
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 pursuant to chapter 91."

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

16 1. By amending subsection (a) to read:

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

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

8 2. By amending subsection (c) to read:

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

12 SECTION 5. Section 431:6-322, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§431:6-322 Common trust funds; mutual funds; and**
 15 **[+]exchange[+] traded funds.** ~~[-a- Subject to the limitations in~~
 16 ~~subsections (b) and (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 ~~(b) In aggregate, an insurer's amount of investment,~~
12 ~~including investments]~~ (a) To meet the requirements under
13 section 431:6-201, an insurer may invest in common trust funds,
14 mutual funds, and exchange traded funds [~~including~~
15 ~~investments]~~; provided that an insurer's amount of investment
16 made pursuant to this section and in common stocks made pursuant
17 to section 431:6-317(a) [~~7~~] shall not exceed the greater of
18 twenty-five per cent of its admitted assets or one hundred per
19 cent of its surplus as regards to policyholders as defined in
20 section 431:6-101. This limitation shall not apply to
21 investments approved on the "Mutual Funds List" from the

1 Purposes and Procedures Manual of the SVO, or its successor
2 publication.

3 ~~[(e)]~~ (b) An insurer may invest any of its funds in common
4 trust funds, mutual funds, and exchange traded funds after
5 satisfying the requirements of section 431:6-201.

6 (c) For purposes of this section:

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

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

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

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

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

1 comply with the foregoing provision shall constitute a waiver of
2 the right to claim the credit."

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

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

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

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

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

- 20 (1) Is domiciled in the State of Hawaii, or in a state
21 that permits residents of the State of Hawaii to act
22 as adjusters in that other state;

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

6 (3) Has a passing grade on the workers' compensation or
7 crop insurance examination pursuant to section
8 431:9-206; and

9 (4) Pays the applicable fees.

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

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

15 "(b) The required number of credit hours shall be as
16 follows:

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

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

20 (B) Property, marine and transportation, vehicle,
21 general casualty, or surety;

- 1 the requisite number of credit hours shall be [~~twenty~~
2 twenty-four credit hours, consisting of twenty-one
3 credit hours relating to the line of authority for
4 which the license is held[~~, including~~] and three
5 credit hours relating to ethics training or relating
6 to the insurance laws and the insurance rules;
- 7 (2) For a licensee with a license to sell lines of
8 insurance in both groups in paragraph (1), the total
9 requisite number of credit hours shall be [~~thirty~~
10 twenty-four credit hours, [of which:] consisting of:
- 11 (A) [~~Twelve~~] Ten credit hours [~~shall relate~~] relating
12 to paragraph (1) (A) [of which two hours shall
13 relate to the insurance laws and the rules
14 relating to the line of authority for which the
15 license is held; and];
- 16 (B) [~~Eighteen~~] Eleven credit hours [~~shall relate~~]
17 relating to paragraph (1) (B) [of which two hours
18 shall relate to the insurance laws and the rules
19 relating to the line of authority for which the
20 license is held.]; and

1 (C) Three credit hours relating to ethics training or
2 relating to the insurance laws and the insurance
3 rules.

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

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

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

20 Every filing shall:

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

- 1 ~~(2)~~ (1) State its proposed effective date;
- 2 ~~(3)~~ (2) Indicate the character and extent of the coverage
- 3 contemplated; ~~and~~
- 4 ~~(4)~~ (3) Include a report on investment income~~[-]~~; and
- 5 (4) Be accompanied by a \$50 fee payable to the
- 6 commissioner, which fee shall be deposited in the
- 7 commissioner's education and training fund.
- 8 ~~[(b) Each filing shall be accompanied by a \$50 fee payable~~
- 9 ~~to the commissioner, which fee shall be deposited in the~~
- 10 ~~commissioner's education and training fund.]~~
- 11 (b) An insurer shall submit to the commissioner:
- 12 (1) An electronic version of the filing. The commissioner
- 13 may request that a printed version of the electronic
- 14 filing also be submitted; or
- 15 (2) Two printed versions of the filing."

16 SECTION 11. Section 431:14-105, Hawaii Revised Statutes,

17 is amended to read as follows:

18 "**§431:14-105 Policy revisions that alter coverage.** (a)

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

20 filed with the commissioner~~[, consist of two printed copies and~~

21 ~~one copy by electronic, telephonic, or optical means,]~~ and

22 include an analysis of the impact of each revision on rates.

1 (b) A filing shall consist of either:
2 (1) An electronic version of the filing. The commissioner
3 may request that a printed version of the electronic
4 filing also be submitted; or
5 (2) Two printed versions of the filing.
6 (c) After review by the commissioner, the commissioner
7 shall determine whether a rate filing for the policy revision
8 [~~must be submitted in accordance with~~] is required under section
9 431:14-104."

10 SECTION 12. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 13. This Act shall take effect on July 1, 2009.

Report Title:

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

Description:

Makes numerous updates to the Insurance Code. Clarifies allowable insurer investments to meet capital and reserve requirements. Sets a time limit for insurers to claim the Retaliatory Tax Credit. Limits the issuance of surplus lines broker licenses to certain insurance lines of authority. Allows a limited adjuster license for crop insurance claims. Amends the continuing education credit hours required for insurance produce license renewals. Makes printed form filings optional for insurance rate filings in accordance with state plans to begin accepting electronic rate filings and payments for all lines of insurance. Effective 07/01/2020. (SD1)