
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 PART I

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

4 "(o) Every person licensed under any chapter within the
5 jurisdiction of the department of commerce and consumer affairs
6 and every person licensed subject to chapter 485A or registered
7 under chapter 467B shall pay upon issuance of a license, permit,
8 certificate, or registration a fee and a subsequent annual fee
9 to be determined by the director and adjusted from time to time
10 to ensure that the proceeds, together with all other fines,
11 income, and penalties collected under this section, do not
12 surpass the annual operating costs of conducting compliance
13 resolution activities required under this section. The fees may
14 be collected biennially or pursuant to rules adopted under
15 chapter 91, and shall be deposited into the special fund
16 established under this subsection. Every filing pursuant to
17 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 431:6-317, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§431:6-317 Common stocks. (a) ~~[An]~~ To meet the
7 requirements under section 431:6-201, an insurer may invest any
8 of its funds in common shares of stock that are filed with the
9 SVO or are considered "filing exempt" by the Purposes and
10 Procedures Manual of the SVO, or its successor publication[~~—In~~
11 aggregate], provided that an insurer's amount of investment in
12 common stocks[~~, including investments~~] and in non-dividend
13 paying stocks made pursuant to this section and in common trust
14 funds, mutual funds, and exchange traded funds made pursuant to
15 section 431:6-322[~~, and non-dividend paying stocks,~~] shall not
16 exceed the greater of twenty-five per cent of its admitted
17 assets or one hundred per cent of its surplus as regards to
18 policyholders as defined in section 431:6-101.

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



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

4 SECTION 4. Section 431:6-322, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

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

8 ~~(1) A bank's common trust fund as defined in Section 584~~
9 ~~of the United States Internal Revenue Code of 1986, as~~
10 ~~amended;~~

11 ~~(2) The securities of any open end management type~~
12 ~~investment company or investment trust registered with~~
13 ~~the federal Securities and Exchange Commission under~~
14 ~~the Investment Company Act of 1940, as amended, if the~~
15 ~~investment company or trust, other than one of which~~
16 ~~as a subsidiary of the insurer is investment adviser~~
17 ~~or principal underwriter, has a new value of not less~~
18 ~~than \$25,000,000 as of the date of investment by the~~
19 ~~insurer; and~~

20 ~~(3) An exchange traded fund that is registered with the~~
21 ~~federal Securities and Exchange Commission under the~~



1 ~~Investment Company Act of 1940, as amended, and is~~
2 ~~traded on a public exchange.]~~

3 (a) For purposes of this section:

4 "Common trust funds" means a fund maintained by a bank
5 exclusively for the collective investment and reinvestment of
6 moneys contributed by the bank in its capacity as a trustee,
7 executor, administrator, guardian, or custodian of accounts as
8 defined in Section 584 of the Internal Revenue Code of 1986, as
9 amended.

10 "Exchange traded fund" means a security that tracks an
11 index, commodity, or basket of assets similar to an index fund,
12 is registered with the federal Securities and Exchange
13 Commission under the Investment Company Act of 1940, as amended,
14 and is traded on a public exchange.

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

19 (b) ~~[In aggregate, an insurer's amount of investment]~~ To
20 meet the requirements under section 431:6-201, an insurer may
21 invest in common trust funds, mutual funds, and exchange traded
22 funds ~~[including investments]~~, provided that an insurer's amount



1 of investment made pursuant to this section and in common stocks
2 made pursuant to section 431:6-317(a) [7] shall not exceed the
3 greater of twenty-five per cent of its admitted assets or one
4 hundred per cent of its surplus as regards to policyholders as
5 defined in section 431:6-101. This limitation shall not apply
6 to investments approved on the "Mutual Funds List" from the
7 Purposes and Procedures Manual of the SVO, or its successor
8 publication."

9 SECTION 5. Section 431:7-206, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§431:7-206 Domestic company credit for retaliatory taxes
12 paid other states. If by the laws of any state other than this
13 State, or by the action of any public official of another state,
14 any insurer or company, as defined in section 431:1-202,
15 organized or domiciled in this State, shall be required to pay
16 taxes for the privilege of doing business in the other state,
17 and the amounts are imposed or assessed so that the taxes which
18 are or would be imposed against Hawaii domestic insurance
19 companies are greater than those taxes required of insurers
20 organized or domiciled in the other state, to the extent the
21 amounts are legally due to the other states, an insurer or
22 company organized or domiciled in this State may claim a credit



1 against the tax payable pursuant to this article of a sum not to
2 exceed one hundred per cent of the amount. The credit shall not
3 be greater than the tax payable pursuant to this article during
4 the taxable year. All claims for the tax credit under this
5 section, including any amended claims, shall be filed on or
6 before the end of the twelfth month following the close of the
7 taxable year for which the credit may be claimed. Failure to
8 comply with the foregoing provision shall constitute a waiver of
9 the right to claim the credit."

