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## A BILL FOR AN ACT

RELATING TO INSURANCE FRAUD.

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

1           SECTION 1. The legislature finds that insurance fraud  
2 reportedly costs every household in the United States an average  
3 of \$500 per year. In Hawaii, the cost of motor vehicle  
4 insurance fraud alone has been estimated to be over \$164  
5 annually per household. In recognition of the impact that fraud  
6 has on the cost of motor vehicle insurance, Act 251, Session  
7 Laws of Hawaii 1997, was enacted to establish an insurance fraud  
8 investigations unit and motor vehicle insurance fraud violations  
9 and penalties. Act 155, Session Laws of Hawaii 1998, was  
10 enacted the following year to clarify the penalties for the  
11 offense of motor vehicle insurance fraud and enhanced and  
12 clarified the powers and purpose of the insurance fraud  
13 investigations unit to combat motor vehicle insurance fraud.

14           Insurance fraud also has increasingly affected costs within  
15 the health insurance industry. Industry health care fraud  
16 losses are estimated at three to fourteen per cent of the  
17 \$1,200,000,000,000 in annual national health care costs. This  
18 is equivalent to approximately \$36,000,000,000 to



1 \$168,000,000,000 annually. In Hawaii, based on the conservative  
2 estimate that insurance fraud amounts to three per cent of  
3 annual Hawaii health care costs, health insurance fraud causes  
4 losses that exceed \$60,000,000 annually. Realizing that  
5 insurance fraud is a growing problem in the area of health  
6 insurance, the legislature passed health insurance fraud  
7 provisions through Act 125, Session Laws of Hawaii 2003.  
8 However, none of the health care insurance fraud provisions of  
9 Act 125 clearly designate a specific law enforcement agency to  
10 be responsible for the investigation and prosecution of  
11 insurance fraud violations.

12 The legislature further finds that no line of insurance is  
13 free of insurance fraud. Rather than limit administrative,  
14 civil, and criminal penalties for insurance fraud to only a few  
15 selected lines of insurance, Hawaii's insurance fraud law should  
16 be expanded to include all lines of insurance to deter  
17 perpetrators of insurance fraud by demonstrating that no line of  
18 insurance will be a safe haven for those who commit insurance  
19 fraud.

20 The purposes of this Act are to:

21 (1) Establish an insurance fraud investigations branch to  
22 replace the existing insurance fraud investigations



1 unit established in Act 251, Session Laws of Hawaii  
 2 1997, which was expanded by Act 155, Session Laws of  
 3 Hawaii 1998, and empower the branch to investigate and  
 4 prosecute insurance fraud in all lines of insurance;

5 (2) Impose administrative, civil, and criminal penalties  
 6 for offenses of insurance fraud in all lines of  
 7 insurance and for different types of insurance fraud,  
 8 including fraudulent applications and sales; and

9 (3) Direct fines and settlements resulting from successful  
 10 insurance fraud prosecutions for deposit into the  
 11 compliance resolution fund to help the insurance fraud  
 12 investigations branch cover some of the cost of its  
 13 own operation to prevent, investigate, and prosecute  
 14 insurance fraud.

15 It is not the purpose of this Act to create an insurance fraud  
 16 investigating branch for cases and violations related to workers  
 17 compensation arising from chapter 386, Hawaii Revised Statutes.

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

21 "PART . INSURANCE FRAUD

22 §431:2-A Definitions. As used in this part:



1 "Branch" means the insurance fraud investigations branch of  
2 the insurance division of the department of commerce and  
3 consumer affairs.

4 "Insurance policy" means a contract issued by an insurer or  
5 other licensee.

6 "Licensee" means an entity licensed under and governed by  
7 title 24, including but not limited to an insurer governed by  
8 chapter 431, a mutual benefit society governed by article 1 of  
9 chapter 432, a fraternal benefit society governed by article 2  
10 of chapter 432, or a health maintenance organization governed by  
11 chapter 432D, and their respective agents and employees engaged  
12 in the business of the licensee.

13 "Person" means any individual, company, association,  
14 organization, group, partnership, business, trust, or  
15 corporation; but shall exclude insurers, as defined in section  
16 431:1-202, and other licensees, as defined in this part.

17 **§431:2-B Insurance fraud investigations branch. (a)**  
18 There is established in the insurance division the insurance  
19 fraud investigations branch.

20 (b) The branch shall:



1 (1) Conduct a statewide program for the prevention of  
2 insurance fraud relating to but not limited to title  
3 24;

4 (2) Notwithstanding any other law to the contrary,  
5 investigate and prosecute in administrative hearings  
6 and courts of competent jurisdiction all persons  
7 involved in insurance fraud violations arising out of  
8 but not limited to chapters 431, 432, and 432D; and

9 (3) Promote public and industry-wide education about  
10 insurance fraud.

11 (c) The branch may review and take appropriate action on  
12 complaints relating to insurance fraud.

13 (d) The commissioner shall employ or retain, by contract  
14 or otherwise, attorneys, investigators, investigator assistants,  
15 auditors, accountants, physicians, health care professionals,  
16 paralegals, consultants, experts, and other professional,  
17 technical, and support staff as necessary to promote the  
18 effective and efficient conduct of the branch's activities. The  
19 commissioner may hire those employees without regard to chapter  
20 76.

21 (e) Notwithstanding any other law to the contrary, an  
22 attorney employed or retained by the branch may represent the



1 State in any criminal, civil, or administrative proceeding to  
2 enforce all applicable state laws relating to insurance fraud,  
3 including but not limited to criminal prosecutions, disciplinary  
4 actions, and actions for declaratory and injunctive relief.  
5 Each attorney representing the State in such a proceeding shall  
6 be designated by the attorney general as a special deputy  
7 attorney general. The decision to designate an attorney as a  
8 special deputy attorney general shall be solely within the  
9 discretion of the attorney general.

10 (f) Investigators, investigator assistants, and auditors  
11 appointed and commissioned under this part shall have and may  
12 exercise all of the powers and authority of a police officer or  
13 of a deputy sheriff.

14 (g) Funding for the insurance fraud investigations branch  
15 shall come from the compliance resolution fund established  
16 pursuant to section 26-9(o).

