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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. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding to article 3 a new part to be appropriately  
3 designated and to read as follows:

4                   **"PART AA. DISCLOSURE OF MATERIAL TRANSACTIONS**

5           **§431:3-A Reports.** (a) Every insurer domiciled in this  
6 State shall file a report with the commissioner disclosing  
7 material acquisitions and dispositions of assets or material  
8 nonrenewals, cancellations, or revisions of ceded reinsurance  
9 agreements, or material new ceded reinsurance agreements affecting  
10 in force life insurance business unless the acquisitions and  
11 dispositions of assets or material nonrenewals, cancellations, or  
12 revisions of ceded reinsurance agreements, or material new ceded  
13 reinsurance agreements affecting in force life insurance business  
14 have been submitted to the commissioner for review, approval, or  
15 information purposes pursuant to the insurance code, laws, rules,  
16 or other requirements.



1 (b) The report required in subsection (a) shall be filed  
2 within fifteen days after the end of the calendar month in which  
3 any of the foregoing transactions occur.

4 (c) One complete copy of the report, including any exhibits  
5 or other attachments, shall be filed with:

- 6 (1) The insurance commissioner; and  
7 (2) The National Association of Insurance Commissioners.

8 (d) Reports by insurers shall be given confidential  
9 treatment as provided herein:

- 10 (1) All reports in the possession or control of the  
11 commissioner, or obtained by or disclosed to the  
12 commissioner pursuant to this part shall be  
13 confidential by law and privileged, shall not be  
14 subject to chapter 92F, shall not be subject to  
15 subpoena, and shall not be subject to discovery or  
16 admissible in evidence in any private civil action  
17 without the prior written consent of the insurer to  
18 which it pertains. However, the commissioner is  
19 authorized to use the documents, materials, or other  
20 information in the furtherance of any regulatory or  
21 legal action brought as a part of the commissioner's  
22 official duties;



- 1           (2) Notwithstanding paragraph (1), after giving the  
2           affected insurer notice and an opportunity to be  
3           heard, the commissioner may determine that the  
4           interests of policyholders, shareholders, or the  
5           public will be served by publication of the  
6           information, in which event the commissioner may  
7           publish all or any part of the reports in the manner  
8           the commissioner may deem appropriate;
- 9           (3) Neither the commissioner nor any person who received  
10          documents, materials, or other information while  
11          acting under the authority of the commissioner shall  
12          be permitted or required to testify in any private  
13          civil action concerning any confidential documents,  
14          materials, or information subject to paragraph (1);
- 15          (4) To assist in the performance of the commissioner's  
16          duties, the commissioner:
- 17                (A) May share documents, materials, or other  
18                information, including the confidential and  
19                privileged documents, materials, or information  
20                subject to paragraph (1), with other state,  
21                federal, and international regulatory agencies,  
22                with the National Association of Insurance



1           Commissioners and its affiliates and  
2           subsidiaries, and with state, federal, and  
3           international law enforcement authorities;  
4           provided that the recipient agrees to maintain  
5           the confidentiality and privileged status of the  
6           document, material, or other information;

7           (B) May receive documents, materials, or information,  
8           including otherwise confidential and privileged  
9           documents, materials, or information, from the  
10          National Association of Insurance Commissioners  
11          and its affiliates and subsidiaries, and from  
12          regulatory and law enforcement officials of other  
13          foreign or domestic jurisdictions, and shall  
14          maintain as confidential or privileged any  
15          document, material, or information received with  
16          notice or the understanding that it is  
17          confidential or privileged under the laws of the  
18          jurisdiction that is the source of the document,  
19          material, or information; and

20          (C) May enter into agreements governing sharing and  
21          use of information consistent with this  
22          subsection; and



1 (5) No waiver of any applicable privilege or claim of  
2 confidentiality in the documents, materials, or  
3 information shall occur as a result of disclosure to  
4 the commissioner under this section or as a result of  
5 sharing as authorized in paragraph (4).

6 **§431:3-B Acquisitions and dispositions of assets.** (a) No  
7 acquisition or disposition of assets need be reported pursuant to  
8 section 431:3-A if the acquisition or disposition is not material.  
9 For purposes of this part, a material acquisition (or the  
10 aggregate of any series of related acquisitions during any thirty-  
11 day period) or disposition (or the aggregate of any series of  
12 related dispositions during any thirty-day period) means one that  
13 is nonrecurring and not in the ordinary course of business and  
14 involves more than five per cent of the reporting insurer's total  
15 admitted assets as reported in its most recent statutory statement  
16 filed with the commissioner.

