



GOV. MSG. NO. 694

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 28, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 28, 2009, the following bill was signed into law:

SB892 SD1 HD2 CD2

A BILL FOR AN ACT
RELATING TO INSURANCE.
ACT 077 (09)

Sincerely,



LINDA LINGLE

Approved by the Governor

on MAY 28 2009

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

ACT 077
S.B. NO. 892
S.D. 1
H.D. 2
C.D. 2

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

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PART I

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (o) to read as follows:

"(o) Every person licensed under any chapter within the jurisdiction of the department of commerce and consumer affairs and every person licensed subject to chapter 485A or registered under chapter 467B shall pay upon issuance of a license, permit, certificate, or registration a fee and a subsequent annual fee to be determined by the director and adjusted from time to time to ensure that the proceeds, together with all other fines, income, and penalties collected under this section, do not surpass the annual operating costs of conducting compliance resolution activities required under this section. The fees may be collected biennially or pursuant to rules adopted under chapter 91, and shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485A-202(a)(26) shall be assessed, upon



1 initial filing and at each renewal period in which a renewal is
2 required, a fee that shall be prescribed by rules adopted under
3 chapter 91, and that shall be deposited into the special fund
4 established under this subsection. Any unpaid fee shall be paid
5 by the licensed person, upon application for renewal,
6 restoration, reactivation, or reinstatement of a license, and by
7 the person responsible for the renewal, restoration,
8 reactivation, or reinstatement of a license, upon the
9 application for renewal, restoration, reactivation, or
10 reinstatement of the license. If the fees are not paid, the
11 director may deny renewal, restoration, reactivation, or
12 reinstatement of the license. The director may establish,
13 increase, decrease, or repeal the fees when necessary pursuant
14 to rules adopted under chapter 91. The director may also
15 increase or decrease the fees pursuant to section 92-28.

16 There is created in the state treasury a special fund to be
17 known as the compliance resolution fund to be expended by the
18 director's designated representatives as provided by this
19 subsection. Notwithstanding any law to the contrary, all
20 revenues, fees, and fines collected by the department shall be
21 deposited into the compliance resolution fund. Unencumbered
22 balances existing on June 30, 1999, in the cable television fund



1 under chapter 440G, the division of consumer advocacy fund under
2 chapter 269, the financial institution examiners' revolving
3 fund, section 412:2-109, the special handling fund, section
4 414-13, and unencumbered balances existing on June 30, 2002, in
5 the insurance regulation fund, section 431:2-215, shall be
6 deposited into the compliance resolution fund. This provision
7 shall not apply to the drivers education fund underwriters fee,
8 [~~section~~] sections 431:10C-115[7] and 431:10G-107, insurance
9 premium taxes and revenues, revenues of the workers'
10 compensation special compensation fund, section 386-151, the
11 captive insurance administrative fund, section 431:19-101.8, the
12 insurance commissioner's education and training fund, section
13 431:2-214, the medical malpractice patients' compensation fund
14 as administered under section 5 of Act 232, Session Laws of
15 Hawaii 1984, and fees collected for deposit in the office of
16 consumer protection restitution fund, section 487-14, the real
17 estate appraisers fund, section 466K-1, the real estate recovery
18 fund, section 467-16, the real estate education fund, section
19 467-19, the contractors recovery fund, section 444-26, the
20 contractors education fund, section 444-29, the condominium
21 management education fund, section 514A-131, and the condominium
22 education trust fund, section 514B-71. Any law to the contrary



1 notwithstanding, the director may use the moneys in the fund to
2 employ, without regard to chapter 76, hearings officers and
3 attorneys. All other employees may be employed in accordance
4 with chapter 76. Any law to the contrary notwithstanding, the
5 moneys in the fund shall be used to fund the operations of the
6 department. The moneys in the fund may be used to train
7 personnel as the director deems necessary and for any other
8 activity related to compliance resolution.

