle protection product warrantor or service contract  
13 provider.

14 ~~[(e)]~~ (f) All fees and penalties shall be deposited to the  
15 credit of the compliance resolution fund."

16 SECTION 2. Section 431:9A-124, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) The required number of credit hours shall be as  
19 follows:

20 (1) For a licensee authorized to sell lines of insurance  
21 in only one of the following groups:

22 (A) Life or accident and health or sickness; or



1 (B) Property, marine and transportation, vehicle,  
2 general casualty, or surety;

3 the requisite number of credit hours shall be twenty  
4 credit hours, including seventeen credit hours  
5 relating to the line of authority for which the  
6 license is held [~~,including~~] and three credit hours  
7 relating to ethics training or relating to the  
8 insurance laws and the insurance rules;

9 (2) For a licensee with a license to sell lines of  
10 insurance in both groups in paragraph (1), the total  
11 requisite number of credit hours shall be [~~thirty~~]  
12 twenty-four credit hours, [of which:] including:

13 (A) [~~Twelve~~] Ten credit hours [~~shall relate~~] relating  
14 to paragraph (1)(A), of which two credit hours  
15 shall relate to ethics training or relate to the  
16 insurance laws and [~~the~~] rules relating to the  
17 line of authority for which the license is held;  
18 and

19 (B) [~~Eighteen~~] Fourteen credit hours [~~shall relate~~]  
20 relating to paragraph (1)(B), of which two credit  
21 hours shall relate to ethics training or relate  
22 to the insurance laws and [~~the~~] rules relating to



1                   the line of authority for which the license is  
2                   held.

3 For purposes of this subsection, ethics training shall include  
4 the study of fiduciary responsibility, commingling of funds,  
5 payment and acceptance of commissions, unfair claims practices,  
6 policy replacement considerations, and conflicts of interest."

7           SECTION 3. Section 481R-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "~~§~~481R-4~~§~~ **Registration requirements.** (a) Before  
10 conducting business in this ~~[State]~~ state or issuing any  
11 warranty, a warrantor shall register with the commissioner on a  
12 form prescribed by the commissioner, and shall pay to the  
13 commissioner a fee as provided under section 431:7-101. A  
14 person who sells or solicits a vehicle protection product, but  
15 who is not a warrantor, shall not be required to register with  
16 the commissioner as a warrantor.

17           (b) Warrantor registration records shall be updated  
18 annually or within sixty days of any change, whichever occurs  
19 first, and shall contain the following information:

20           (1) The address of the principal office of the warrantor;





- 1 (2) The name and address of the warrantor's agent for the  
2 service of process in this [~~State~~] state if other than  
3 the provider;
- 4 (3) The identities of the warrantor's executive officer or  
5 officers directly responsible for the warrantor's  
6 vehicle protection product business;
- 7 (4) The name, address, and telephone number of any  
8 administrators designated by the warrantor to be  
9 responsible for the administration of vehicle  
10 protection product warranties in this [~~State,~~] state;
- 11 (5) A copy of each warranty form the warrantor proposes to  
12 use in this [~~State,~~] state; and
- 13 (6) A statement that the warrantor is in compliance with  
14 the financial responsibility requirements of section  
15 481R-5 and that details how the warrantor intends to  
16 meet the requirements, and proof of compliance with  
17 the requirements.

18 Failure to timely notify the commissioner of any change in  
19 registration records shall result in a penalty, pursuant to  
20 section 481R-13.

21 (c) Each warrantor shall pay to the commissioner the  
22 applicable fee, pursuant to section 431:7-101. Failure to make



1 timely payment of the applicable fee shall result in the  
 2 automatic inactivation of the registration of the warrantor,  
 3 effective the day after the fee payment was due. A warrantor  
 4 whose registration has been suspended for nonpayment of the fee  
 5 may reinstate the registration; provided that the fee payable  
 6 and a penalty, in the amount of twenty-five per cent of the  
 7 unpaid fees, are paid within sixty days from the inactivation  
 8 date and the warrantor is in compliance with all of the  
 9 requirements of chapter 481R. If the warrantor fails to  
 10 reinstate the warrantor's registration within the sixty-day  
 11 period, the registration shall automatically expire.

12 [~~e~~] (d) The marketing, selling, offering for sale,  
 13 issuing, making, proposing to make, and administering of vehicle  
 14 protection products shall be exempt from:

- 15 (1) Chapter 481X; and
- 16 (2) The insurance laws of this [~~State,~~] state, unless  
 17 specifically made applicable by this chapter.

18 [~~d~~] (e) The following contracts and agreements shall be  
 19 exempt from this chapter and shall only be subject to other  
 20 statutes and laws that specifically apply to them:

- 21 (1) Warranties or guarantees, other than those provided as  
 22 part of a vehicle protection product; and



1 (2) Service contracts regulated by chapter 481X.