17 (b) Asset acquisitions subject to this part include every  
18 purchase, lease, exchange, merger, consolidation, succession, or  
19 other acquisition other than the construction or development of  
20 real property by or for the reporting insurer or the acquisition  
21 of materials for this purpose.



1           Asset dispositions subject to this part include every sale,  
2 lease, exchange, merger, consolidation, mortgage, hypothecation,  
3 assignment (whether for the benefit of creditors or otherwise),  
4 abandonment, destruction, or other disposition.

5           (c) The following information is required to be disclosed in  
6 any report of a material acquisition or disposition of assets:

- 7           (1) Date of the transaction;
- 8           (2) Manner of acquisition or disposition;
- 9           (3) Description of the assets involved;
- 10          (4) Nature and amount of the consideration given or  
11           received;
- 12          (5) Purpose or reason for the transaction;
- 13          (6) Manner by which the amount of consideration was  
14           determined;
- 15          (7) Gain or loss recognized or realized as a result of the  
16           transaction; and
- 17          (8) Names of all persons from whom the assets were  
18           acquired or to whom they were disposed.

19          (d) Insurers are required to report material acquisitions  
20 and dispositions on a non-consolidated basis unless the insurer is  
21 part of a consolidated group of insurers that utilizes a pooling  
22 arrangement or one hundred per cent reinsurance agreement that



1 affects the solvency and integrity of the insurer's reserves and  
2 the insurer ceded substantially all of its direct and assumed  
3 business to the pool. An insurer is deemed to have ceded  
4 substantially all of its direct and assumed business to a pool if  
5 the insurer has less than \$1,000,000 total direct plus assumed  
6 written premiums during a calendar year that are not subject to a  
7 pooling arrangement and the net income of the business not subject  
8 to the pooling arrangement represents less than five per cent of  
9 the insurer's capital and surplus.

10 **§431:3-C Nonrenewals, cancellations, or revisions of ceded**  
11 **reinsurance agreements.** (a) No nonrenewal, cancellation, or  
12 revision of a ceded reinsurance agreement or a new ceded  
13 reinsurance agreement affecting in force life insurance business  
14 need be reported pursuant to section 431:3-A if the nonrenewal,  
15 cancellation, or revision of the ceded reinsurance agreement or  
16 new ceded reinsurance agreement affecting in force life insurance  
17 business is not material. For purposes of this part, a material  
18 nonrenewal, cancellation, or revision of a ceded reinsurance  
19 agreement or a material new ceded reinsurance agreement affecting  
20 in force life insurance business means one that affects:



1 (1) As respects property and casualty business, including  
2 accident and health business written by a property and  
3 casualty insurer:

4 (A) More than fifty per cent of the insurer's total  
5 ceded written premium; or

6 (B) More than fifty per cent of the insurer's total  
7 ceded indemnity and loss adjustment reserves;

8 (2) As respects life, annuity, and accident and health  
9 business, more than fifty per cent of the total  
10 reserve credit taken for business ceded, on an  
11 annualized basis, as indicated in the insurer's most  
12 recent annual statement; and

13 (3) As respects either property and casualty or life,  
14 annuity, and accident and health business, either of  
15 the following events shall constitute a material  
16 revision which must be reported:

17 (A) An authorized reinsurer representing more than  
18 ten per cent of a total cession is replaced by  
19 one or more unauthorized reinsurers; or

20 (B) Previously established collateral requirements  
21 have been reduced or waived as respects one or  
22 more unauthorized reinsurers representing





1                   collectively more than ten per cent of a total  
2                   cession.

3           (b) No reporting shall be required if:

4           (1) As respects property and casualty business, including  
5           accident and health business written by a property and  
6           casualty insurer, the insurer's total ceded written  
7           premium represents, on an annualized basis, less than  
8           ten per cent of its total written premium for direct  
9           and assumed business; or

10          (2) As respects life, annuity, and accident and health  
11          business, the total reserve credit taken for business  
12          ceded represents, on an annualized basis, less than  
13          ten per cent of the statutory reserve requirement  
14          prior to any cession.