9 As used in this subsection, unless otherwise required by
10 the context, "compliance resolution" means a determination of
11 whether:

- 12 (1) Any licensee or applicant under any chapter subject to
13 the jurisdiction of the department of commerce and
14 consumer affairs has complied with that chapter;
- 15 (2) Any person subject to chapter 485A has complied with
16 that chapter;
- 17 (3) Any person submitting any filing required by chapter
18 514E or section 485A-202(a)(26) has complied with
19 chapter 514E or section 485A-202(a)(26);
- 20 (4) Any person has complied with the prohibitions against
21 unfair and deceptive acts or practices in trade or
22 commerce; or



1 (5) Any person subject to chapter 467B has complied with
 2 that chapter;
 3 and includes work involved in or supporting the above functions,
 4 licensing, or registration of individuals or companies regulated
 5 by the department, consumer protection, and other activities of
 6 the department.

7 The director shall prepare and submit an annual report to
 8 the governor and the legislature on the use of the compliance
 9 resolution fund. The report shall describe expenditures made
 10 from the fund including non-payroll operating expenses."

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

13 "(a) All assessments, fees, fines, penalties, and
 14 reimbursements collected by or on behalf of the insurance
 15 division under title 24, except for the commissioner's education
 16 and training fund (section 431:2-214), the patients'
 17 compensation fund (Act 232, Session Laws of Hawaii 1984), the
 18 drivers education fund underwriters fee [~~section~~] (sections
 19 431:10C-115 [},], and 431:10G-107), and the captive insurance
 20 administrative fund (section 431:19-101.8) to the extent
 21 provided by section 431:19-101.8(b), shall be deposited into the
 22 compliance resolution fund under section 26-9(o). All sums



1 transferred from the insurance division into the compliance
2 resolution fund may be expended by the commissioner to carry out
3 the commissioner's duties and obligations under title 24."

4 SECTION 3. Section 431:3-302.5, Hawaii Revised Statutes,
5 is amended by amending subsection (c) to read as follows:

6 "(c) The audit required in subsection (a) and the
7 audited[7] consolidated[7] or combined financial statements as
8 may be approved under subsection (b) shall be prepared in
9 accordance with the National Association of Insurance
10 [~~Commissioners' annual statement instructions,~~] Commissioners
11 accounting practices and procedures manual and rules adopted by
12 the commissioner following the practices and procedures
13 prescribed by the National Association of Insurance
14 [~~Commissioners' accounting practices and procedures manuals.~~]
15 Commissioners."

16 SECTION 4. Section 431:6-317, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§431:6-317 **Common stocks.** (a) [~~An~~] To meet the
19 requirements under section 431:6-201, an insurer may invest any
20 of its funds in common shares of stock that are filed with the
21 SVO or are considered "filing exempt" by the Purposes and
22 Procedures Manual of the SVO, or its successor publication[~~—~~In



1 ~~aggregate,]; provided that~~ an insurer's amount of investment in
2 common stocks [~~, including investments~~] and in non-dividend
3 paying stocks made pursuant to this section and in common trust
4 funds, mutual funds, and exchange traded funds made pursuant to
5 section 431:6-322 [~~and non-dividend paying stocks,~~] shall not
6 exceed the greater of twenty-five per cent of its admitted
7 assets or one hundred per cent of its surplus as regards to
8 policyholders as defined in section 431:6-101.

9 (b) An insurer may invest any of its funds in common
10 shares of stock in solvent United States corporations after
11 satisfying the requirements under section 431:6-201.

12 (c) An insurer's aggregate amount of investment in
13 non-dividend paying stocks [~~is~~] shall be subject to the
14 limitations [~~of~~] in section 431:6-104."

