
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new section to article III to be
3 appropriately designated and to read as follows:

4 "§431:3- Statement of actuarial opinion; property and
5 casualty insurance; confidentiality. (a) The statement of
6 actuarial opinion shall be provided with the annual statement in
7 accordance with the property and casualty annual statement
8 instruction as adopted by the National Association of Insurance
9 Commissioners and shall be treated as a public document.

10 (b) Documents, materials, or other information related to
11 or provided in connection with an actuarial report, working
12 papers, actuarial opinion summary that are in possession or
13 control of the commissioner shall be confidential by law and
14 privileged, shall not be made public, subject to subpoena or
15 discovery, and shall not be admissible as evidence in any
16 private civil action; provided that:

17 (1) The commissioner may release the documents to the
18 Actuarial Board for Counseling and Discipline or its



1 successor to the extent that the material is required
2 for the purpose of professional disciplinary
3 proceedings and that the Actuarial Board for
4 Counseling and Discipline or its successor establishes
5 procedures satisfactory to the commissioner for
6 preserving the confidentiality of the documents;

7 (2) This section shall not be construed to limit the
8 commissioner's authority to use the documents,
9 materials, or other information in furtherance of any
10 regulatory or legal action brought as part of the
11 commissioner's official duties; and

12 (3) Neither the commissioner nor any person who received
13 documents, materials, or other information while
14 acting under the authority of the commissioner shall
15 be permitted or required to testify in any private
16 civil action concerning any confidential documents,
17 materials, or information subject to subsection (b).

18 (c) The commissioner may share documents, materials, or
19 other information, including the confidential and privileged
20 documents, materials, or information subject to subsections (a)
21 and (b), with other state, federal, and international regulatory
22 agencies, with the National Association of Insurance

1 Commissioners and its affiliates and subsidiaries, and with
2 state, federal, and international law enforcement authorities;
3 provided that the recipient agrees to maintain the
4 confidentiality and privileged status of the document, material,
5 or other information and has the legal authority to do so.

6 (d) The commissioner may receive documents, materials, or
7 information, including otherwise confidential and privileged
8 documents, materials, or information, from the National
9 Association of Insurance Commissioners and its affiliates and
10 subsidiaries, and from regulatory and law enforcement officials
11 of other foreign or domestic jurisdictions. The commissioner
12 shall maintain as confidential or privileged, subject to
13 subsection (b) (3), any document, material, or information
14 received with notice or the understanding that it is
15 confidential or privileged under the laws of the jurisdiction
16 that is the source of the document, material, or information.

17 (e) The commissioner may enter into agreements governing
18 sharing and use of information consistent with subsections (b)
19 (c), and (d).

20 (f) No waiver of any applicable privilege or claim of
21 confidentiality in the documents, materials, or information
22 subject to this section shall occur as a result of disclosure to



1 the commissioner under this section or as a result of sharing as
2 authorized in subsections (b), (c), and (d)."

3 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
4 amended by adding to part II of article 9 a new section to be
5 appropriately designated and to read as follows:

6 "431:9- Reporting of actions. (a) A licensee shall
7 report in writing to the commissioner any civil or
8 administrative action taken against the licensee in any
9 jurisdiction or by any governmental agency in the United States
10 within thirty days of the final disposition of the matter.

11 (b) Within thirty days of arraignment, a licensee shall
12 report in writing to the commissioner any criminal prosecution
13 of the licensee being taken in any jurisdiction.

14 (c) A report pursuant to this section shall include a copy
15 of the initial complaint or indictment and any and all other
16 relevant legal documents."

17 SECTION 3. Section 431:2-208, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) An insurer or licensee shall issue a written response
20 with reasonable promptness, in no case more than fifteen working
21 days, to any written inquiry made by the commissioner [~~regarding~~
22 ~~a claim or consumer complaint~~]. The response shall be more than



1 an acknowledgment that the commissioner's communication has been
2 received, and shall adequately address the concerns stated in
3 the communication."

4 SECTION 4. Section 431:4F-103, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) An alien insurer may use this State as a state of
7 entry to transact insurance in the United States through a
8 United States branch by:

- 9 (1) Qualifying as an insurer licensed to do business in
10 this State; and
11 (2) Establishing [~~a~~] trust [~~account~~] accounts, pursuant
12 to [~~a~~] trust [~~agreement~~] agreements approved by the
13 commissioner with a United States financial
14 institution approved by the commissioner, in an amount
15 at least equal to the minimum capital and surplus or
16 authorized control level risk-based capital, whichever
17 is greater, required to be maintained by a domestic
18 insurer licensed [~~to do~~] for the same kind of
19 insurance."