17 **§431:2-C Insurance fraud.** (a) A person commits the  
18 offense of insurance fraud if the person:

19 (1) Intentionally or knowingly misrepresents or conceals  
20 material facts, opinions, intention, or law to obtain  
21 or attempt to obtain coverage, benefits, recovery, or



1 compensation for services provided in the following  
2 situations or circumstances:

3 (A) When presenting, or causing or permitting to be  
4 presented, an application, whether written,  
5 typed, or transmitted through electronic media,  
6 for the issuance or renewal of an insurance  
7 policy or reinsurance contract;

8 (B) When presenting, or causing or permitting to be  
9 presented, false information on a claim for  
10 payment whether typed, written, or transmitted  
11 through electronic media;

12 (C) When presenting, or causing or permitting to be  
13 presented, a claim for the payment of a loss;

14 (D) When presenting, or causing or permitting to be  
15 presented, improper multiple duplicative claims  
16 for the same loss or injury, including knowingly  
17 presenting such multiple and duplicative claims  
18 to more than one insurer;

19 (E) When presenting, or causing or permitting to be  
20 presented, any claim for payment of a health care  
21 benefit;



1 (F) When presenting, or causing or permitting to be  
2 presented, a claim for a health care benefit that  
3 was not used by, or provided on behalf of, the  
4 claimant;

5 (G) When presenting, or causing or permitting to be  
6 presented, improper multiple and duplicative  
7 claims for payment of the same health care  
8 benefit;

9 (H) When presenting, or causing or permitting to be  
10 presented, for payment, any undercharges for  
11 benefits on behalf of a specific claimant unless  
12 any known overcharges for benefits under this  
13 article for that claimant are presented for  
14 reconciliation at the same time;

15 (I) When fabricating, altering, concealing, making an  
16 entry in, or destroying a document whether typed,  
17 written, or through an audio or video tape or  
18 electronic media;

19 (J) When presenting, or causing or permitting to be  
20 presented, to a person, insurer, or other  
21 licensee false, incomplete, or misleading





1 information to obtain coverage or payment  
2 otherwise available under an insurance policy;  
3 (K) When presenting, or causing or permitting to be  
4 presented, to a person or producer, information  
5 about a person's status as a licensed producer  
6 that induces a person or insurer to purchase an  
7 insurance policy or reinsurance contract; and  
8 (L) When making, or causing or permitting to be made,  
9 any statement, either typed, written, or through  
10 audio or video tape or electronic media, or  
11 claims by the person or on behalf of a person  
12 with regard to obtaining legal recovery or  
13 benefits;  
14 (2) Intentionally or knowingly aids, agrees, or attempts  
15 to aid, solicit, or conspire with any person who  
16 engages in an unlawful act as defined under this  
17 section; or  
18 (3) Intentionally or knowingly makes, causes, or permits  
19 to be presented, any false statements or claims by any  
20 person or on behalf of any person during an official  
21 proceeding as defined by section 710-1000.

1 (b) Where the person acting with intent to defraud under  
2 subsection (a) possessed actual knowledge or acted in deliberate  
3 ignorance of the truth or falsity of the misrepresentation or  
4 concealment of the material facts, opinions, intention, or law,  
5 insurance fraud is:

6 (1) A class B felony if the value of the benefits,  
7 recovery, or compensation obtained or attempted to be  
8 obtained is more than \$20,000;

9 (2) A class C felony if the value of the benefits,  
10 recovery, or compensation obtained or attempted to be  
11 obtained is more than \$300; or

12 (3) A misdemeanor if the value of the benefits, recovery,  
13 or compensation obtained or attempted to be obtained  
14 is \$300 or less.

15 (c) This section shall not supersede any other law  
16 relating to theft, fraud, or deception. Insurance fraud may be  
17 prosecuted under this part, or any other applicable statute or  
18 common law, and all such remedies shall be cumulative.

19 (d) For the purpose of this section, "intentionally" and  
20 "knowingly" have the meanings given in section 702-206.

21 §431:2-D Restitution. Where the ability to make  
22 restitution can be demonstrated, any person convicted under this



1 part shall be ordered by a court to make restitution to any  
2 insurer, person, or other licensee for any financial loss  
3 sustained by that insurer, person, or licensee caused by the act  
4 or acts for which the person was convicted.

5 **§431:2-E Insurance fraud; administrative penalties.** (a)

6 In addition to or in lieu of criminal penalties under section  
7 431:2-C(b), any person who commits insurance fraud as defined  
8 under section 431:2-C, may be subject to the administrative  
9 penalties of this section.

10 (b) If a person is found to have knowingly committed  
11 insurance fraud under title 24, the commissioner may assess any  
12 or all of the following penalties:

- 13 (1) Restitution to any insurer or any other person of  
14 benefits or payments fraudulently received or other  
15 damages or costs incurred;
- 16 (2) A fine of not more than \$10,000 for each violation;  
17 and
- 18 (3) Reimbursement of attorneys' fees and costs of the  
19 party sustaining a loss under this part, except that  
20 the State shall be exempt from paying attorney fees  
21 and costs to other parties.



1 (c) Administrative actions brought for insurance fraud  
2 under this part shall be brought within six years after the  
3 insurance fraud is discovered or by exercise of reasonable  
4 diligence should have been discovered and, in any event, no more  
5 than ten years after the date on which a violation of this part  
6 is committed.

7 (d) For the purpose of subsection (b), "knowingly" means  
8 that a person has actual knowledge of the facts; and

9 (1) Acts in deliberate ignorance of the truth or falsity  
10 of the facts; or

11 (2) Acts in reckless disregard of the truth or falsity of  
12 the facts.

13 No proof of specific intent to defraud is required to prove that  
14 a person acted "knowingly" with respect to the facts.

15 **§431:2-F Administrative procedures.** (a) An  
16 administrative penalty may be imposed based upon a judgment by a  
17 court of competent jurisdiction or upon an order by the  
18 commissioner.

19 (b) The commissioner shall hold a hearing in accordance  
20 with chapter 91, prior to imposition of any administrative  
21 remedy.



1           §431:2-G Acceptance of payment. A provider's failure to  
2 dispute a reduced payment by an insurer shall not constitute an  
3 implied admission that a fraudulent billing had been submitted.

4           §431:2-H Civil cause of action for insurance fraud;  
5 exemption. (a) An insurer or other licensee shall have a civil  
6 cause of action to recover payments or benefits from any person  
7 who has violated any practice prohibited by section 431:2-C. No  
8 recovery shall be allowed if the person has made restitution  
9 under section 431:2-D or 431:2-E(b)(1).

10           (b) A person, insurer, or other licensee, including an  
11 insurer's or other licensee's adjusters, bill reviewers,  
12 producers, representatives, or common-law agents, if acting  
13 without actual malice, shall not be subject to civil liability  
14 for providing information, including filing a report, furnishing  
15 oral, written, audiotaped, videotaped, or electronic media  
16 evidence, providing documents, or giving testimony concerning  
17 suspected, anticipated, or completed insurance fraud to:

- 18           (1) A court;  
19           (2) The commissioner;  
20           (3) The insurance fraud investigations branch;  
21           (4) The National Association of Insurance Commissioners;  
22           (5) The National Insurance Crime Bureau;



1 (6) Any federal, state, or county law enforcement or  
2 regulatory agency; or

3 (7) Another insurer or other licensee;  
4 if the information is provided for the purpose of preventing,  
5 investigating, or prosecuting insurance fraud, except if the  
6 person commits perjury.