15 SECTION 5. Section 431:6-322, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as follows:

17 "~~[(a) Subject to the limitations in subsections (b) and~~
18 ~~(c), an insurer may invest in:~~

19 ~~(1) A bank's common trust fund as defined in Section 584~~
20 ~~of the United States Internal Revenue Code of 1986, as~~
21 ~~amended,~~



1 ~~(2) The securities of any open-end management type~~
2 ~~investment company or investment trust registered with~~
3 ~~the federal Securities and Exchange Commission under~~
4 ~~the Investment Company Act of 1940, as amended, if the~~
5 ~~investment company or trust, other than one of which~~
6 ~~as a subsidiary of the insurer is investment adviser~~
7 ~~or principal underwriter, has a new value of not less~~
8 ~~than \$25,000,000 as of the date of investment by the~~
9 ~~insurer; and~~

10 ~~(3) An exchange traded fund that is registered with the~~
11 ~~federal Securities and Exchange Commission under the~~
12 ~~Investment Company Act of 1940, as amended, and is~~
13 ~~traded on a public exchange.]~~

14 (a) For purposes of this section:

15 "Common trust funds" means a fund maintained by a bank
16 exclusively for the collective investment and reinvestment of
17 moneys contributed by the bank in its capacity as a trustee,
18 executor, administrator, guardian, or custodian of accounts as
19 defined in Section 584 of the Internal Revenue Code of 1986, as
20 amended.

21 "Exchange traded fund" means a security that tracks an
22 index, commodity, or basket of assets similar to an index fund,



1 is registered with the federal Securities and Exchange
2 Commission under the Investment Company Act of 1940, as amended,
3 and is traded on a public exchange.

4 "Mutual funds" means an investment company that is
5 registered with the federal Securities and Exchange Commission
6 under the Investment Company Act of 1940 (15 United States Code
7 Section 80a-1, et seq.), as amended.

8 (b) [~~In aggregate, an insurer's amount of investment~~] To
9 meet the requirements under section 431:6-201, an insurer may
10 invest in common trust funds, mutual funds, and exchange traded
11 funds [~~, including investments~~]; provided that an insurer's
12 amount of investment made pursuant to this section and in common
13 stocks made pursuant to section 431:6-317(a) [~~7~~] shall not exceed
14 the greater of twenty-five per cent of its admitted assets or
15 one hundred per cent of its surplus as regards to policyholders
16 as defined in section 431:6-101. This limitation shall not
17 apply to investments approved on the "Mutual Funds List" from
18 the Purposes and Procedures Manual of the SVO, or its successor
19 publication."

20 SECTION 6. Section 431:7-206, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§431:7-206 Domestic company credit for retaliatory taxes
2 paid other states. If by the laws of any state other than this
3 State, or by the action of any public official of another state,
4 any insurer or company, as defined in section 431:1-202,
5 organized or domiciled in this State, shall be required to pay
6 taxes for the privilege of doing business in the other state,
7 and the amounts are imposed or assessed so that the taxes which
8 are or would be imposed against Hawaii domestic insurance
9 companies are greater than those taxes required of insurers
10 organized or domiciled in the other state, to the extent the
11 amounts are legally due to the other states, an insurer or
12 company organized or domiciled in this [State] state may claim a
13 credit against the tax payable pursuant to this article of a sum
14 not to exceed one hundred per cent of the amount. The credit
15 shall not be greater than the tax payable pursuant to this
16 article during the taxable year. All claims for the tax credit
17 under this section, including any amended claims, shall be filed
18 on or before the end of the twelfth month following the close of
19 the taxable year for which the credit may be claimed. Failure
20 to comply with the foregoing provision shall constitute a waiver
21 of the right to claim the credit."



1 SECTION 7. Section 431:8-310, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The commissioner shall issue a surplus lines broker
4 license to any producer licensed under article 9A, except
5 producers licensed under section 431:9A-107(a)(1), (2), or (5),
6 when the producer has:

- 7 (1) Remitted the annual license fee to the commissioner as
8 provided in article 7; and
- 9 (2) Submitted a completed license application on a form
10 furnished by the commissioner."