20 SECTION 5. Section 431:9-203, Hawaii Revised Statutes, is
21 amended by amending subsection (d) to read as follows:



1 "(d) As used in this section, "change of status" includes
 2 but shall not be limited to change of legal name, assumed name,
 3 trade name, business address, home address, mailing address,
 4 business phone number, business fax number, business electronic
 5 mail address, business website address, or home phone number."

6 SECTION 6. Section 431:9-222.5, Hawaii Revised Statutes,
 7 is amended by amending subsection (a) to read as follows:

8 "(a) The commissioner may issue a limited license to an
 9 adjuster who only adjusts either workers' compensation or crop
 10 insurance claims; provided that the adjuster:

- 11 (1) Is domiciled in the State of Hawaii, or in a state
 12 that permits residents of the State of Hawaii to act
 13 as adjusters in that other state;
- 14 (2) Has had experience, special education, or training in
 15 handling loss claims under workers' compensation or
 16 crop insurance contracts of sufficiently reasonable
 17 duration and extent to enable an individual to fulfill
 18 the responsibilities of an adjuster;
- 19 (3) Has a passing grade on the workers' compensation or
 20 crop insurance examination pursuant to section 431:9-
 21 206; and
- 22 (4) Pays the applicable fees[-] i



1 provided that any applicant who has successfully passed an
2 examination approved by the federal Risk Management Agency shall
3 be exempt from the requirement in paragraph (3)."

4 SECTION 7. Section 431:9-228, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) The licensee shall [~~promptly~~] notify the commissioner
7 of any change of business address[~~-~~] within thirty days of the
8 change."

9 SECTION 8. Section 431:9A-107, Hawaii Revised Statutes, is
10 amended by amending subsection (f) to read as follows:

11 "(f) A licensee shall:

12 (1) Inform the commissioner by any means acceptable to the
13 commissioner of any change of status within thirty
14 days of the change; and

15 (2) Report any change of status to the business
16 registration division if the licensee is a business
17 entity registered with the department of commerce and
18 consumer affairs pursuant to title 23 or title 23A, or
19 if the licensee has registered a trade name pursuant
20 to part I of chapter 482.



1 Failure to timely inform the commissioner or the business
2 registration division of a change of status may result in a
3 penalty pursuant to section 431:2-203.

4 As used in this subsection, "change of status" includes but
5 shall not be limited to change of legal name, assumed name,
6 trade name, business address, home address, mailing address,
7 business phone number, business fax number, business electronic
8 mail address, or business website address."

9 SECTION 9. Section 431:9A-122, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) The licensee shall [~~promptly~~] notify the commissioner
12 [~~in writing~~] of any change of business address[~~-~~] within thirty
13 days of the change."

14 SECTION 10. Section 431:9C-101, Hawaii Revised Statutes,
15 is amended by adding a new definition to be appropriately
16 inserted and to read as follows:

17 ""Producer" has the same meaning as in section 431:11A-
18 101."

19 SECTION 11. Section 431:9C-102, Hawaii Revised Statutes,
20 is amended to read as follows:

21 "**§431:9C-102 Licensure.** (a) No person, firm,
22 association, or corporation shall act as a managing general



1 agent, with respect to risks located in this State for an
2 insurer licensed in this State, unless licensed as a producer in
3 this State.

4 (b) No person, firm, association, or corporation shall act
5 as a managing general agent [7] representing an insurer domiciled
6 in this State with respect to risks located outside this
7 State [7] unless licensed as a producer in this State.

8 ~~[(e) The commissioner shall require the managing general
9 agent to furnish a bond in an amount equal to \$100,000 or ten
10 per cent of annual gross direct written premiums, whichever is
11 greater, with an insurance company licensed to do business
12 within the State or with an insurance company approved by the
13 commissioner, for the protection of the insurer. Each managing
14 general agent shall provide the commissioner with:~~

- 15 ~~(1) Proof of the bond at the time of the initial
16 application for licensure;~~
- 17 ~~(2) Appropriate documentation at the time of each renewal
18 to show that the bond continues to be in effect or
19 that a new bond has been secured; and~~
- 20 ~~(3) Any other report required by the commissioner.~~

21 ~~(d) The commissioner shall require the managing general
22 agent to maintain an errors and omissions policy in an amount~~