7 (c) Civil actions brought for insurance fraud under this  
8 part shall be brought within six years after the insurance fraud  
9 is discovered or by exercise of reasonable diligence should have  
10 been discovered and, in any event, no more than ten years after  
11 the date on which a violation of this part is committed.

12 **§431:2-I Mandatory reporting.** (a) Within sixty days of  
13 an insurer or other licensee's employee or agent discovering  
14 credible information indicating that a violation of section  
15 431:2-C is occurring or has occurred or as soon thereafter as  
16 practicable, the insurer or licensee shall provide to the  
17 insurance fraud investigations branch information, including  
18 documents and other evidence, regarding the alleged violation of  
19 section 431:2-C.

20 (b) Information provided pursuant to this section shall be  
21 protected from public disclosure to the extent authorized by  
22 chapter 92F and section 431:2-209; provided that the branch may



1 release the information in an administrative or judicial  
2 proceeding to enforce this part to federal, state, or local law  
3 enforcement or regulatory authorities, the National Association  
4 of Insurance Commissioners, the National Insurance Crime Bureau,  
5 or an insurer or other licensee aggrieved by the alleged  
6 violation of section 431:2-C.

7       **§431:2-J Deposit into the compliance resolution fund.** All  
8 moneys that have been recovered by the department of commerce  
9 and consumer affairs as a result of prosecuting insurance fraud  
10 violations pursuant to this part, including civil fines,  
11 criminal fines, administrative fines, and settlements, but not  
12 including restitution made pursuant to section 431:2-D, 431:2-  
13 E(b)(1), or 431:2-H, shall be deposited into the compliance  
14 resolution fund established pursuant to section 26-9(o)."

15       SECTION 3. Section 431:2-203, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17       "(b) (1) A person who intentionally or knowingly violates,  
18 intentionally or knowingly permits any person over  
19 whom the person has authority to violate, or  
20 intentionally or knowingly aids any person in  
21 violating any insurance rule or statute of this State  
22 or any effective order issued by the commissioner,



1 shall be subject to any penalty or fine as [~~stated in~~]  
2 provided by this code or the penal code of the Hawaii  
3 Revised Statutes.

4 (2) If the commissioner has cause to believe that any  
5 person has violated any penal provision of this code  
6 or of other laws relating to insurance, the  
7 commissioner may proceed against that person or shall  
8 certify the facts of the violation to the public  
9 prosecutor of the jurisdiction in which the offense  
10 was committed.

11 (3) Violation of any provision of this code is punishable  
12 by a fine of not less than \$100 nor more than \$10,000  
13 per violation, or by imprisonment for not more than  
14 one year, or both, in addition to any other penalty or  
15 forfeiture provided herein or otherwise by law.

16 (4) The terms "intentionally" and "knowingly" have the  
17 meanings given in section 702-206(1) and (2)."

18 SECTION 4. Section 431:2-204, Hawaii Revised Statutes, is  
19 amended by amending subsection (d) to read as follows:

20 "(d) When the commissioner, through the insurance fraud  
21 investigations [~~unit,~~] branch, is conducting an investigation of  
22 possible violations of [~~section 431:10C-307.7,~~] part of





1 article 2, the commissioner shall pay to a financial institution  
 2 that is served a subpoena issued under this section a fee for  
 3 reimbursement of [~~such~~] the costs as are necessary and which  
 4 have been directly incurred in searching for, reproducing, or  
 5 transporting books, papers, documents, or other objects  
 6 designated by the subpoena. Reimbursement shall be paid at a  
 7 rate not to exceed the rate set forth in section 28-2.5(d)."

8 SECTION 5. Section 432:2-102, Hawaii Revised Statutes, is  
 9 amended by amending subsection (b) to read as follows:

10 "(b) Nothing in this article shall exempt fraternal  
 11 benefit societies from the provisions and requirements of  
 12 part of article 2 of chapter 431 and of section 431:2-215."

13 SECTION 6. Section 706-606.5, Hawaii Revised Statutes, is  
 14 amended by amending subsection (1) to read as follows:

15 "(1) Notwithstanding section 706-669 and any other law to  
 16 the contrary, any person convicted of murder in the second  
 17 degree, any class A felony, any class B felony, or any of the  
 18 following class C felonies: section 188-23 relating to  
 19 possession or use of explosives, electrofishing devices, and  
 20 poisonous substances in state waters; section 386-98(d)(1)  
 21 relating to fraud violations and penalties; [~~section 431:10A-~~  
 22 ~~131(b)(2) relating to insurance fraud; section 431:10C-~~



1 ~~307.7(b)(2) relating to insurance fraud; section 432:1-106(b)(2)~~  
2 ~~relating to insurance fraud; section 432D-18.5(b)(2)]~~ part of  
3 article 2 of chapter 431 relating to insurance fraud; section  
4 707-703 relating to negligent homicide in the second degree;  
5 section 707-711 relating to assault in the second degree;  
6 section 707-713 relating to reckless endangering in the first  
7 degree; section 707-716 relating to terroristic threatening in  
8 the first degree; section 707-721 relating to unlawful  
9 imprisonment in the first degree; section 707-732 relating to  
10 sexual assault or rape in the third degree; section 707-752  
11 relating to promoting child abuse in the third degree; section  
12 707-757 relating to electronic enticement of a child in the  
13 second degree; section 707-766 relating to extortion in the  
14 second degree; section 708-811 relating to burglary in the  
15 second degree; section 708-821 relating to criminal property  
16 damage in the second degree; section 708-831 relating to theft  
17 in the first degree as amended by Act 68, Session Laws of Hawaii  
18 1981; section 708-831 relating to theft in the second degree;  
19 section 708-835.5 relating to theft of livestock; section 708-  
20 836 relating to unauthorized control of propelled vehicle;  
21 section 708-839.8 relating to identity theft in the third  
22 degree; section 708-839.55 relating to unauthorized possession



1 of confidential personal information; section 708-852 relating  
2 to forgery in the second degree; section 708-854 relating to  
3 criminal possession of a forgery device; section 708-875  
4 relating to trademark counterfeiting; section 710-1071 relating  
5 to intimidating a witness; section 711-1103 relating to riot;  
6 section 712-1203 relating to promoting prostitution in the  
7 second degree; section 712-1221 relating to gambling in the  
8 first degree; section 712-1224 relating to possession of  
9 gambling records in the first degree; section 712-1243 relating  
10 to promoting a dangerous drug in the third degree; section 712-  
11 1247 relating to promoting a detrimental drug in the first  
12 degree; section 846E-9 relating to failure to comply with  
13 covered offender registration requirements; section 134-7  
14 relating to ownership or possession of firearms or ammunition by  
15 persons convicted of certain crimes; section 134-8 relating to  
16 ownership, etc., of prohibited weapons; section 134-9 relating  
17 to [~~permits~~] licenses to carry, or who is convicted of  
18 attempting to commit murder in the second degree, any class A  
19 felony, any class B felony, or any of the class C felony  
20 offenses enumerated above and who has a prior conviction or  
21 prior convictions for the following felonies, including an  
22 attempt to commit the same: murder, murder in the first or