11 SECTION 8. Section 431:9-222.5, Hawaii Revised Statutes,
12 is amended to read as follows:

13 "~~§431:9-222.5 [Workers' compensation claims]~~ Claims
14 adjusters; limited license. (a) The commissioner may issue a
15 limited license to an adjuster who only adjusts either workers'
16 compensation or crop insurance claims; provided that the
17 adjuster:

- 18 (1) Is domiciled in the State of Hawaii, or in a state
19 that permits residents of the State of Hawaii to act
20 as adjusters in that other state;
- 21 (2) Has had experience, special education, or training in
22 handling loss claims under workers' compensation or



1 crop insurance contracts of sufficiently reasonable
2 duration and extent to enable an individual to fulfill
3 the responsibilities of an adjuster;

4 (3) Has a passing grade on the workers' compensation or
5 crop insurance examination pursuant to section
6 431:9-206; and

7 (4) Pays the applicable fees.

8 (b) An adjuster with a limited license issued under this
9 section may extend the license biennially upon successfully
10 passing a reexamination [~~on workers' compensation~~]."

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

13 "(b) The required number of credit hours shall be as
14 follows:

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

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

18 (B) Property, marine and transportation, vehicle,
19 general casualty, or surety;

20 the requisite number of credit hours shall be [~~twenty~~]
21 twenty-four credit hours, consisting of twenty-one
22 credit hours relating to the line of authority for



1 which the license is held[, ~~including~~] and three
2 credit hours relating to ethics training or relating
3 to the insurance laws and the insurance rules;

4 (2) For a licensee with a license to sell lines of
5 insurance in both groups in paragraph (1), the total
6 requisite number of credit hours shall be [~~thirty~~]
7 twenty-four credit hours, [~~of which:~~] consisting of:

8 (A) [~~Twelve~~] Ten credit hours [~~shall relate~~] relating
9 to paragraph (1) (A) [~~of which two hours shall~~
10 relate to the insurance laws and the rules
11 relating to the line of authority for which the
12 license is held; and];

13 (B) [~~Eighteen~~] Eleven credit hours [~~shall relate~~]
14 relating to paragraph (1) (B) [~~of which two hours~~
15 shall relate to the insurance laws and the rules
16 relating to the line of authority for which the
17 license is held.]; and

18 (C) Three credit hours relating to ethics training or
19 to insurance laws and rules.

20 For purposes of this section, ethics training shall include but
21 shall not be limited to the study of fiduciary responsibility,
22 commingling of funds, payment and acceptance of commissions,



1 unfair claims practices, policy replacement considerations, and
2 conflicts of interest."

3 SECTION 10. Section 431:14-104, Hawaii Revised Statutes,
4 is amended by amending subsections (a) and (b) to read as
5 follows:

6 "(a) Every insurer shall file with the commissioner every
7 manual of classifications, rules, and rates, every rating plan,
8 every other rating rule, and every modification of any of the
9 foregoing that it proposes to use; provided that filings with
10 regard to specific inland marine risks, which by general custom
11 of the business are not written according to manual rate or
12 rating plans, and bail bonds, subject to section 804-62, shall
13 not be required pursuant to this subsection.

14 Every filing shall:

15 [~~(1)~~] ~~Consist of two printed copies and one copy filed by~~
16 ~~electronic, telephonic, or optical means;~~

17 ~~(2)]~~ (1) State its proposed effective date;

18 [~~(3)]~~ (2) Indicate the character and extent of the coverage
19 contemplated; [and

20 ~~(4)]~~ (3) Include a report on investment income [~~-~~]; and



1 (4) Be accompanied by a \$50 fee, payable to the
2 commissioner, to be deposited in the commissioner's
3 education and training fund.

4 (b) [~~Each filing shall be accompanied by a \$50 fee payable~~
5 ~~to the commissioner, which fee shall be deposited in the~~
6 ~~commissioner's education and training fund.] For each filing,
7 an insurer shall submit to the commissioner:~~

- 8 (1) An electronic copy of the filing; or
- 9 (2) Two printed copies of the filing.