10 SECTION 6. Section 431:8-310, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

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

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

20 SECTION 7. Section 431:9-222.5, Hawaii Revised Statutes,
21 is amended to read as follows:



1 "§431:9-222.5 ~~[Workers' compensation claims]~~ Claims
2 adjusters; limited license. (a) The commissioner may issue a
3 limited license to an adjuster who only adjusts either workers'
4 compensation or crop insurance claims; provided that the
5 adjuster:

- 6 (1) Is domiciled in the State of Hawaii, or in a state
7 that permits residents of the State of Hawaii to act
8 as adjusters in that other state;
- 9 (2) Has had experience, special education, or training in
10 handling loss claims under workers' compensation or
11 crop insurance contracts of sufficiently reasonable
12 duration and extent to enable an individual to fulfill
13 the responsibilities of an adjuster;
- 14 (3) Has a passing grade on the workers' compensation or
15 crop insurance examination pursuant to section 431:9-
16 206; and
- 17 (4) Pays the applicable fees.

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

21 SECTION 8. Section 431:9A-124, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



1 " (b) The required number of credit hours shall be as
2 follows:

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

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

6 (B) Property, marine and transportation, vehicle,
7 general casualty, or surety;

8 the requisite number of credit hours shall be [~~twenty~~]
9 twenty-four credit hours, consisting of twenty-one
10 credit hours relating to the line of authority for
11 which the license is held[~~, including~~] and three
12 credit hours relating to ethics training or relating
13 to the insurance laws and the insurance rules;

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

18 (A) [~~Twelve~~] Ten credit hours [~~shall relate~~] relating
19 to paragraph (1) (A) [~~of which two hours shall~~
20 relate to the insurance laws and the rules
21 relating to the line of authority for which the
22 license is held; and];



1 (B) [~~Eighteen~~] Eleven credit hours [~~shall relate~~
2 relating to paragraph (1) (B) [of which two hours
3 shall relate to the insurance laws and the rules
4 relating to the line of authority for which the
5 license is held.]; and

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

8 For purposes of this section, ethics training shall include, but
9 shall not be limited to, the study of fiduciary responsibility,
10 commingling of funds, payment and acceptance of commissions,
11 unfair claims practices, policy replacement considerations, and
12 conflicts of interest."

13 SECTION 9. Section 431:14-104, Hawaii Revised Statutes, is
14 amended by amending subsections (a) and (b) to read as follows:

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



1 Every filing shall:

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

4 ~~+(2)]~~ (1) State its proposed effective date;

5 ~~[(3)]~~ (2) Indicate the character and extent of the coverage
6 contemplated; ~~[and]~~

7 ~~[(4)]~~ (3) Include a report on investment income~~[-]~~; and

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

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

15 (1) An electronic copy of the filing; or

16 (2) Two printed copies of the filing.

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

19 SECTION 10. Section 431:14-105, Hawaii Revised Statutes,
20 is amended to read as follows:

21 "**§431:14-105 Policy revisions that alter coverage.** (a)

22 Any policy revisions that alter coverage in any manner shall be



1 filed with the commissioner [~~, consist of two printed copies and~~
2 ~~one copy by electronic, telephonic, or optical means,~~] and shall
3 include an analysis of the impact of each revision on rates.

4 (b) A filing shall consist of either:

5 (1) An electronic copy of the filing; or

6 (2) Two printed copies of the filing.

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

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

12 SECTION 11. By January 1, 2010, the insurance commissioner
13 shall provide notice to the affected parties of the new
14 continuing education requirements of section 431:9A-124, Hawaii
15 Revised Statutes, as amended by section 8 of this Act.

16 PART II

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

19 "(c) The commissioner may:

20 (1) Make reasonable rules for effectuating any provision
21 of this code, except those relating to the
22 commissioner's appointment, qualifications, or



1 compensation. The commissioner shall adopt rules to
2 effectuate article 10C of chapter 431, subject to the
3 approval of the governor's office and the requirements
4 of chapter 91;

5 (2) Conduct examinations and investigations to determine
6 whether any person has violated any provision of this
7 code or to secure information useful in the lawful
8 administration of any provision; [and]

9 (3) Require applicants to provide fingerprints and pay a
10 fee to allow the commissioner to make a determination
11 of license eligibility after obtaining state and
12 national criminal history record checks from the
13 Hawaii criminal justice data center and the Federal
14 Bureau of Investigation; and

15 [~~3~~] (4) Require, upon reasonable notice, that insurers
16 report any claims information the commissioner may
17 deem necessary to protect the public interest."

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

20 "§431:2-209 **Records and reports.** (a) The commissioner
21 shall preserve in permanent form records and reports of the
22 commissioner's proceedings, hearings, investigations, and



1 examinations, and shall file the records in the commissioner's
2 office.