1 second degree, a class A felony, a class B felony, any of the  
2 class C felony offenses enumerated above, or any felony  
3 conviction of another jurisdiction, shall be sentenced to a  
4 mandatory minimum period of imprisonment without possibility of  
5 parole during such period as follows:

6 (a) One prior felony conviction:

7 (i) Where the instant conviction is for murder in the  
8 second degree or attempted murder in the second  
9 degree--ten years;

10 (ii) Where the instant conviction is for a class A  
11 felony--six years, eight months;

12 (iii) Where the instant conviction is for a class B  
13 felony--three years, four months; and

14 (iv) Where the instant conviction is for a class C  
15 felony offense enumerated above--one year, eight  
16 months;

17 (b) Two prior felony convictions:

18 (i) Where the instant conviction is for murder in the  
19 second degree or attempted murder in the second  
20 degree--twenty years;

21 (ii) Where the instant conviction is for a class A  
22 felony--thirteen years, four months;



1 (iii) Where the instant conviction is for a class B  
2 felony--six years, eight months; and

3 (iv) Where the instant conviction is for a class C  
4 felony offense enumerated above--three years,  
5 four months;

6 (c) Three or more prior felony convictions:

7 (i) Where the instant conviction is for murder in the  
8 second degree or attempted murder in the second  
9 degree--thirty years;

10 (ii) Where the instant conviction is for a class A  
11 felony--twenty years;

12 (iii) Where the instant conviction is for a class B  
13 felony--ten years; and

14 (iv) Where the instant conviction is for a class C  
15 felony offense enumerated above--five years."

16 SECTION 7. Section 806-83, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) Criminal charges may be instituted by written  
19 information for a felony when the charge is a class C felony  
20 under section 19-3.5 (voter fraud); section 128D-10 (knowing  
21 releases); section 132D-14(a)(1), (2)(A), and (3) (penalties for  
22 failure to comply with requirements of sections 132D-7, 132D-10,



1 and 132D-16); section 134-24 (place to keep unloaded firearms  
2 other than pistols and revolvers); section 134-7(a) and (b)  
3 (ownership or possession prohibited); section 134-8 (prohibited  
4 ownership); section 134-9 (licenses to carry); section 134-17(a)  
5 (relating to false information or evidence concerning  
6 psychiatric or criminal history); section 134-51 (deadly  
7 weapons); section 134-52 (switchblade knives); section 134-53  
8 (butterfly knives); section 188-23 (possession or use of  
9 explosives, electrofishing devices, and poisonous substances in  
10 state waters prohibited); section 231-34 (attempt to evade or  
11 defeat tax); section 231-36 (false and fraudulent statements);  
12 section 245-37 (sale or purchase of packages of cigarettes  
13 without stamps); section 245-38 (vending unstamped cigarettes);  
14 section 245-51 (sale of export cigarettes prohibited); section  
15 245-52 (alteration of packaging prohibited); section 291C-12.5  
16 (accidents involving substantial bodily injury); section 291E-  
17 61.5 (habitually operating a vehicle under the influence of an  
18 intoxicant); section 329-41 (prohibited acts B); section 329-42  
19 (prohibited acts C); section 329-43.5 (prohibited acts related  
20 to drug paraphernalia); section 329C-2 (manufacture,  
21 distribution, or possession with intent to distribute an  
22 imitation controlled substance to a person under eighteen years



1 of age); section 346-34(d)(2) and (e) (fraud involving food  
2 stamps or coupons with a value exceeding \$300); section 346-43.5  
3 (medical assistance fraud); section 383-141 (falsely obtaining  
4 benefits); section [~~431-10C-307.7~~] part of article 2 of  
5 chapter 431 (insurance fraud); section 482D-7 (violation of  
6 fineness standards and stamping requirements); section 485A-301  
7 (registration of securities); section 485A-401 (registration of  
8 broker-dealers); section 485A-402 (registration of agents);  
9 section 485A-403 (registration of investment [~~advisers~~]);  
10 advisers; section 485A-404 (registration of investment  
11 [~~advisor~~] adviser representatives); section 485A-405  
12 (registration of federal covered investment [~~advisers~~]);  
13 advisers; section 485A-501 (general fraud); section 485A-502  
14 (prohibited conduct in providing investment advice); section  
15 707-703 (negligent homicide in the second degree); section 707-  
16 705 (negligent injury in the first degree); section 707-711  
17 (assault in the second degree); section 707-713 (reckless  
18 endangering in the first degree); section 707-721 (unlawful  
19 imprisonment in the first degree); section 707-726 (custodial  
20 interference in the first degree); section 707-757 (electronic  
21 enticement of a child in the second degree); section 707-766  
22 (extortion in the second degree); section 708-811 (burglary in



1 the second degree); section 708-821 (criminal property damage in  
2 the second degree); section 708-831 (theft in the second  
3 degree); section 708-833.5 (shoplifting); section 708-835.5  
4 (theft of livestock); section 708-836 (unauthorized control of  
5 propelled vehicle); section 708-836.5 (unauthorized entry into  
6 motor vehicle); section 708-839.5 (theft of utility services);  
7 section 708-839.8 (identity theft in the third degree); section  
8 708-852 (forgery in the second degree); section 708-854  
9 (criminal possession of a forgery device); section 708-858  
10 (suppressing a testamentary or recordable instrument); section  
11 708-875 (trademark counterfeiting); section 708-891.5 (computer  
12 fraud in the second degree); section 708-892.5 (computer damage  
13 in the second degree); section 708-895.6 (unauthorized computer  
14 access in the second degree); section 708-8100 (fraudulent use  
15 of a credit card); section 708-8102 (theft/forgery of credit  
16 cards); section 708-8103 (credit card fraud by a provider of  
17 goods or services); section 708-8104 (possession of unauthorized  
18 credit card machinery or incomplete cards); section 708-8200  
19 (cable television service fraud in the first degree); section  
20 708-8202 (telecommunication service fraud in the first degree);  
21 section 709-903.5 (endangering the welfare of a minor in the  
22 first degree); section 709-906 (abuse of family or household