10 The commissioner may also request a printed version of an
11 electronic filing to be submitted pursuant to paragraph (1)."

12 SECTION 11. Section 431:14-105, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "**§431:14-105 Policy revisions that alter coverage.** (a)
15 Any policy revisions that alter coverage in any manner shall be
16 filed with the commissioner [~~, consist of two printed copies and~~
17 ~~one copy by electronic, telephonic, or optical means,~~] and shall
18 include an analysis of the impact of each revision on rates.

- 19 (b) A filing shall consist of either:
- 20 (1) An electronic copy of the filing; or
- 21 (2) Two printed copies of the filing.



1 The commissioner may also request a printed version of an
2 electronic filing to be submitted pursuant to paragraph (1).

3 (c) After review by the commissioner, the commissioner
4 shall determine whether a rate filing for the policy revision
5 must be submitted in accordance with section 431:14-104."

6 SECTION 12. By January 1, 2010, the insurance commissioner
7 shall provide notice to the affected parties of the new
8 continuing education requirements of section 431:9A-124, Hawaii
9 Revised Statutes, as amended by section 9 of this Act.

10 PART II

11 SECTION 13. Section 431:2-201, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) The commissioner may:

14 (1) Make reasonable rules for effectuating any provision
15 of this code, except those relating to the
16 commissioner's appointment, qualifications, or
17 compensation. The commissioner shall adopt rules to
18 effectuate article 10C of chapter 431, subject to the
19 approval of the governor's office and the requirements
20 of chapter 91;

21 (2) Conduct examinations and investigations to determine
22 whether any person has violated any provision of this



1 code or to secure information useful in the lawful
2 administration of any provision; [and]
3 (3) Require applicants to provide fingerprints and pay a
4 fee to allow the commissioner to make a determination
5 of license eligibility after obtaining state and
6 national criminal history record checks from the
7 Hawaii criminal justice data center and the Federal
8 Bureau of Investigation; and
9 ~~[-(3)-]~~ (4) Require, upon reasonable notice, that insurers
10 report any claims information the commissioner may
11 deem necessary to protect the public interest."

12 SECTION 14. Section 431:2-209, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§431:2-209 Records and reports. (a) The commissioner
15 shall preserve in permanent form records and reports of the
16 commissioner's proceedings, hearings, investigations, and
17 examinations, and shall file the records in the commissioner's
18 office.

19 (b) The records of the commissioner and insurance filings
20 in the commissioner's office shall be open to public inspection,
21 except as otherwise provided in this code.



1 (c) One year after conclusion of the transactions to which
2 they relate, the commissioner may destroy any correspondence,
3 void or obsolete filings relating to rates, certificate of
4 authority applications, self-insurance applications,
5 registrations, foreign or alien insurers' annual statements,
6 valuation reports, certificates of compliance and deposits,
7 cards, and expired bonds. Three years after the conclusion of
8 the transactions to which they relate, the commissioner may
9 destroy any claim files, working papers of examinations, reports
10 of examination by insurance supervisory officials of other
11 states, void or obsolete filings relating to license
12 applications, records of hearings and investigations, and any
13 similar records, documents, or memoranda now or hereafter in the
14 commissioner's possession.

15 (d) Three years after the year to which they relate, the
16 commissioner may destroy any foreign or alien insurer's tax
17 reports, or similar records or reports now or hereafter in the
18 commissioner's possession.