1 ~~equal to \$1,000,000 or twenty five per cent of annual gross~~
2 ~~direct written premiums, whichever is greater, with an insurance~~
3 ~~company licensed to do business within the State or an insurance~~
4 ~~company approved by the commissioner. Each managing general~~
5 ~~agent shall provide the commissioner with:~~

- 6 ~~(1) Proof of the policy at the time of the initial~~
7 ~~application for licensure;~~
- 8 ~~(2) Appropriate documentation at the time of each renewal~~
9 ~~to show that the policy continues to be in effect or~~
10 ~~that a new policy has been secured; and~~
- 11 ~~(3) Any other report required by the commissioner.] "~~

12 SECTION 12. Section 431:9C-103, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "**§431:9C-103 Required contract provisions.** No person,
15 firm, association, or corporation acting as a managing general
16 agent shall place business with an insurer unless there is in
17 force[~~7~~] a written contract between the managing general agent
18 and the insurer which sets forth the responsibilities of each
19 party [~~and~~~~7~~]; where both the managing general agent and the
20 insurer share responsibility for a particular function,
21 specifies the division of those responsibilities[~~7~~] and which
22 contains at least the following additional provisions:

- 1 (1) The insurer may terminate the contract for cause upon
2 written notice to the managing general agent [~~—The~~
3 ~~insurer~~] and may suspend the underwriting authority of
4 the managing general agent during the pendency of any
5 dispute regarding the cause for termination;
- 6 (2) The managing general agent shall render accounts to
7 the insurer detailing all transactions and shall remit
8 all funds due under the contract to the insurer on not
9 less than a monthly basis;
- 10 (3) All funds collected for the account of an insurer
11 shall be held by the managing general agent in a
12 fiduciary capacity and shall be deposited in an
13 account in a bank which is a member of the Federal
14 Reserve System. This account shall be used for all
15 payments on behalf of the insurer by the managing
16 general agent. The managing general agent may retain
17 no more than three months estimated claims payments
18 and allocated loss adjustment expenses;
- 19 (4) Separate records of business written by the managing
20 general agent shall be maintained in the [~~licensee's~~]
21 managing agent's office. The insurer shall have
22 [~~access to and~~] the right access and to copy all



1 accounts and records of the managing general agent
2 related to the insurer's business in a form usable by
3 the insurer [~~and~~]; the commissioner shall have access
4 to all books, bank accounts, and records of the
5 managing general agent in a form usable to the
6 commissioner. Records shall be in an organized form
7 according to each class of insurance and shall include
8 the following information to the extent it is
9 applicable:

10 (A) A record of each insurance contract procured or
11 issued, together with the names of the insurers
12 and insureds, the amount of premium paid or to be
13 paid, or the basis of the premium or
14 consideration paid or to be paid, and a statement
15 of the subject of the insurance;

16 (B) The names of any other licensees from whom
17 business is accepted and the names of persons to
18 whom commissions or allowances of any kind are
19 promised or paid;

20 (C) A record of each investigation or adjustment
21 undertaken or consummated and a statement of any
22 fee, commission, or other compensation received



1 or to be received by [~~the~~] an adjuster on account
2 of [~~the~~] each investigation or adjustment;

3 (D) A record of each bill reviewed and a statement of
4 any fee, commission, or other compensation
5 received or to be received by the independent
6 bill reviewer on account of the bill reviewed;
7 and

8 (E) Any additional information as shall be customary
9 or as may reasonably be required by the
10 commissioner.

11 This paragraph shall not apply to life or accident and
12 health or sickness insurance if the records required
13 of [~~such~~] that insurance are customarily maintained in
14 the offices of the insurer;

15 (5) The contract may not be assigned in whole or in part
16 by the managing general agent;

17 (6) Appropriate underwriting guidelines including:

18 (A) The maximum annual premium volume;

19 (B) The basis of the rates to be charged;

20 (C) The types of risks which may be written;

21 (D) Maximum limits of liability;

22 (E) Applicable exclusions;



- 1 (F) Territorial limitations;
- 2 (G) Policy cancellation provisions; and
- 3 (H) The maximum policy period.

