
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Section 26-9, Hawaii Revised Statutes, is
2 amended by amending subsection (o) to read as follows:
3 "(o) Every person licensed under any chapter within the
4 jurisdiction of the department of commerce and consumer affairs
5 and every person licensed subject to chapter 485A or registered
6 under chapter 467B shall pay upon issuance of a license, permit,
7 certificate, or registration a fee and a subsequent annual fee
8 to be determined by the director and adjusted from time to time
9 to ensure that the proceeds, together with all other fines,
10 income, and penalties collected under this section, do not
11 surpass the annual operating costs of conducting compliance
12 resolution activities required under this section. The fees may
13 be collected biennially or pursuant to rules adopted under
14 chapter 91, and shall be deposited into the special fund
15 established under this subsection. Every filing pursuant to
16 chapter 514E or section 485A-202(a)(26) shall be assessed, upon
17 initial filing and at each renewal period in which a renewal is

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

15 There is created in the state treasury a special fund to be
16 known as the compliance resolution fund to be expended by the
17 director's designated representatives as provided by this
18 subsection. Notwithstanding any law to the contrary, all
19 revenues, fees, and fines collected by the department shall be
20 deposited into the compliance resolution fund. Unencumbered
21 balances existing on June 30, 1999, in the cable television fund
22 under chapter 440G, the division of consumer advocacy fund under

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

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

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

- 11 (1) Any licensee or applicant under any chapter subject to
12 the jurisdiction of the department of commerce and
13 consumer affairs has complied with that chapter;
- 14 (2) Any person subject to chapter 485A has complied with
15 that chapter;
- 16 (3) Any person submitting any filing required by chapter
17 514E or section 485A-202(a)(26) has complied with
18 chapter 514E or section 485A-202(a)(26);
- 19 (4) Any person has complied with the prohibitions against
20 unfair and deceptive acts or practices in trade or
21 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[~~7~~] and 431:10G-107), and the captive insurance
20 administrative fund (section 431:19-101.8) to the extent
21 provided by section 431:19-101.8(b), shall be deposited into the
22 compliance resolution fund under section 26-9(o). All sums

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

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

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

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

16 "**§431:6-317 Common stocks.** (a) [~~An~~] To meet the
17 requirements under section 431:6-201, an insurer may invest any
18 of its funds in common shares of stock that are filed with the
19 SVO or are considered "filing exempt" by the Purposes and
20 Procedures Manual of the SVO, or its successor publication,
21 provided that [~~In aggregate,~~] an insurer's amount of investment
22 in common stocks~~[, including investments]~~ and in non-dividend

1 paying stocks made pursuant to this section and in common trust
2 funds, mutual funds, and exchange traded funds made pursuant to
3 section 431:6-322 [~~and non-dividend paying stocks,~~] shall not
4 exceed the greater of twenty-five per cent of its admitted
5 assets or one hundred per cent of its surplus as regards to
6 policyholders as defined in section 431:6-101.

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

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

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

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

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

20 ~~(2) The securities of any open-end management type~~
21 ~~investment company or investment trust registered with~~
22 ~~the federal Securities and Exchange Commission under~~

1 ~~the Investment Company Act of 1940, as amended, if the~~
2 ~~investment company or trust, other than one of which~~
3 ~~as a subsidiary of the insurer is investment adviser~~
4 ~~or principal underwriter, has a new value of not less~~
5 ~~than \$25,000,000 as of the date of investment by the~~
6 ~~insurer; and~~

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

11 (a) For purposes of this section:

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

18 "Exchange traded fund" means a security that tracks an
19 index, commodity, or basket of assets similar to an index fund,
20 is registered with the federal Securities and Exchange
21 Commission under the Investment Company Act of 1940, as amended,
22 and is traded on a public exchange.

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

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

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

19 "**§431:7-206 Domestic company credit for retaliatory taxes**
20 **paid other states.** If by the laws of any state other than this
21 State, or by the action of any public official of another state,
22 any insurer or company, as defined in section 431:1-202,

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

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

20 "(b) The commissioner shall issue a surplus lines broker
21 license to any producer licensed under article 9A, except

1 producers licensed under section 431:9A-107(a) (1), (2), or (5),

2 when the producer has:

3 (1) Remitted the annual license fee to the commissioner as
4 provided in article 7; and

5 (2) Submitted a completed license application on a form
6 furnished by the commissioner."

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

9 "**§431:9-222.5** ~~[Workers' compensation claims]~~ Claims

10 **adjusters; limited license.** (a) The commissioner may issue a
11 limited license to an adjuster who only adjusts either workers'
12 compensation or crop insurance claims; provided that the
13 adjuster:

14 (1) Is domiciled in the State of Hawaii, or in a state
15 that permits residents of the State of Hawaii to act
16 as adjusters in that other state;

17 (2) Has had experience, special education, or training in
18 handling loss claims under workers' compensation or
19 crop insurance contracts of sufficiently reasonable
20 duration and extent to enable an individual to fulfill
21 the responsibilities of an adjuster;

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

4 (4) Pays the applicable fees.

5 (b) An adjuster with a limited license in workers'
6 compensation issued under this section may extend the license
7 biennially upon successfully passing a reexamination on workers'
8 compensation."

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

11 "(b) The required number of credit hours shall be as
12 follows:

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

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

16 (B) Property, marine and transportation, vehicle,
17 general casualty, or surety;

18 the requisite number of credit hours shall be [~~twenty~~]

19 twenty-four credit hours, consisting of twenty-one
20 credit hours relating to the line of authority for

21 which the license is held[~~, including~~] and three

1 credit hours relating to ethics training or relating
2 to the insurance laws and the insurance rules;

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

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

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

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

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

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

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

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

14 Every filing shall:

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

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

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

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

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

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

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

9 (2) Two printed copies of the filing.

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

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

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

15 Any policy revisions that alter coverage in any manner shall be
16 filed with the commissioner[~~, consist of two printed copies and~~
17 ~~one copy by electronic, telephonic, or optical means,~~] and shall
18 include an analysis of the impact of each revision on rates.

19 (b) A filing shall consist of either:

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

21 (2) Two printed copies of the filing.

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

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

6 SECTION 12. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 13. This Act shall take effect on July 1, 2009,
9 provided that section 4 shall take effect on January 1, 2010.

Report Title:

Insurance Producers; Surplus Lines Brokers; Retaliatory Tax Credit; Limited Lines Adjuster License; Continuing Education Credits; Assigned Claims

Description:

Updates references in insurance code and updates continuing education requirements for insurance licensees. (SD1)