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

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

20 (d) Three years after the year to which they relate, the
21 commissioner may destroy any foreign or alien insurer's tax



1 reports, or similar records or reports now or hereafter in the
2 commissioner's possession.

3 (e) The following records and reports on file with the
4 commissioner shall be confidential and protected from discovery,
5 production, and disclosure for so long as the commissioner deems
6 prudent:

7 (1) Complaints and investigation reports;

8 (2) Working papers of examinations, complaints, and
9 investigation reports;

10 (3) Proprietary information, including trade secrets,
11 commercial information, and business plans, which, if
12 disclosed may result in competitive harm to the person
13 providing the information; and

14 (4) Any documents or information received from the
15 National Association of Insurance Commissioners, the
16 federal government, insurance regulatory agencies of
17 foreign countries, or insurance departments of other
18 states, territories, and commonwealths that are
19 confidential in other jurisdictions. The commissioner
20 may share information, including otherwise
21 confidential information, with the National
22 Association of Insurance Commissioners, the federal



1 government, insurance regulatory agencies of foreign
2 countries, or insurance departments of other states,
3 territories, and commonwealths so long as the statutes
4 or regulations of the other jurisdictions permit them
5 to maintain the same level of confidentiality as
6 required under Hawaii law.

7 (f) The commissioner shall: treat and maintain an
8 applicant's fingerprints and any criminal history record
9 information obtained under this code as confidential; apply
10 security measures consistent with the Federal Bureau of
11 Investigation Criminal Justice Information Services Division's
12 standards for the electronic storage of fingerprints and
13 necessary identifying information; and limit the use of the
14 records solely to purposes authorized by law. Fingerprints and
15 criminal history record information shall not be subject to
16 subpoena, other than subpoenas issued in criminal actions or
17 investigations, and shall be confidential by law and privileged
18 and not subject to discovery or admissible in evidence in any
19 private civil action.

20 ~~(f)~~ (g) The commissioner shall not disclose any
21 information that is exempt from disclosure by federal or Hawaii
22 statutes."



1 SECTION 14. Section 431:7-101, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The commissioner shall collect in advance the
4 following fees:

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

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

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

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

12 (3) Producer's license:

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

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

15 (4) Nonresident producer's license:

16 Issuance..... \$75

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

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

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

21 (8) Independent bill reviewer's license:

22 Issuance\$80



- 1 (9) Limited producer's license: Issuance.....\$60
- 2 (10) Managing general agent's license: Issuance..\$75
- 3 (11) Reinsurance intermediary's license:
- 4 Issuance \$75
- 5 (12) Surplus lines broker's license: Issuance.. \$150
- 6 (13) Service contract provider's registration:
- 7 Issuance \$75
- 8 (14) Approved course provider certificate:
- 9 Issuance \$100
- 10 (15) Approved continuing education course certificate:
- 11 Issuance..... \$30
- 12 (16) Vehicle protection product warrantor's registration:
- 13 Issuance..... \$75
- 14 (17) Criminal history record check [~~\$20~~]; fingerprinting:
- 15 For each criminal history record and fingerprinting
- 16 check, a fee to be established by the
- 17 commissioner.....\$
- 18 (18) Limited line motor vehicle rental company producer's
- 19 license: Issuance..... \$1,000
- 20 (19) Life settlement contract provider's license:
- 21 Issuance..... \$75
- 22 (20) Life settlement contract broker's license:



1 Issuance..... \$75

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

4 SECTION 15. Section 431:9-204, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

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

10 [~~concerning~~] including:

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

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

21 SECTION 16. Section 431:9A-106, Hawaii Revised Statutes,
22 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 17. 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 346-
3 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 ~~[+]~~ (27) ~~[+]~~ 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, as provided by section
14 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."



PART III

1
2 SECTION 18. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 19. This Act shall take effect on July 1, 2009;
5 provided that:

- 6 (1) Section 3 shall take effect on January 1, 2010;
7 (2) Section 8 shall take effect on July 1, 2010; and
8 (3) The amendments made to section 431:7-101(a), Hawaii
9 Revised Statutes, in section 14 of this Act shall not
10 be repealed when section 431:7-101(a), Hawaii Revised
11 Statutes, is reenacted on June 16, 2010, pursuant to
12 Act 177, Session Laws of Hawaii 2008.



Report Title:

Insurance Producers; Surplus Lines Brokers; Retaliatory Tax Credit; Limited Lines Adjuster License; Continuing Education Credits; Assigned Claims; Background Check; Fingerprinting; Criminal Database

Description:

Updates references in insurance code and updates continuing education requirements for insurance licensees. Adopts the National Association of Insurance Commissioners' Authorization for Criminal History Record Check Model Act to allow fingerprinting of insurance licensees. (HD1)