4 The insurer shall have the right to cancel or nonrenew
5 any policy of insurance subject to the applicable laws
6 and rules concerning the cancellation and nonrenewal
7 of insurance policies;

8 (7) The insurer shall require the managing general agent
9 to obtain and maintain a surety bond for the
10 protection of the insurer. The bond amount shall be
11 \$100,000 or ten per cent of the managing general
12 agent's total nationwide annual written premium for
13 the insurer in the prior calendar year, whichever is
14 greater; provided that the amount of the surety bond
15 shall not exceed \$500,000;

16 (8) The insurer shall require the managing general agent
17 to obtain and maintain an errors and omissions policy
18 in the minimum amount of \$1,000,000;

19 ~~(7)~~ (9) If the contract permits the managing general
20 agent to settle claims on behalf of the insurer:

21 (A) All claims shall be reported to the insurer in a
22 timely manner;



1 (B) A copy of the claim file shall be sent to the
2 insurer [~~at its~~] upon request or as soon as it
3 becomes known that the claim:

- 4 (i) Has the potential to exceed [~~an~~] a threshold
5 amount determined by the commissioner or
6 [~~exceeds the~~] a limit set by the insurer,
7 whichever is less;
- 8 (ii) Involves a coverage dispute;
- 9 (iii) May exceed the managing general agent's
10 claims settlement authority;
- 11 (iv) Is open for more than six months; or
- 12 (v) Is closed by payment of [~~an~~] a threshold
13 amount set by the commissioner or an amount
14 set by the insurer, whichever is less;

15 (C) All claim files shall be the joint property of
16 the insurer and managing general agent. However,
17 upon an order of liquidation of the insurer, the
18 files shall become the sole property of the
19 insurer or its estate; provided that the managing
20 general agent shall have reasonable access to and
21 the right to copy the files on a timely basis;



1 (D) Any settlement authority granted to the managing
2 general agent may be terminated for cause upon
3 the insurer's written notice to the managing
4 general agent or upon the termination of the
5 contract~~[. —The]~~; provided that the insurer may
6 suspend the settlement authority during the
7 pendency of any dispute regarding the cause for
8 termination; and

9 (E) Where electronic claims files are in existence,
10 the contract shall address the timely
11 transmission of the data;

12 ~~[-(8)]~~ (10) If the contract provides for a sharing of
13 interim profits by the managing general agent ~~[7]~~ and
14 the managing general agent has the authority to
15 determine the amount of the interim profits by
16 establishing loss reserves ~~[e]~~, controlling claim
17 payments, or in any other manner, interim profits
18 shall not be paid to the managing general agent until
19 one year after they are earned for property insurance
20 business and five years after they are earned on
21 casualty business and, in any event, not until the



1 profits have been verified through examination
2 pursuant to section 431:9C-105; and

3 ~~[-9-]~~ (11) The managing general agent shall not:

4 (A) Bind reinsurance or retrocessions on behalf of
5 the insurer, except that the managing general
6 agent may bind facultative reinsurance contracts
7 pursuant to obligatory facultative agreements if
8 the contract with the insurer contains
9 reinsurance underwriting guidelines including,
10 for both reinsurance assumed and ceded, a list of
11 reinsurers with whom those automatic agreements
12 are in effect, the coverages and amounts or
13 percentages that may be reinsured, and commission
14 schedules;

15 (B) Commit the insurer to participate in insurance or
16 reinsurance syndicates;

17 (C) Appoint any producer without assuring that the
18 producer is lawfully licensed to transact the
19 type of insurance for which the producer is
20 appointed;

21 (D) Without prior approval of the insurer, pay or
22 commit the insurer to pay a claim over a



1 specified amount, net of reinsurance, which shall
2 not exceed one per cent of the insurer's
3 policyholder's surplus as of December 31 of the
4 last completed calendar year;

5 (E) Collect any payment from a reinsurer or commit
6 the insurer to any claim settlement with a
7 reinsurer without prior approval of the insurer.
8 If prior approval is given, a report shall be
9 promptly forwarded to the insurer;

10 (F) Permit its subagent to serve on the board of
11 directors of the insurer;

12 (G) Employ an individual who is also employed by the
13 insurer [~~also~~]; or

14 (H) Appoint a sub-managing general agent."

15 SECTION 13. Section 431:9C-104, Hawaii Revised Statutes,
16 is amended to read as follows:

17 "[~~§~~431:9C-104~~]~~ **Duties of insurers.** (a) An insurer
18 shall have on file an independent financial examination in a
19 form acceptable to the commissioner of each managing general
20 agent with whom it has done business [~~in a form acceptable to~~
21 ~~the commissioner~~].



1 (b) If a managing general agent establishes loss reserves,
2 the insurer shall annually obtain the opinion of an independent
3 actuary attesting to the adequacy of loss reserves established
4 for losses incurred and outstanding on business produced by the
5 managing general agent. ~~[This is]~~ The opinion required by this
6 subsection shall be in addition to any other required loss
7 reserve certification required by this chapter.