1 members); section 710-1016.3 (obtaining a government-issued  
2 identification document under false pretenses in the first  
3 degree); section 710-1016.6 (impersonating a law enforcement  
4 officer in the first degree); section 710-1017.5 (sale or  
5 manufacture of deceptive identification document); section 710-  
6 1018 (securing the proceeds of an offense); section 710-1021  
7 (escape in the second degree); section 710-1023 (promoting  
8 prison contraband in the second degree); section 710-1024 (bail  
9 jumping in the first degree); section 710-1029 (hindering  
10 prosecution in the first degree); section 710-1060 (perjury);  
11 section 710-1072.5 (obstruction of justice); section 711-1103  
12 (riot); section 711-1109.3 (cruelty to animals/fighting dogs);  
13 section 711-1110.9 (violation of privacy in the first degree);  
14 section 711-1112 (interference with the operator of a public  
15 transit vehicle); section 712-1221 (promoting gambling in the  
16 first degree); section 712-1222.5 (promoting gambling aboard  
17 ships); section 712-1224 (possession of gambling records in the  
18 first degree); section 712-1243 (promoting a dangerous drug in  
19 the third degree); section 712-1246 (promoting a harmful drug in  
20 the third degree); section 712-1247 (promoting a detrimental  
21 drug in the first degree); section 712-1249.6 (promoting a  
22 controlled substance in, on, or near schools or school



1 vehicles); section 803-42 (interception, access, and disclosure  
2 of wire, oral, or electronic communications, use of pen  
3 register, trap and trace device, and mobile tracking device  
4 prohibited); or section 846E-9(b) (failure to comply with  
5 covered offender registration requirements)."

6 SECTION 8. Section 431:10A-131, Hawaii Revised Statutes,  
7 is repealed.

8 ~~["§431:10A-131] Insurance fraud, penalties. (a) A person~~  
9 ~~commits the offense of insurance fraud if the person acts or~~  
10 ~~omits to act with intent to obtain benefits or recovery or~~  
11 ~~compensation for services provided, or provides legal assistance~~  
12 ~~or counsel with intent to obtain benefits or recovery, through~~  
13 ~~the following means:~~

- 14 ~~(1) Knowingly presenting, or causing or permitting to be~~  
15 ~~presented, with the intent to defraud, any false~~  
16 ~~information on a claim;~~
- 17 ~~(2) Knowingly presenting, or causing or permitting to be~~  
18 ~~presented, any false claim for the payment of a loss;~~
- 19 ~~(3) Knowingly presenting, or causing or permitting to be~~  
20 ~~presented, multiple claims for the same loss or~~  
21 ~~injury, including presenting multiple claims to more~~



- 1           ~~than one insurer, except when these multiple claims~~
- 2           ~~are appropriate;~~
- 3       ~~(4) Knowingly making, or causing or permitting to be made,~~
- 4           ~~any false claim for payment of a health care benefit;~~
- 5       ~~(5) Knowingly submitting, or causing or permitting to be~~
- 6           ~~submitted, a claim for a health care benefit that was~~
- 7           ~~not used by, or provided on behalf of, the claimant;~~
- 8       ~~(6) Knowingly presenting, or causing or permitting to be~~
- 9           ~~presented, multiple claims for payment of the same~~
- 10          ~~health care benefit except when these multiple claims~~
- 11          ~~are appropriate;~~
- 12       ~~(7) Knowingly presenting, or causing or permitting to be~~
- 13           ~~presented, for payment any undercharges for benefits~~
- 14           ~~on behalf of a specific claimant unless any known~~
- 15           ~~overcharges for benefits under this article for that~~
- 16           ~~claimant are presented for reconciliation at the same~~
- 17           ~~time;~~
- 18       ~~(8) Aiding, or agreeing or attempting to aid, soliciting,~~
- 19           ~~or conspiring with any person who engages in an~~
- 20           ~~unlawful act as defined under this section; or~~
- 21       ~~(9) Knowingly making, or causing or permitting to be made,~~
- 22           ~~any false statements or claims by, or on behalf of,~~



1           ~~any person or persons during an official proceeding as~~  
2           ~~defined by section 710-1000.~~

3           ~~(b) Violation of subsection (a) is a criminal offense and~~  
4 ~~shall constitute a:~~

5           ~~(1) Class B felony if the value of the benefits, recovery,~~  
6           ~~or compensation obtained or attempted to be obtained~~  
7           ~~is more than \$20,000;~~

8           ~~(2) Class C felony if the value of the benefits, recovery,~~  
9           ~~or compensation obtained or attempted to be obtained~~  
10           ~~is more than \$300; or~~

11           ~~(3) Misdemeanor if the value of the benefits, recovery, or~~  
12           ~~compensation obtained or attempted to be obtained is~~  
13           ~~\$300 or less.~~

14           ~~(c) Where the ability to make restitution can be~~  
15 ~~demonstrated, any person convicted under this section shall be~~  
16 ~~ordered by a court to make restitution to an insurer or any~~  
17 ~~other person for any financial loss sustained by the insurer or~~  
18 ~~other person caused by the act or acts for which the person was~~  
19 ~~convicted.~~

20           ~~(d) A person, if acting without malice, shall not be~~  
21 ~~subject to civil liability for providing information, including~~  
22 ~~filing a report, furnishing oral or written evidence, providing~~



1 ~~documents, or giving testimony concerning suspected,~~  
 2 ~~anticipated, or completed public or private insurance fraud to a~~  
 3 ~~court, the commissioner, the insurance fraud investigations~~  
 4 ~~unit, the National Association of Insurance Commissioners, any~~  
 5 ~~federal, state, or county law enforcement or regulatory agency,~~  
 6 ~~or another insurer if the information is provided only for the~~  
 7 ~~purpose of preventing, investigating, or prosecuting insurance~~  
 8 ~~fraud, except if the person commits perjury.~~

9 ~~(e) This section shall not supersede any other law~~  
 10 ~~relating to theft, fraud, or deception. Insurance fraud may be~~  
 11 ~~prosecuted under this section, or any other applicable section,~~  
 12 ~~and may be enjoined by a court of competent jurisdiction.~~

13 ~~(f) An insurer shall have a civil cause of action to~~  
 14 ~~recover payments or benefits from any person who has~~  
 15 ~~intentionally obtained payments or benefits in violation of this~~  
 16 ~~section; provided that no recovery shall be allowed if the~~  
 17 ~~person has made restitution under subsection (e)."]~~

18 SECTION 9. Section 431:10C-307.7, Hawaii Revised Statutes,  
 19 is repealed.

20 [~~§431:10C-307.7 Insurance fraud; penalties. (a) A~~  
 21 ~~person commits the offense of insurance fraud if the person acts~~  
 22 ~~or omits to act with intent to obtain benefits or recovery or~~



1 ~~compensation for services provided, or provides legal assistance~~  
2 ~~or counsel with intent to obtain benefits or recovery, through~~  
3 ~~the following means:~~

4 ~~(1) Knowingly presenting, or causing or permitting to be~~  
5 ~~presented, any false information on a claim;~~