15          (c) The following information is required to be disclosed in  
16          any report of a material nonrenewal, cancellation, or revision of  
17          ceded reinsurance agreements or material new ceded reinsurance  
18          agreements affecting in force life insurance business:

19          (1) The effective date of the nonrenewal, cancellation, or  
20          revision or new agreement;

21          (2) A description of the transaction with an  
22          identification of the initiator of the transaction;



1 (3) The purpose or reason for the transaction; and

2 (4) If applicable, the identity of the replacement  
3 reinsurers.

4 (d) Insurers are required to report all material  
5 nonrenewals, cancellations, or revisions of ceded reinsurance  
6 agreements or material new ceded reinsurance agreements affecting  
7 in force life insurance business on a non-consolidated basis,  
8 unless the insurer is part of a consolidated group of insurers,  
9 which utilizes a pooling arrangement or one hundred per cent  
10 reinsurance agreement that affects the solvency and integrity of  
11 the insurer's reserves and the insurer ceded substantially all of  
12 its direct and assumed business to the pool. An insurer is deemed  
13 to have ceded substantially all of its direct and assumed business  
14 to a pool if the insurer has less than \$1,000,000 total direct  
15 plus assumed written premiums during a calendar year that are not  
16 subject to a pooling arrangement and the net income of the  
17 business not subject to the pooling arrangement represents less  
18 than five per cent of the insurer's capital and surplus.

19 **§431:3-D Enforcement.** Any insurer failing or refusing to  
20 file any report, document, or information required by this part  
21 shall be liable for a fine in an amount not less than \$100 and not  
22 more than \$500 for each day of delinquency. The commissioner may



1 suspend or revoke the certificate of authority of any insurer that  
2 fails to file any of the reports, documents, or information  
3 required pursuant to this part."

4 SECTION 2. Section 431:3-301, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) Each domestic, foreign, and alien insurer that is  
7 authorized to transact insurance in this State shall file  
8 annually with the commissioner, [~~on or before March 1 of each~~  
9 ~~year,~~] a copy of its annual statement convention blank,  
10 statement of actuarial opinion by a qualified actuary [~~or~~  
11 ~~specialist~~], and additional filings as prescribed by the  
12 commissioner for the preceding year. Property and casualty  
13 insurers shall also file annually with the commissioner an  
14 actuarial opinion summary by a qualified actuary as prescribed  
15 by the commissioner for the preceding year. Each insurer shall  
16 file quarterly, on or before the forty-fifth day after each  
17 quarter, a copy of its quarterly statement. The statements  
18 shall be prepared in accordance with the National Association of  
19 Insurance Commissioners' annual statement instructions,  
20 following the practices and procedures prescribed by the  
21 National Association of Insurance Commissioners' accounting  
22 practices and procedures manuals. The annual and quarterly



1 statements shall be verified by oaths of at least two of the  
2 insurer's principal officers, or the attorney-in-fact in the  
3 case of a reciprocal insurer, or the United States manager in  
4 the case of an alien insurer. The statement of an alien insurer  
5 shall relate only to its transactions and affairs in the United  
6 States. Foreign and alien insurers that are in compliance with  
7 section 431:3-302 are not required to file annual and quarterly  
8 statements with this State."

9 SECTION 3. Section 431:3-302, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) Each domestic, foreign, and alien insurer that is  
12 authorized to transact insurance in this State shall  
13 electronically file annually with the National Association of  
14 Insurance Commissioners, [~~on or before March 1 of each year, a~~  
15 ~~copy of~~] its annual statement convention blank, statement of  
16 actuarial opinion by a qualified actuary [~~or specialist~~], and  
17 additional filings as prescribed by the commissioner for the  
18 preceding year. Each insurer shall electronically file  
19 quarterly, on or before the forty-fifth day after each quarter,  
20 [~~a copy of~~] its quarterly statement with the National  
21 Association of Insurance Commissioners. The information  
22 electronically filed with the National Association of Insurance



1 Commissioners shall be [~~in the same format and scope as that~~  
2 ~~required by the commissioner and shall include the signed jurat~~  
3 ~~page and the actuarial certification.] filed in the format  
4 prescribed by the National Association of Insurance  
5 Commissioners' annual statement instructions. Any amendments  
6 and addenda to the statement filing subsequently filed with the  
7 commissioner shall also be filed electronically with the  
8 National Association of Insurance Commissioners. [~~In addition~~  
9 ~~to the printed annual and quarterly filings addressed in this~~  
10 ~~section, the annual and quarterly filings shall also be filed~~  
11 ~~electronically in the format prescribed by the National~~  
12 ~~Association of Insurance Commissioners' annual statement~~  
13 ~~instructions. The annual and quarterly electronic filings shall~~  
14 ~~be due on the same dates as the corresponding printed~~  
15 ~~information.]"~~~~