2 [~~e~~] (f) A seller shall not be deemed to be a warrantor  
3 unless, in addition to acting as a seller, the person is named  
4 under the terms of a vehicle protection product warranty as the  
5 contractual obligor to the consumer."

6 SECTION 4. Section 481R-5, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) To ensure the adequate performance of a warrantor's  
9 obligations to a consumer, each warrantor shall comply with  
10 financial security requirements by insuring each vehicle  
11 protection product warranty issued by the warrantor under a  
12 reimbursement insurance policy issued by an insurer authorized  
13 to engage in the business of insurance in this [~~State or under a~~  
14 ~~surplus lines insurance policy issued by an insurer eligible to~~  
15 ~~place coverage in this State as regulated under the insurance~~  
16 ~~laws of this State.~~] state or with an insurer approved by the  
17 commissioner."

18 SECTION 5. Section 481X-3, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[+] **§481X-3** [+] **Registration.** (a) Before conducting  
21 business in this [~~State,~~] state, a provider shall register with  
22 the commissioner on a form prescribed by the commissioner, and



1 shall pay to the commissioner a fee as provided under section  
2 431:7-101.

3 (b) Provider registration shall be updated annually or  
4 within sixty days of any change, whichever occurs first, and  
5 shall contain the following information:

6 (1) The address of the principal office of the provider;

7 (2) The name and address of the provider's agent for the  
8 service of process in this [~~State,~~] state, if other  
9 than the provider;

10 (3) The identities of the provider's executive officer or  
11 officers directly responsible for the provider's  
12 service contract business;

13 (4) The name, address, and telephone number of any  
14 administrators designated by the provider to be  
15 responsible for the administration of service  
16 contracts in this [~~State,~~] state;

17 (5) A copy of each service contract form the provider  
18 proposes to use in this [~~State,~~] state; and

19 (6) A statement that the provider is in compliance with  
20 the financial responsibility requirements of section  
21 481X-4 and that details how the provider intends to



1 meet the requirements, and proof of compliance with  
2 the requirements.

3 Failure to timely notify the commissioner of any change in  
4 registration records shall result in a penalty, pursuant to  
5 section 481X-12.

6 (c) Each provider shall pay to the commissioner the  
7 applicable fee, pursuant to section 431:7-101. Failure to make  
8 timely payment of the applicable fee shall result in the  
9 automatic inactivation of the registration of the provider,  
10 effective the day after the fee payment was due. A provider  
11 whose registration has been suspended for nonpayment of the fee  
12 may reinstate the registration; provided that the fee payable  
13 and a penalty, in the amount of twenty-five per cent of the  
14 unpaid fees, are paid within sixty days from the inactivation  
15 date and the provider is in compliance with all of the  
16 requirements of chapter 481X. If the provider fails to meet the  
17 requirements to reinstate the provider's registration within the  
18 sixty-day period, the registration shall automatically expire."

19 SECTION 6. 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  
6 ~~[State or issued pursuant to part III of article 8 of~~  
7 ~~chapter 431,]~~ state or with an insurer approved by the  
8 commissioner;

9 (2) The provider shall:

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

18 (B) Place in trust with the commissioner, for all  
19 service contracts issued and in force in this  
20 ~~[State,]~~ state, a financial security deposit  
21 having a value that is the larger of \$25,000 or  
22 five per cent of the gross consideration



1 received, less claims paid for the sale of the  
2 service contracts. The financial security  
3 deposit shall consist of one of the 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 state;

9 (iii) Cash;

10 (iv) A letter of credit issued by a qualified  
11 financial institution; or

12 (v) Another form of security authorized by the  
13 commissioner [~~by rule, or~~];

14 or

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

16 (A) Maintain a net worth or stockholders' equity of  
17 at least \$100,000,000; and

18 (B) Upon request, provide the commissioner with a  
19 copy of the provider's or the provider's parent  
20 company's most recent Form 10-K or Form 20-F  
21 filed with the Securities and Exchange Commission  
22 within the last calendar year, or if the company



1 does not file with the Securities and Exchange  
2 Commission, a copy of the provider's or the  
3 provider's parent company's audited financial  
4 statements.

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

10 SECTION 7. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 2008.





**Report Title:**

Insurance Producers; Continuing Education; Automatic  
Inactivation; Financial Responsibility

**Description:**

Amends licensing requirements for activities regulated by the Insurance Commissioner. Amends educational requirements to keep a license, automatically inactivates a license if fees are not paid on time, allows reactivation if the fee is paid within a specified time, and broadens the types of reinsurance that can be used to meet the financial obligations of insurance agents.  
(HB3098 HD1)