6 ~~(2) Knowingly presenting, or causing or permitting to be~~  
7 ~~presented, any false claim for the payment of a loss;~~

8 ~~(3) Knowingly presenting, or causing or permitting to be~~  
9 ~~presented, multiple claims for the same loss or~~

10 ~~injury, including presenting multiple claims to more~~  
11 ~~than one insurer, except when these multiple claims~~  
12 ~~are appropriate;~~

13 ~~(4) Knowingly making, or causing or permitting to be made,~~  
14 ~~any false claim for payment of a health care benefit;~~

15 ~~(5) Knowingly submitting, or causing or permitting to be~~  
16 ~~submitted, a claim for a health care benefit that was~~  
17 ~~not used by, or provided on behalf of, the claimant;~~

18 ~~(6) Knowingly presenting, or causing or permitting to be~~  
19 ~~presented, multiple claims for payment of the same~~  
20 ~~health care benefit except when these multiple claims~~  
21 ~~are appropriate;~~



1       ~~(7) Knowingly presenting, or causing or permitting to be~~  
2       ~~presented, for payment any undercharges for benefits~~  
3       ~~on behalf of a specific claimant unless any known~~  
4       ~~overcharges for benefits under this article for that~~  
5       ~~claimant are presented for reconciliation at the same~~  
6       ~~time;~~

7       ~~(8) Aiding, or agreeing or attempting to aid, soliciting,~~  
8       ~~or conspiring with any person who engages in an~~  
9       ~~unlawful act as defined under this section; or~~

10       ~~(9) Knowingly making, or causing or permitting to be made,~~  
11       ~~any false statements or claims by, or on behalf of,~~  
12       ~~any person or persons during an official proceeding as~~  
13       ~~defined by section 710-1000.~~

14       ~~(b) Violation of subsection (a) is a criminal offense and~~  
15       ~~shall constitute a:~~

16       ~~(1) Class B felony if the value of the benefits, recovery,~~  
17       ~~or compensation obtained or attempted to be obtained~~  
18       ~~is more than \$20,000;~~

19       ~~(2) Class C felony if the value of the benefits, recovery,~~  
20       ~~or compensation obtained or attempted to be obtained~~  
21       ~~is more than \$300; or~~



1       ~~(3) Misdemeanor if the value of the benefits, recovery, or~~  
2           ~~compensation obtained or attempted to be obtained is~~  
3           ~~\$300 or less.~~

4       ~~(c) Where the ability to make restitution can be~~  
5       ~~demonstrated, any person convicted under this section shall be~~  
6       ~~ordered by a court to make restitution to an insurer or any~~  
7       ~~other person for any financial loss sustained by the insurer or~~  
8       ~~other person caused by the act or acts for which the person was~~  
9       ~~convicted.~~

10       ~~(d) A person, if acting without malice, shall not be~~  
11       ~~subject to civil liability for providing information, including~~  
12       ~~filing a report, furnishing oral or written evidence, or giving~~  
13       ~~testimony concerning suspected, anticipated, or completed~~  
14       ~~insurance fraud to a court, the commissioner, the insurance~~  
15       ~~fraud investigations unit, the National Association of Insurance~~  
16       ~~Commissioners, any federal, state, or county law enforcement or~~  
17       ~~regulatory agency, or another insurer if the information is~~  
18       ~~provided only for the purpose of preventing, investigating, or~~  
19       ~~prosecuting insurance fraud, except if the person commits~~  
20       ~~perjury.~~

21       ~~(e) This section shall not supersede any other law~~  
22       ~~relating to theft, fraud, or deception. Insurance fraud may be~~





1 ~~prosecuted under this section, or any other applicable section,~~  
2 ~~and may be enjoined by a court of competent jurisdiction.~~

3 ~~(f) An insurer shall have a civil cause of action to~~  
4 ~~recover payments or benefits from any person who has~~  
5 ~~intentionally obtained payments or benefits in violation of this~~  
6 ~~section; provided that no recovery shall be allowed if the~~  
7 ~~person has made restitution under subsection (c).~~

8 ~~(g) All applications for insurance under this article and~~  
9 ~~all claim forms provided and required by an insurer, regardless~~  
10 ~~of the means of transmission, shall contain, or have attached to~~  
11 ~~them, the following or a substantially similar statement, in a~~  
12 ~~prominent location and typeface as determined by the insurer:~~  
13 ~~"For your protection, Hawaii law requires you to be informed~~  
14 ~~that presenting a fraudulent claim for payment of a loss or~~  
15 ~~benefit is a crime punishable by fines or imprisonment, or~~  
16 ~~both." The absence of such a warning in any application or~~  
17 ~~claim form shall not constitute a defense to a charge of~~  
18 ~~insurance fraud under this section.~~

19 ~~(h) An insurer, or the insurer's employee or agent, having~~  
20 ~~determined that there is reason to believe that a claim is being~~  
21 ~~made in violation of this section, shall provide to the~~  
22 ~~insurance fraud investigations unit within sixty days of that~~



1 ~~determination, information, including documents and other~~  
2 ~~evidence, regarding the claim in the form and manner prescribed~~  
3 ~~by the unit. Information provided pursuant to this subsection~~  
4 ~~shall be protected from public disclosure to the extent~~  
5 ~~authorized by chapter 92F and section 431:2-209; provided that~~  
6 ~~the unit may release the information in an administrative or~~  
7 ~~judicial proceeding to enforce this section, to a federal,~~  
8 ~~state, or local law enforcement or regulatory authority, to the~~  
9 ~~National Association of Insurance Commissioners, or to an~~  
10 ~~insurer aggrieved by the claim reasonably believed to violate~~  
11 ~~this section." ]~~

12 SECTION 10. Section 431:10C-307.8, Hawaii Revised  
13 Statutes, is repealed.

14 [~~§431:10C-307.8 Insurance fraud investigations unit. (a)~~  
15 ~~There is established in the insurance division an insurance~~  
16 ~~fraud investigations unit.~~

17 ~~(b) The unit shall employ attorneys, investigators,~~  
18 ~~investigator assistants, and other support staff as necessary to~~  
19 ~~promote the effective and efficient conduct of the unit's~~  
20 ~~activities. Notwithstanding any other law to the contrary, the~~  
21 ~~attorneys may represent the State in any judicial or~~  
22 ~~administrative proceeding to enforce all applicable state laws~~



1 ~~relating to insurance fraud, including but not limited to~~  
2 ~~criminal prosecutions and actions for declaratory and injunctive~~  
3 ~~relief. Investigators may serve process and apply for and~~  
4 ~~execute search warrants pursuant to chapter 803 and the rules of~~  
5 ~~court but shall not otherwise have the powers of a police~~  
6 ~~officer or deputy sheriff. The commissioner may hire such~~  
7 ~~employees not subject to chapter 76.~~