19 (e) The following records and reports on file with the
20 commissioner shall be confidential and protected from discovery,
21 production, and disclosure for so long as the commissioner deems
22 prudent:



- 1 (1) Complaints and investigation reports;
- 2 (2) Working papers of examinations, complaints, and
- 3 investigation reports;
- 4 (3) Proprietary information, including trade secrets,
- 5 commercial information, and business plans, which, if
- 6 disclosed may result in competitive harm to the person
- 7 providing the information; and
- 8 (4) Any documents or information received from the
- 9 National Association of Insurance Commissioners, the
- 10 federal government, insurance regulatory agencies of
- 11 foreign countries, or insurance departments of other
- 12 states, territories, and commonwealths that are
- 13 confidential in other jurisdictions. The commissioner
- 14 may share information, including otherwise
- 15 confidential information, with the National
- 16 Association of Insurance Commissioners, the federal
- 17 government, insurance regulatory agencies of foreign
- 18 countries, or insurance departments of other states,
- 19 territories, and commonwealths so long as the statutes
- 20 or regulations of the other jurisdictions permit them
- 21 to maintain the same level of confidentiality as
- 22 required under Hawaii law.



- 1 (f) The commissioner shall:
- 2 (1) Treat and maintain an applicant's fingerprints and any
- 3 criminal history record information obtained under
- 4 this code as confidential;
- 5 (2) Apply security measures consistent with the Federal
- 6 Bureau of Investigation Criminal Justice Information
- 7 Services Division's standards for the electronic
- 8 storage of fingerprints and necessary identifying
- 9 information; and
- 10 (3) Limit the use of the records solely to purposes
- 11 authorized by law.

12 Fingerprints and criminal history record information shall not
 13 be subject to subpoena, other than subpoenas issued in criminal
 14 actions or investigations, and shall be confidential by law and
 15 privileged and not subject to discovery or admissible in
 16 evidence in any private civil action.

17 [~~f~~] (g) The commissioner shall not disclose any
 18 information that is exempt from disclosure by federal or Hawaii
 19 statutes."

20 SECTION 15. Section 431:7-101, Hawaii Revised Statutes, is
 21 amended by amending subsection (a) to read as follows:



1 "(a) The commissioner shall collect in advance the
2 following fees:

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

4 (2) Organization of domestic insurers and affiliated
5 corporations:

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

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

10 (3) Producer's license:

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

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

13 (4) Nonresident producer's license:

14 Issuance.....\$75

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

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

17 (7) Workers' compensation claim adjuster's limited
18 license: Issuance.....\$75

19 (8) Independent bill reviewer's license:

20 Issuance.....\$80

21 (9) Limited producer's license: Issuance.....\$60

22 (10) Managing general agent's license: Issuance..\$75



- 1 (11) Reinsurance intermediary's license:
- 2 Issuance.....\$75
- 3 (12) Surplus lines broker's license: Issuance..\$150
- 4 (13) Service contract provider's registration:
- 5 Issuance.....\$75
- 6 (14) Approved course provider certificate:
- 7 Issuance.....\$100
- 8 (15) Approved continuing education course certificate:
- 9 Issuance.....\$30
- 10 (16) Vehicle protection product warrantor's registration:
- 11 Issuance.....\$75
- 12 (17) Criminal history record check [~~.....\$20~~];
- 13 fingerprinting: For each criminal history record
- 14 check and fingerprinting check, a fee to be
- 15 established by the commissioner.
- 16 (18) Limited line motor vehicle rental company producer's
- 17 license: Issuance.....\$1,000
- 18 (19) Life settlement contract provider's license:
- 19 Issuance.....\$75
- 20 (20) Life settlement contract broker's license:
- 21 Issuance.....\$75



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

3 SECTION 16. Section 431:9-204, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Application for any such license shall be made to the
6 commissioner upon forms as prescribed and furnished by the
7 commissioner. As a part of or in connection with any such
8 application, the applicant shall furnish information
9 [~~concerning~~] including:

10 (1) The applicant's identity, personal history,
11 experience, business [~~record~~] records, and a full set
12 of fingerprints, including a scanned file from a hard
13 copy fingerprint, for the commissioner to obtain and
14 receive national and state criminal history records
15 checks from the Federal Bureau of Investigation and
16 the Hawaii criminal justice data center, pursuant to
17 section 846-2.7; and

18 (2) Other pertinent facts as the commissioner may
19 reasonably require."