16 SECTION 4. Section 431:3-304, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"§431:3-304 Confidentiality.** (a) All financial analysis  
19 ratios and examination synopses concerning insurance companies  
20 that are submitted to the insurance division by the National  
21 Association of Insurance Commissioners' Insurance Regulatory



1 Information System are confidential and may not be disclosed by  
2 the insurance division.

3 (b) Documents, materials, or other information in the  
4 possession or control of the commissioner that are considered an  
5 actuarial report, working paper, memorandum in support of the  
6 opinion, regulatory asset adequacy issues summary, or actuarial  
7 opinion summary provided in support of the opinion, and any  
8 other material provided by the company to the commissioner in  
9 connection therewith, shall be confidential by law and  
10 privileged, shall not be subject to chapter 92F, shall not be  
11 subject to subpoena, and shall not be subject to discovery or  
12 admissible in evidence in any private civil action.

13 This subsection shall not be construed to limit the  
14 commissioner's authority to release the documents, materials, or  
15 other information to the Actuarial Board for Counseling and  
16 Discipline so long as the documents, materials or other  
17 information are required for the purpose of professional  
18 disciplinary proceedings and the Actuarial Board for Counseling  
19 and Discipline establishes procedures satisfactory to the  
20 commissioner for preserving the confidentiality of the  
21 documents. This subsection shall not be construed to limit the  
22 commissioner's authority to use the documents, materials, or



1 other information in furtherance of any regulatory or legal  
2 action brought as part of the commissioner's official duties.

3 (c) Neither the commissioner nor any person who received  
4 documents, materials, or other information while acting under  
5 the authority of the commissioner shall be permitted or required  
6 to testify in any private civil action concerning any  
7 confidential documents, materials, or other information subject  
8 to subsection (b).

9 (d) To assist in the performance of the commissioner's  
10 duties, the commissioner:

11 (1) May share documents, materials, or other information,  
12 including the confidential and privileged documents,  
13 materials, or information subject to subsection (b)  
14 with other state, federal, and international  
15 regulatory agencies, with the National Association of  
16 Insurance Commissioners and its affiliates and  
17 subsidiaries, and with state, federal, and  
18 international law enforcement authorities, provided  
19 that the recipient agrees to maintain the  
20 confidentiality and privileged status of the document,  
21 material, or other information and has the legal  
22 authority to maintain confidentiality;



1       (2) May receive documents, materials, or other  
2       information, including otherwise confidential and  
3       privileged documents, materials, or information, from  
4       the National Association of Insurance Commissioners  
5       and its affiliates and subsidiaries, and from  
6       regulatory and law enforcement officials of other  
7       foreign or domestic jurisdictions, and shall maintain  
8       as confidential or privileged any document, material,  
9       or other information received with notice or the  
10       understanding that it is confidential or privileged  
11       under the laws of the jurisdiction that is the source  
12       of the document, material, or other information; and  
13       (3) May enter into agreements governing sharing and use of  
14       information consistent with subsections (b), (c), and  
15       (d).  
16       (e) No waiver of any applicable privilege or claim of  
17       confidentiality in the documents, materials, or other  
18       information shall occur as a result of disclosure to the  
19       commissioner under this section or as a result of sharing as  
20       authorized in subsection (d)."

21       SECTION 5. Section 431:5-307, Hawaii Revised Statutes, is  
22       amended by amending subsection (j) to read as follows:





1           "(j) The actuarial opinion of reserves and this subsection  
2 shall become effective December 31, 1995.

3           (1) Every life insurance company doing business in this  
4 State shall annually submit the opinion of a qualified  
5 actuary as to whether the reserves and related  
6 actuarial items held in support of the policies and  
7 contracts specified by the commissioner, by rules, are  
8 computed appropriately, are based on assumptions which  
9 satisfy contractual provisions, are consistent with  
10 prior reported amounts, and comply with the applicable  
11 laws of this State. The commissioner, by rules, shall  
12 define the specifics of this opinion and add any other  
13 items deemed to be necessary to its scope;

14           (2) Actuarial analysis of reserves and assets supporting  
15 the reserves:

