

S.B. NO. 1403

JAN 22 2007

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The legislature finds that mutual benefit
2 societies hold a unique position in the State's economy and
3 business community. These societies are organized and operated
4 for the primary benefit of their members and beneficiaries and
5 are not for profit. They also are exempted from many laws that
6 apply to insurance companies and, because of limited application
7 of the insurance code, the insurance commissioner has
8 correspondingly limited supervisory authority over these
9 societies.

10 Currently, some mutual benefit societies in Hawaii conduct
11 the business of insurance by extensive use of affiliates.
12 Affiliate transactions raise special concerns because they are
13 not always independent, market-based transactions.

14 The purpose of this Act is to ensure that mutual benefit
15 societies maintain a proper relationship with and among their
16 affiliates by applying the provisions of article 11 of Hawaii's

S.B. NO. 1403

1 insurance code to mutual benefit societies. This would benefit
2 the members of mutual benefit societies by authorizing
3 regulatory monitoring of the relations and transactions between
4 mutual benefit societies and their affiliates and among the
5 affiliates of mutual benefit societies, in the same manner as is
6 presently imposed upon other insurers.

7 SECTION 2. Section 431:11-102, Hawaii Revised Statutes, is
8 amended by amending the definition of "insurer" to read as
9 follows:

10 "Insurer" shall have the meaning as set forth in article
11 1, except that it shall not include:

12 (1) Agencies, authorities, or instrumentalities of the
13 United States, its possessions and territories, the
14 Commonwealth of Puerto Rico, the District of Columbia,
15 or a state or political subdivision of a state;

16 (2) Fraternal benefit societies; or

17 [~~(3) Nonprofit medical and hospital service associations;~~

18 or

19 ~~(4)] (3) Unauthorized insurers."~~

20 SECTION 3. Section 432:1-102, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:

S.B. NO. 1403

1 "(b) Article 2, article 11, and article 13 of chapter 431,
2 and the powers there granted to the commissioner, shall apply to
3 managed care plans, health maintenance organizations, ~~[or]~~ and
4 medical indemnity or hospital service associations, which are
5 owned or controlled by mutual benefit societies, so long as
6 ~~[such]~~ the application in any particular case is in compliance
7 with and is not preempted by applicable federal statutes and
8 regulations."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

~~_____~~
BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.

PURPOSE: To allow the insurance commissioner to monitor relationships and transactions between mutual benefit societies and their affiliates and among affiliates of mutual benefit societies in the same manner as other insurers. To require filing of a registration statement with the insurance commissioner describing a mutual benefit society's network of affiliates.

MEANS: Amend sections 431:11-102 and 432:1-102(b), Hawaii Revised Statutes.

JUSTIFICATION: Currently some mutual benefit societies in Hawaii conduct the business of insurance by extensive use of affiliates. Affiliate transactions raise special concerns because they are not always independent, market-based transactions. This bill will give the insurance commissioner oversight over affiliate transactions for mutual benefit societies to the same extent as authorized over other insurers under chapter 431:11, Hawaii Revised Statutes. Specifically, it will hold controlled affiliate transactions to the standards set forth in section 431:11-106, Hawaii Revised Statutes. This bill will also require each mutual benefit society to file a registration statement with the insurance commissioner describing its affiliate network.

Impact on the public: Will improve the insurance commissioner's ability to protect the public from improper transactions between mutual benefit societies and their affiliates.

Impact on the department and other agencies:
None anticipated.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-106.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.