8 ~~(c) The purpose of the insurance fraud investigations unit~~  
9 ~~shall be to conduct a statewide program for the prevention,~~  
10 ~~investigation, and prosecution of insurance fraud cases and~~  
11 ~~violations of all applicable state laws relating to insurance~~  
12 ~~fraud. The insurance fraud investigations unit may also review~~  
13 ~~and take appropriate action on complaints relating to insurance~~  
14 ~~fraud." ]~~

15 SECTION 11. Section 432:1-106, Hawaii Revised Statutes, is  
16 repealed.

17 ~~["~~§432:1-106~~ Insurance fraud; penalties. (a) A person~~  
18 ~~commits the offense of insurance fraud if the person acts or~~  
19 ~~omits to act with intent to obtain benefits or recovery or~~  
20 ~~compensation for services provided, or provides legal assistance~~  
21 ~~or counsel with intent to obtain benefits or recovery, through~~  
22 ~~the following means:~~



- 1       ~~(1) Knowingly presenting, or causing or permitting to be~~  
2       ~~presented, with the intent to defraud, any false~~  
3       ~~information on a claim;~~
- 4       ~~(2) Knowingly presenting, or causing or permitting to be~~  
5       ~~presented, any false claim for the payment of a loss;~~
- 6       ~~(3) Knowingly presenting, or causing or permitting to be~~  
7       ~~presented, multiple claims for the same loss or~~  
8       ~~injury, including presenting multiple claims to more~~  
9       ~~than one insurer, except when these multiple claims~~  
10       ~~are appropriate;~~
- 11       ~~(4) Knowingly making, or causing or permitting to be made,~~  
12       ~~any false claim for payment of a health care benefit;~~
- 13       ~~(5) Knowingly submitting, or causing or permitting to be~~  
14       ~~submitted, a claim for a health care benefit that was~~  
15       ~~not used by, or provided on behalf of, the claimant;~~
- 16       ~~(6) Knowingly presenting, or causing or permitting to be~~  
17       ~~presented, multiple claims for payment of the same~~  
18       ~~health care benefit except when these multiple claims~~  
19       ~~are appropriate;~~
- 20       ~~(7) Knowingly presenting, or causing or permitting to be~~  
21       ~~presented, for payment any undercharges for benefits~~  
22       ~~on behalf of a specific claimant unless any known~~



1 ~~overcharges for benefits under this article for that~~  
2 ~~claimant are presented for reconciliation at the same~~  
3 ~~time;~~

4 ~~(8) Aiding, or agreeing or attempting to aid, soliciting,~~  
5 ~~or conspiring with any person who engages in an~~  
6 ~~unlawful act as defined under this section; or~~

7 ~~(9) Knowingly making, or causing or permitting to be made,~~  
8 ~~any false statements or claims by, or on behalf of,~~  
9 ~~any person or persons during an official proceeding as~~  
10 ~~defined by section 710-1000.~~

11 ~~(b) Violation of subsection (a) is a criminal offense and~~  
12 ~~shall constitute a:~~

13 ~~(1) Class B felony if the value of the benefits, recovery,~~  
14 ~~or compensation obtained or attempted to be obtained~~  
15 ~~is more than \$20,000;~~

16 ~~(2) Class C felony if the value of the benefits, recovery,~~  
17 ~~or compensation obtained or attempted to be obtained~~  
18 ~~is more than \$300; or~~

19 ~~(3) Misdemeanor if the value of the benefits, recovery, or~~  
20 ~~compensation obtained or attempted to be obtained is~~  
21 ~~\$300 or less.~~



1       ~~(c) Where the ability to make restitution can be~~  
2 ~~demonstrated, any person convicted under this section shall be~~  
3 ~~ordered by a court to make restitution to an insurer or any~~  
4 ~~other person for any financial loss sustained by the insurer or~~  
5 ~~other person caused by the act or acts for which the person was~~  
6 ~~convicted.~~

7       ~~(d) A person, if acting without malice, shall not be~~  
8 ~~subject to civil liability for providing information, including~~  
9 ~~filing a report, furnishing oral or written evidence, providing~~  
10 ~~documents, or giving testimony concerning suspected,~~  
11 ~~anticipated, or completed public or private insurance fraud to a~~  
12 ~~court, the commissioner, the insurance fraud investigations~~  
13 ~~unit, the National Association of Insurance Commissioners, any~~  
14 ~~federal, state, or county law enforcement or regulatory agency,~~  
15 ~~or another insurer if the information is provided only for the~~  
16 ~~purpose of preventing, investigating, or prosecuting insurance~~  
17 ~~fraud, except if the person commits perjury.~~

18       ~~(e) This section shall not supersede any other law~~  
19 ~~relating to theft, fraud, or deception. Insurance fraud may be~~  
20 ~~prosecuted under this section, or any other applicable section,~~  
21 ~~and may be enjoined by a court of competent jurisdiction.~~



1       ~~(f) An insurer shall have a civil cause of action to~~  
 2 ~~recover payments or benefits from any person who has~~  
 3 ~~intentionally obtained payments or benefits in violation of this~~  
 4 ~~section; provided that no recovery shall be allowed if the~~  
 5 ~~person has made restitution under subsection (c)."]~~

6       SECTION 12. Section 432D-18.5, Hawaii Revised Statutes, is  
 7 repealed.

8       ~~["§432D-18.5] Insurance fraud; penalties. (a) A person~~  
 9 ~~commits the offense of insurance fraud if the person acts or~~  
 10 ~~omits to act with intent to obtain benefits or recovery or~~  
 11 ~~compensation for services provided, or provides legal assistance~~  
 12 ~~or counsel with intent to obtain benefits or recovery, through~~  
 13 ~~the following means:~~

14       ~~(1) Knowingly presenting, or causing or permitting to be~~  
 15       ~~presented, with the intent to defraud, any false~~  
 16       ~~information on a claim;~~

17       ~~(2) Knowingly presenting, or causing or permitting to be~~  
 18       ~~presented, any false claim for the payment of a loss;~~

19       ~~(3) Knowingly presenting, or causing or permitting to be~~  
 20       ~~presented, multiple claims for the same loss or~~  
 21       ~~injury, including presenting multiple claims to more~~