16           (A) Every life insurance company, except as exempted  
17 by or pursuant to rules, also shall include  
18 annually in the opinion required by paragraph  
19 (1), an opinion of the same qualified actuary as  
20 to whether the reserves and related actuarial  
21 items held in support of the policies and  
22 contracts specified by the commissioner by rules,



1 when considered in light of the assets held by  
2 the company with respect to the reserves and  
3 related actuarial items, including but not  
4 limited to the investment earnings on the assets  
5 and the considerations anticipated to be received  
6 and retained under the policies and contracts,  
7 make adequate provision for the company's  
8 obligations under the policies and contracts,  
9 including but not limited to the benefits under,  
10 and expenses associated with, the policies and  
11 contracts; and

12 (B) The commissioner may provide, by rules, for a  
13 transition period for establishing any higher  
14 reserves which the qualified actuary may deem  
15 necessary in order to render the opinion required  
16 by this section;

17 (3) Each opinion required by paragraph (2) shall be  
18 governed by the following:

19 (A) A memorandum, in form and substance acceptable to  
20 the commissioner as specified by rules, shall be  
21 prepared to support each actuarial opinion; and



- 1 (B) If the insurance company fails to provide a  
2 supporting memorandum at the request of the  
3 commissioner within a period specified by rules  
4 or if the commissioner determines that the  
5 supporting memorandum provided by the insurer  
6 fails to meet the standards prescribed by rules  
7 or is otherwise unacceptable to the commissioner,  
8 the commissioner may engage a qualified actuary  
9 at the expense of the insurer to review the  
10 opinion and the basis for the opinion and prepare  
11 any supporting memorandum that is required by the  
12 commissioner; and
- 13 (4) Every opinion shall be governed by the following:
- 14 (A) The opinion shall be submitted with the annual  
15 statement reflecting the valuation of reserve  
16 liabilities for each year ending on or after  
17 December 31, 1995;
- 18 (B) The opinion shall apply to all business in force  
19 including individual and group health insurance  
20 plans, in form and substance acceptable to the  
21 commissioner as specified by rules;



- 1 (C) The opinion shall be based on standards adopted  
2 from time to time by the Actuarial Standards  
3 Board and on any [+]additional[+] standards that  
4 the commissioner may prescribe by rules;
- 5 (D) In the case of an opinion required to be  
6 submitted by a foreign or alien insurer, the  
7 commissioner may accept the opinion filed by that  
8 insurer with the insurance supervisory official  
9 of another state if the commissioner determines  
10 that the opinion reasonably meets the  
11 requirements applicable to an insurer domiciled  
12 in this State;
- 13 (E) For the purposes of this section, "qualified  
14 actuary" means a member in good standing of the  
15 American Academy of Actuaries who meets the  
16 requirements set forth in the regulations adopted  
17 by the American Academy of Actuaries;
- 18 (F) Except in cases of fraud or wilful misconduct,  
19 the qualified actuary shall not be liable for  
20 damages to any person, other than the insurer and  
21 the commissioner, for any act, error, omission,



1 decision, or conduct with respect to the  
2 actuary's opinion; and  
3 (G) Any memorandum in support of the opinion,  
4 regulatory asset adequacy issues summary, and any  
5 other material provided by the insurer to the  
6 commissioner in connection therewith, shall be  
7 kept confidential [~~by the commissioner and shall~~  
8 ~~not be made public and shall not be subject to~~  
9 ~~subpoena, other than for the purpose of defending~~  
10 ~~an action seeking damages from any person by~~  
11 ~~reason of any action required by this section, or~~  
12 ~~by rules adopted hereunder; provided that the~~  
13 ~~memorandum or other material may otherwise be~~  
14 ~~released by the commissioner with the written~~  
15 ~~consent of the insurer or be released to the~~  
16 ~~American Academy of Actuaries upon request~~  
17 ~~stating that the memorandum or other material is~~  
18 ~~required for the purpose of professional~~  
19 ~~disciplinary proceedings and setting forth~~  
20 ~~procedures satisfactory to the commissioner for~~  
21 ~~preserving the confidentiality of the memorandum~~  
22 ~~or other material. Once any portion of the~~



1 ~~confidential memorandum is cited by the insurer~~  
2 ~~in its marketing material or is cited before any~~  
3 ~~governmental agency, other than a state insurance~~  
4 ~~department, or is released by the insurer to the~~  
5 ~~news media, all portions of the confidential~~  
6 ~~memorandum shall no longer be confidential.]~~  
7 pursuant to section 431:3-304."