20 SECTION 17. Section 431:9A-106, Hawaii Revised Statutes,
21 is amended by amending subsection (a) to read as follows:



1 "(a) A person applying for an insurance producer license
2 shall make application to the commissioner on the uniform
3 application and declare under penalty of denial, suspension, or
4 revocation of the license that the statements made in the
5 application are true, accurate, and complete to the best of the
6 applicant's knowledge and belief. Before approving the
7 application, the commissioner shall find that the applicant:

- 8 (1) Is at least eighteen years of age;
- 9 (2) Has not committed any act that is a ground for a
10 licensure sanction set forth in section 431:9A-112;
- 11 (3) Has paid the applicable [~~fee~~] fees set forth in
12 section 431:7-101; [~~and~~]
- 13 (4) Has passed, within the two years immediately preceding
14 the date of the examination or issuance of the
15 license, whichever is later, the applicable
16 examination for each line of authority for which the
17 applicant has applied[-]; and
- 18 (5) Has submitted a full set of fingerprints, including a
19 scanned file from a hard copy fingerprint, for the
20 commissioner to obtain and receive national and state
21 criminal history records checks from the Federal



1 Bureau of Investigation and the Hawaii criminal
2 justice data center, pursuant to section 846-2.7."

3 SECTION 18. Section 846-2.7, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Criminal history record checks may be conducted by:

6 (1) The department of health on operators of adult foster
7 homes or developmental disabilities domiciliary homes
8 and their employees, as provided by section 333F-22;

9 (2) The department of health on prospective employees,
10 persons seeking to serve as providers, or
11 subcontractors in positions that place them in direct
12 contact with clients when providing non-witnessed
13 direct mental health services as provided by section
14 321-171.5;

15 (3) The department of health on all applicants for
16 licensure for, operators for, and prospective
17 employees, and volunteers at one or more of the
18 following: skilled nursing facility, intermediate
19 care facility, adult residential care home, expanded
20 adult residential care home, assisted living facility,
21 home health agency, hospice, adult day health center,
22 special treatment facility, therapeutic living



1 program, intermediate care facility for the mentally
2 retarded, hospital, rural health center and
3 rehabilitation agency, and, in the case of any of the
4 above-related facilities operating in a private
5 residence, on any adult living in the facility other
6 than the client as provided by section 321-15.2;

7 (4) The department of education on employees, prospective
8 employees, and teacher trainees in any public school
9 in positions that necessitate close proximity to
10 children as provided by section 302A-601.5;

11 (5) The counties on employees and prospective employees
12 who may be in positions that place them in close
13 proximity to children in recreation or child care
14 programs and services;

15 (6) The county liquor commissions on applicants for liquor
16 licenses as provided by section 281-53.5;

17 (7) The department of human services on operators and
18 employees of child caring institutions, child placing
19 organizations, and foster boarding homes as provided
20 by section 346-17;



- 1 (8) The department of human services on prospective
2 adoptive parents as established under section
3 346-19.7;
- 4 (9) The department of human services on applicants to
5 operate child care facilities, prospective employees
6 of the applicant, and new employees of the provider
7 after registration or licensure as provided by section
8 346-154;
- 9 (10) The department of human services on persons exempt
10 pursuant to section 346-152 to be eligible to provide
11 child care and receive child care subsidies as
12 provided by section 346-152.5;
- 13 (11) The department of human services on operators and
14 employees of home and community-based case management
15 agencies and operators and other adults, except for
16 adults in care, residing in foster family homes as
17 provided by section 346-335;
- 18 (12) The department of human services on staff members of
19 the Hawaii youth correctional facility as provided by
20 section 352-5.5;
- 21 (13) The department of human services on employees,
22 prospective employees, and volunteers of contracted