- 1           ~~than one insurer, except when these multiple claims~~
- 2           ~~are appropriate;~~
- 3           ~~(4) Knowingly making, or causing or permitting to be made,~~
- 4           ~~any false claim for payment of a health care benefit;~~
- 5           ~~(5) Knowingly submitting, or causing or permitting to be~~
- 6           ~~submitted, a claim for a health care benefit that was~~
- 7           ~~not used by, or provided on behalf of, the claimant;~~
- 8           ~~(6) Knowingly presenting, or causing or permitting to be~~
- 9           ~~presented, multiple claims for payment of the same~~
- 10           ~~health care benefit except when these multiple claims~~
- 11           ~~are appropriate;~~
- 12           ~~(7) Knowingly presenting, or causing or permitting to be~~
- 13           ~~presented, for payment any undercharges for benefits~~
- 14           ~~on behalf of a specific claimant unless any known~~
- 15           ~~overcharges for benefits under this article for that~~
- 16           ~~claimant are presented for reconciliation at the same~~
- 17           ~~time;~~
- 18           ~~(8) Aiding, or agreeing or attempting to aid, soliciting,~~
- 19           ~~or conspiring with any person who engages in an~~
- 20           ~~unlawful act as defined under this section; or~~
- 21           ~~(9) Knowingly making, or causing or permitting to be made,~~
- 22           ~~any false statements or claims by, or on behalf of,~~





1           ~~any person or persons during an official proceeding as~~  
2           ~~defined by section 710-1000.~~

3           ~~(b) Violation of subsection (a) is a criminal offense and~~  
4           ~~shall constitute a:~~

5           ~~(1) Class B felony if the value of the benefits, recovery,~~  
6           ~~or compensation obtained or attempted to be obtained~~  
7           ~~is more than \$20,000;~~

8           ~~(2) Class C felony if the value of the benefits, recovery,~~  
9           ~~or compensation obtained or attempted to be obtained~~  
10           ~~is more than \$300; or~~

11           ~~(3) Misdemeanor if the value of the benefits, recovery, or~~  
12           ~~compensation obtained or attempted to be obtained is~~  
13           ~~\$300 or less.~~

14           ~~(c) Where the ability to make restitution can be~~  
15           ~~demonstrated, any person convicted under this section shall be~~  
16           ~~ordered by a court to make restitution to an insurer or any~~  
17           ~~other person for any financial loss sustained by the insurer or~~  
18           ~~other person caused by the act or acts for which the person was~~  
19           ~~convicted.~~

20           ~~(d) A person, if acting without malice, shall not be~~  
21           ~~subject to civil liability for providing information, including~~  
22           ~~filing a report, furnishing oral or written evidence, providing~~



1 ~~documents, or giving testimony concerning suspected,~~  
2 ~~anticipated, or completed public or private insurance fraud to a~~  
3 ~~court, the commissioner, the insurance fraud investigations~~  
4 ~~unit, the National Association of Insurance Commissioners, any~~  
5 ~~federal, state, or county law enforcement or regulatory agency,~~  
6 ~~or another insurer if the information is provided only for the~~  
7 ~~purpose of preventing, investigating, or prosecuting insurance~~  
8 ~~fraud, except if the person commits perjury.~~

9 ~~(e) This section shall not supersede any other law~~  
10 ~~relating to theft, fraud, or deception. Insurance fraud may be~~  
11 ~~prosecuted under this section, or any other applicable section,~~  
12 ~~and may be enjoined by a court of competent jurisdiction.~~

13 ~~(f) An insurer shall have a civil cause of action to~~  
14 ~~recover payments or benefits from any person who has~~  
15 ~~intentionally obtained payments or benefits in violation of this~~  
16 ~~section; provided that no recovery shall be allowed if the~~  
17 ~~person has made restitution under subsection (c)."]~~

18 SECTION 13. All rights, powers, functions, and duties of  
19 the insurance fraud investigations unit are transferred to the  
20 insurance fraud investigations branch.

21 All officers and employees whose functions are transferred  
22 by this Act shall be transferred with their functions and shall



1 continue to perform their regular duties upon their transfer,  
2 subject to the state personnel laws and this Act.

3 No officer or employee of the State having tenure shall  
4 suffer any loss of salary, seniority, prior service credit,  
5 vacation, sick leave, or other employee benefit or privilege as  
6 a consequence of this Act, and such officer or employee may be  
7 transferred or appointed to a civil service position without the  
8 necessity of examination; provided that the officer or employee  
9 possesses the minimum qualifications for the position to which  
10 transferred or appointed; and provided that subsequent changes  
11 in status may be made pursuant to applicable civil service and  
12 compensation laws.

13 An officer or employee of the State who does not have  
14 tenure and who may be transferred or appointed to a civil  
15 service position as a consequence of this Act shall become a  
16 civil service employee without the loss of salary, seniority,  
17 prior service credit, vacation, sick leave, or other employee  
18 benefits or privileges and without the necessity of examination;  
19 provided that such officer or employee possesses the minimum  
20 qualifications for the position to which transferred or  
21 appointed.



1           If an office or position held by an officer or employee  
2 having tenure is abolished, the officer or employee shall not  
3 thereby be separated from public employment, but shall remain in  
4 the employment of the State with the same pay and classification  
5 and shall be transferred to some other office or position for  
6 which the officer or employee is eligible under the personnel  
7 laws of the State as determined by the head of the department or  
8 the governor.

9           SECTION 14. All appropriations, records, equipment,  
10 machines, files, supplies, contracts, books, papers, documents,  
11 maps, and other personal property heretofore made, used,  
12 acquired, or held by the insurance fraud investigations unit  
13 relating to the functions transferred to the insurance fraud  
14 investigations branch shall be transferred with the functions to  
15 which they relate.

16           SECTION 15. This Act does not affect rights and duties  
17 that matured, penalties that were incurred, and proceedings that  
18 were begun, before its effective date.

19           SECTION 16. All rules, policies, procedures, guidelines,  
20 and other material adopted or developed by the department of  
21 commerce and consumer affairs to implement provisions of the  
22 Hawaii Revised Statutes which are reenacted or made applicable



1 to the department of commerce and consumer affairs by this Act,  
 2 shall remain in full force and effect until amended or repealed  
 3 by the department of commerce and consumer affairs pursuant to  
 4 chapter 91, Hawaii Revised Statutes. In the interim, every  
 5 reference to the insurance fraud investigations unit or director  
 6 of commerce and consumer affairs in those rules, policies,  
 7 procedures, guidelines, and other material is amended to refer  
 8 to the insurance fraud investigations branch or director of  
 9 commerce and consumer affairs as appropriate.

10 SECTION 17. In codifying the new sections added by section  
 11 2 of this Act, the revisor of statutes shall substitute  
 12 appropriate section numbers for the letters used in designating  
 13 the new sections in this Act.

14 SECTION 18. Statutory material to be repealed is bracketed  
 15 and stricken. New statutory material is underscored.

16 SECTION 19. This Act shall take effect on July 1, 2009.

17

INTRODUCED BY: \_\_\_\_\_



**JAN 22 2009**



**Report Title:**

Insurance Fraud

**Description:**

Expands the authority of the insurance division's insurance fraud investigations unit to prevent, investigate, and prosecute (both civilly and criminally) insurance fraud beyond motor vehicle insurance cases to all lines of insurance except workers' compensation.