8 SECTION 6. Section 431:19-107, Hawaii Revised Statutes, is  
9 amended by amending subsection (c) to read as follows:

10 "(c) The statements required to be filed in subsections (a)  
11 and (b) shall include but not be limited to actuarially  
12 appropriate reserves for the business underwritten. An  
13 actuarial opinion regarding reserves for the business  
14 underwritten by the company shall be included in the audited  
15 statements, except that the actuarial opinion for class 3  
16 companies shall be filed with the annual statement required  
17 under subsection (b), on or before March 1 each year[-], and the  
18 actuarial opinion summary for class 3 risk retention captive  
19 insurance companies shall be filed on or before March 15 each  
20 year. The actuarial opinion shall be given by a member of the  
21 American Academy of Actuaries or other qualified loss reserve  
22 specialist as defined in the annual statement adopted by the



1 National Association of Insurance Commissioners; provided that  
2 all captive insurance companies, other than a class 3 company,  
3 may, alternatively, utilize an actuarial opinion prepared by a  
4 loss reserve specialist deemed appropriate by the commissioner."

5 SECTION 7. Section 431:19-115, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) No insurance laws of this State other than those  
8 contained in this article, or contained in specific references  
9 contained in this section or article, shall apply to captive  
10 insurance companies formed under this article. In addition to  
11 this article, article 1, article 2, sections 431:3-302 to  
12 431:3-304, section 431:3-307, part AA of article 3, article 4A,  
13 parts I and II of article 5, article 6, article 11, and article  
14 15 of this chapter shall apply to class 3 risk retention captive  
15 insurance companies [~~other than pure captive insurance companies~~  
16 ~~and branch captive insurance companies~~], unless these other laws  
17 are inconsistent with this article or the commissioner by rule,  
18 regulation, or order determines, on a case by case basis that  
19 these other laws should not apply thereto.

20 In addition to this article, and except as otherwise  
21 provided in this article, article 1, article 2, article 6,  
22 article 11, and article 15 of this chapter shall apply to class



1 5 companies, unless these other laws are inconsistent with this  
2 article or the commissioner by rule, regulation, or order  
3 determines, on a case by case basis that these other laws should  
4 not apply thereto.

5 In addition to this article and the articles or portions  
6 thereof referenced in this section, chapter 431K shall apply to  
7 risk retention captive insurance companies authorized under this  
8 article."

9 SECTION 8. Section 431:20-103, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§431:20-103 General insurance law applicable.** The  
12 following provisions shall apply to title insurance and to title  
13 insurers:

- 14 (1) Sections 431:1-103 and 431:1-105;
- 15 (2) Sections 431:1-212, 431:1-213, and 431:1-214;
- 16 (3) Sections 431:2-101 to 431:2-106[7] and [sections]  
17 431:2-108 to 431:2-110;
- 18 (4) Sections 431:2-201 to 431:2-204, [sections] 431:2-207  
19 to 431:2-212, and [section] 431:2-215;
- 20 (5) Sections 431:2-302, 431:2-303, 431:2-305, and  
21 431:2-306;
- 22 (6) Sections 431:3-101 to 431:3-105;





- 1 (7) Sections 431:3-201 to 431:3-203, 431:3-205, [~~and~~]  
2 431:3-206, and [~~sections~~] 431:3-209 to 431:3-220;
- 3 (8) Sections 431:3-301, 431:3-302, 431:3-305, 431:3-307,  
4 and 431:3-308[+] and part AA of article 3;
- 5 (9) Sections 431:4-102 to 431:4-127;
- 6 (10) Sections 431:4-202 to 431:4-207;
- 7 (11) Section 431:5-101;
- 8 (12) Sections 431:5-201 to 431:5-203;
- 9 (13) Sections 431:5-305 [~~and~~], 431:5-306, and [~~sections~~]  
10 431:5-308 to 431:5-311;
- 11 (14) Article 6;
- 12 (15) Article 7;
- 13 (16) Article 9A;
- 14 (17) Sections 431:10-211, 431:10-216 to 431:10-218, [~~and~~]  
15 431:10-220, 431:10-221, [~~and~~] 431:10-224, 431:10-225,  
16 and [~~sections~~] 431:10-235 to 431:10-238;
- 17 (18) Article 13; and
- 18 (19) Article 15."