1 providers and subcontractors in positions that place
2 them in close proximity to youth when providing
3 services on behalf of the office or the Hawaii youth
4 correctional facility as provided by section 352D-4.3;
5 (14) The judiciary on employees and applicants at detention
6 and shelter facilities as provided by section 571-34;
7 (15) The department of public safety on employees and
8 prospective employees who are directly involved with
9 the treatment and care of persons committed to a
10 correctional facility or who possess police powers
11 including the power of arrest as provided by section
12 353C-5;
13 (16) The department of commerce and consumer affairs on
14 applicants for private detective or private guard
15 licensure as provided by section 463-9;
16 (17) Private schools and designated organizations on
17 employees and prospective employees who may be in
18 positions that necessitate close proximity to
19 children; provided that private schools and designated
20 organizations receive only indications of the states
21 from which the national criminal history record



1 information was provided as provided by section
2 302C-1;

3 (18) The public library system on employees and prospective
4 employees whose positions place them in close
5 proximity to children as provided by section
6 302A-601.5;

7 (19) The State or any of its branches, political
8 subdivisions, or agencies on applicants and employees
9 holding a position that has the same type of contact
10 with children, vulnerable adults, or persons committed
11 to a correctional facility as other public employees
12 who hold positions that are authorized by law to
13 require criminal history record checks as a condition
14 of employment as provided by section 78-2.7;

15 (20) The department of human services on licensed adult day
16 care center operators, employees, new employees,
17 subcontracted service providers and their employees,
18 and adult volunteers as provided by section 346-97;

19 (21) The department of human services on purchase of
20 service contracted and subcontracted service providers
21 and their employees serving clients of the adult and



- 1 community care services branch, as provided by section
2 346-97;
- 3 (22) The department of human services on foster grandparent
4 program, retired and senior volunteer program, senior
5 companion program, and respite companion program
6 participants as provided by section 346-97;
- 7 (23) The department of human services on contracted and
8 subcontracted service providers and their current and
9 prospective employees that provide home and community-
10 based services under Section 1915(c) of the Social
11 Security Act (Title 42 United States Code Section
12 1396n(c)), or under any other applicable section or
13 sections of the Social Security Act for the purposes
14 of providing home and community-based services, as
15 provided by section 346-97;
- 16 (24) The department of commerce and consumer affairs on
17 proposed directors and executive officers of a bank,
18 savings bank, savings and loan association, trust
19 company, and depository financial services loan
20 company as provided by section 412:3-201;
- 21 (25) The department of commerce and consumer affairs on
22 proposed directors and executive officers of a



1 nondepository financial services loan company as
2 provided by section 412:3-301;

3 (26) The department of commerce and consumer affairs on the
4 original chartering applicants and proposed executive
5 officers of a credit union as provided by section
6 412:10-103;

7 [H] (27) [H] The department of commerce and consumer affairs on:

8 (A) Each principal of every non-corporate applicant
9 for a money transmitter license; and

10 (B) The executive officers, key shareholders, and
11 managers in charge of a money transmitter's
12 activities of every corporate applicant for a
13 money transmitter license,

14 as provided by section 489D-9; [and]

15 (28) The department of commerce and consumer affairs on
16 applicants for licensure and persons licensed under
17 title 24; and

18 [~~(28)~~] (29) Any other organization, entity, or the State,
19 its branches, political subdivisions, or agencies as
20 may be authorized by state law."



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PART III

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

SECTION 20. This Act shall take effect on July 1, 2009; provided that:

- (1) Section 3 shall take effect on January 1, 2010;
- (2) Section 9 shall take effect on July 1, 2010; and
- (3) The amendments made to section 431:7-101(a), Hawaii Revised Statutes, in section 15 of this Act shall not be repealed when section 431:7-101(a), Hawaii Revised Statutes, is reenacted on June 16, 2010, pursuant to Act 177, Session Laws of Hawaii 2008.

APPROVED this 28 day of MAY, 2009

GOVERNOR OF THE STATE OF HAWAII