19 SECTION 9. Section 432:1-102, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:

21 "(b) Article 2, article 2D, sections 431:3-301 and  
22 431:3-302, part AA of article 3, article 13, and article 14G of



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

8 SECTION 10. Section 432:1-404, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) Each society shall file with the commissioner  
11 annually, on or before March 1 in each year, a statement under  
12 oath, and in such form and detail as the commissioner shall  
13 prescribe; provided that any association or society organized  
14 and operating as a nonprofit medical indemnity or hospital  
15 service association shall file a report with the commissioner  
16 covering the preceding calendar year and verified by at least  
17 two principal officers. Each mutual benefit society shall file  
18 quarterly with the commissioner, on or before the forty-fifth  
19 day after each quarter, a copy of its quarterly report verified  
20 by at least two principal officers. [~~The report~~] These reports  
21 shall comply with sections 431:3-301 and 431:3-302. The



1 commissioner may prescribe the forms on which [~~the~~] each report  
2 is to be filed.

3 In addition, any association or society organized and  
4 operating as a nonprofit medical indemnity or hospital service  
5 association annually shall file with the commissioner the  
6 following by the dates specified:

7 (1) An audit, by an independent certified public  
8 accountant or an accounting firm designated by the  
9 association or society, of the financial statements,  
10 reporting the financial condition and results of  
11 operations of the association or society on or before  
12 June 1, or a later date as the commissioner upon  
13 request or for cause may specify. The association or  
14 society, on an annual basis and prior to the  
15 commencement of the audit, shall notify the  
16 commissioner in writing of the name and address of the  
17 person or firm retained to conduct the annual audit.  
18 The commissioner may disapprove the association's or  
19 society's designation within fifteen days of receipt  
20 of the association's or society's notice, and the  
21 association or society shall be required to designate  
22 another independent certified public accountant or



1           accounting firm. The audit required in this paragraph  
2           shall be prepared in accordance with the National  
3           Association of Insurance Commissioners' annual  
4           statement instructions, following the practices and  
5           procedures prescribed by the National Association of  
6           Insurance Commissioners' accounting practices and  
7           procedures manuals; and

- 8           (2) A description of the available grievance procedures,  
9           the total number of grievances handled through those  
10          procedures, a compilation of the causes underlying  
11          those grievances, and a summary of the final  
12          disposition of those grievances on or before March 1."

13          SECTION 11. Section 432:1-407, Hawaii Revised Statutes, is  
14          amended by amending subsection (c) to read as follows:

15          "(c) Every mutual benefit society, when determining  
16          liabilities, shall include an amount estimated in the aggregate  
17          to provide for any unearned premium, and for the payment of all  
18          claims for health care expenditures which have been incurred,  
19          whether reported or unreported, which are unpaid and for which  
20          the organization is or may be liable, and to provide for the  
21          expense of adjustment or settlement of claims. The liabilities  
22          shall be computed in accordance with [~~rules adopted by the~~



1 ~~commissioner upon reasonable consideration of the ascertained~~  
2 ~~experience and character of the society.] sections 431:3-301 and~~  
3 ~~431:3-302.~~"

4 SECTION 12. Section 432:2-602, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§432:2-602 Reports.** [~~Reports shall be filed in accordance~~  
7 ~~with the provisions of this section.] (a) Every society~~  
8 transacting business in this State shall annually, on or before  
9 March 1, unless for cause shown [~~such~~] the time has been extended  
10 by the commissioner, file with the commissioner a true statement  
11 of its financial condition, transactions, and affairs for the  
12 preceding calendar year and pay a fee of \$7.50 for filing same.  
13 The statement shall be in general form and context as approved by  
14 the National Association of Insurance Commissioners for fraternal  
15 benefit societies and as supplemented by additional information  
16 required by the commissioner.

17 (b) As part of the annual statement herein required each  
18 society shall, on or before March 1, file with the commissioner  
19 a valuation of its certificates in force on December 31 last  
20 preceding, provided the commissioner may, in the commissioner's  
21 discretion for cause shown, extend the time for filing [~~such~~]  
22 the valuation for not more than two calendar months. [~~Such~~] The



1 valuation shall be done in accordance with the standards  
2 specified in ~~[section]~~ sections 431:3-301, 431:3-302, and  
3 432:2-601. ~~[Such]~~ The valuation and underlying data shall be  
4 certified by a qualified actuary or, at the expense of the  
5 society, verified by the actuary of the department of insurance  
6 of the state of domicile of the society.

7 (c) Every domestic society shall disclose material  
8 transactions pursuant to part AA of article 3 of chapter 431.

9 ~~[-e-]~~ (d) A society neglecting to file ~~[the]~~ any annual  
10 statement, report, documents, or information in the form and  
11 within the time provided in this section shall be liable for a  
12 penalty of not less than \$100 and not more than \$500 for each day  
13 during which ~~[such]~~ the neglect continues, and, upon notice by the  
14 commissioner to that effect, ~~[its]~~ the society's authority to do  
15 business in this State shall cease while ~~[such]~~ the default  
16 continues."

17 SECTION 13. Section 432D-5, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§432D-5 Annual and quarterly reports.** (a) Every health  
20 maintenance organization shall file annually, on or before  
21 March 1, a report verified by at least two principal officers  
22 covering the preceding calendar year. Each health maintenance



1 organization shall file quarterly with the commissioner, on or  
2 before the forty-fifth day after each quarter, a copy of its  
3 quarterly report verified by at least two principal officers.  
4 These reports shall comply with sections 431:3-301 and 431:3-302.  
5 The commissioner may prescribe the forms on which the reports are  
6 to be filed. In addition, the health maintenance organization  
7 annually shall file with the commissioner the following by the  
8 dates specified:

9 (1) An audit, by an independent certified public  
10 accountant or an accounting firm designated by the  
11 health maintenance organization of the financial  
12 statements, reporting the financial condition and  
13 results of operations of the health maintenance  
14 organization on or before June 1, or a later date as  
15 the commissioner upon request or for cause may  
16 specify. The health maintenance organization, on an  
17 annual basis and prior to the commencement of the  
18 audit, shall notify the commissioner in writing of the  
19 name and address of the person or firm retained to  
20 conduct the annual audit. The commissioner may  
21 disapprove the health maintenance organization's  
22 designation within fifteen days of receipt of the



1 health maintenance organization's notice, and the  
2 health maintenance organization shall be required to  
3 designate another independent certified public  
4 accountant or accounting firm. The audit required in  
5 this paragraph shall be prepared in accordance with  
6 the National Association of Insurance Commissioners'  
7 annual statement instructions, following the practices  
8 and procedures prescribed by the National Association  
9 of Insurance Commissioners' accounting practices and  
10 procedures manuals;

11 (2) A list of the providers who have executed a contract  
12 that complies with section 432D-8(d) on or before  
13 March 1; and

14 (3) A description of the available grievance procedures,  
15 the total number of grievances handled through those  
16 procedures, a compilation of the causes underlying  
17 those grievances, and a summary of the final  
18 disposition of those grievances on or before March 1.

19 (b) Every domestic health maintenance organization shall  
20 disclose material transactions pursuant to part AA of article 3  
21 of chapter 431.





1        [~~(b)~~] (c) The commissioner may require additional reports  
2 as are deemed necessary and appropriate to enable the  
3 commissioner to carry out the commissioner's duties under this  
4 chapter.

5        [~~(e)~~] (d) The commissioner may suspend or revoke the  
6 certificate of authority of any health maintenance organization  
7 [~~who~~] that fails to file any of the documents required under  
8 subsection (a). In lieu of or in addition to the suspension or  
9 revocation of the certificate of authority of any health  
10 maintenance organization, the commissioner may fine the health  
11 maintenance organization not less than \$100 and not more than  
12 \$500 for each day of delinquency."

13        SECTION 14. Section 432D-19, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

15        "(d) Article 2, part AA of article 3, article 13, and  
16 article 14G of chapter 431, and the [~~power~~] powers there granted  
17 to the commissioner, shall apply to health maintenance  
18 organizations, so long as the application in any particular case  
19 is in compliance with and is not preempted by applicable federal  
20 statutes and regulations."

21        SECTION 15. In codifying the new part added to article 3 of  
22 chapter 431, Hawaii Revised Statutes, by section 1 of this Act,



1 the revisor of statutes shall substitute appropriate part and  
2 section numbers for the letters used in the designations of and  
3 references to the new part and sections in this Act.

4 SECTION 16. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 17. This Act shall take effect on July 1, 2008.



**Report Title:**

Insurer's Material Financial Transactions and Actuarial Reports

**Description:**

Adopts National Association of Insurance Commissioners (NAIC) Model provisions relating to the insurers' disclosure of material financial transactions and actuarial reports. The uniform reporting requirements for all insurers is necessary to meet NAIC requirements for accreditation. (SD1)