8 (c) The insurer shall conduct at least semiannually an on-
9 site review of the underwriting and claims processing operations
10 of the managing general agent.

11 (d) Binding authority for all reinsurance contracts or
12 participation in insurance or reinsurance syndicates shall rest
13 with an officer of the insurer, who shall not be affiliated with
14 the managing general agent.

15 (e) The insurer shall notify the commissioner in writing
16 within thirty days of entering into or terminating a contract
17 with a managing general agent. ~~[Notices]~~ Notice of the
18 appointment of a managing general agent shall include a
19 statement of the duties ~~[which]~~ that the managing general agent
20 is expected to perform on behalf of the insurer, the lines of
21 insurance for which the managing general agent ~~[is to]~~ shall be



1 authorized to act, and any other information the commissioner
2 may [~~request.~~] require.

3 (f) An insurer shall review its books and records each
4 quarter to determine if any producer [~~, as defined in section~~
5 ~~431:11A-101,~~] has become a managing general agent [~~,-~~] of the
6 insurer. If the insurer determines that a producer has become a
7 managing general agent [~~,-~~] of the insurer, the insurer shall
8 promptly notify the producer and the commissioner [~~of the~~
9 ~~determination~~] and the insurer and producer shall both fully
10 comply with this article within thirty days.

11 (g) An insurer shall not appoint to its board of directors
12 an officer, director, employee, subagent, or controlling
13 shareholder of any of its managing general agents; provided that
14 this subsection shall not apply to relationships governed by
15 article 11.

16 (h) The insurer shall keep the bond and the errors and
17 omissions policy required by section 431:9C-103 on file for
18 review by the commissioner or other applicable regulatory
19 agent."

20 SECTION 14. Section 431:9N-102, Hawaii Revised Statutes,
21 is amended to read as follows:



1 "§[[§431:9N-102]] License denial, nonrenewal,
2 **suspension, or revocation.** In addition to ~~[causes in]~~ the
3 authority granted by section 431:9A-112, the commissioner may
4 deny, place on probation, suspend, revoke, or refuse to issue or
5 renew a bail agent's license and may levy a civil fine or
6 penalty in accordance with articles 2 and 9A, or take any
7 combination of these actions, for any of the following causes:

8 (1) ~~[Failing]~~ Failure to satisfy, pay, or otherwise
9 discharge a bail forfeiture judgment after ~~[having]~~
10 the bail agent's name ~~[placed]~~ is on the board for
11 more than forty-five consecutive days for the same
12 forfeiture;

13 (2) Failure to satisfy, pay, or otherwise discharge a
14 final, nonappealable bail forfeiture judgment within
15 sixty days following notice of entry of judgment;

16 ~~[-(2)-]~~ (3) ~~[Failing]~~ Failure to report, to preserve without
17 use and retain separately, or to return collateral
18 ~~[taken]~~ received as security on any bond to the
19 principal or depositor of the collateral;

20 ~~[-(3)-]~~ (4) ~~[Failing]~~ Failure to pay a final, nonappealable
21 judgment award for failure to return or repay
22 collateral received to secure a bond;



1 [~~4~~] (5) Continuing [~~to execute~~] execution of bail bonds
2 in any court in this State while on the board, where
3 the bail forfeiture judgment that resulted in [~~being~~
4 placed] placement on the board has not been paid,
5 stayed, vacated, exonerated, or otherwise discharged;
6 or

7 [~~5~~] (6) [~~Paying,~~] Payment, directly or indirectly, of any
8 commission, service fee, brokerage, or other valuable
9 consideration to any person selling, soliciting, or
10 negotiating bail within this State unless, at the time
11 the services were performed, the person was [a] duly
12 licensed [~~bail agent~~] for the performance of the
13 services."

14 SECTION 15. Section 431:10-244, Hawaii Revised Statutes,
15 is amended to read as follows:

16 "**§431:10-244 Filing procedure for contracts approved by**
17 **commissioner.** Each insurance contract requiring approval by the
18 commissioner pursuant to this code, section 392-48 [~~and~~], or
19 section 386-124 and each contract certified by the insurer to be
20 in conformity with this code shall be accompanied by a \$20 fee
21 payable to the commissioner, which [~~fee~~] shall be deposited [~~in~~]
22 into the commissioner's education and training fund."



1 SECTION 16. Section 431:10A-105, Hawaii Revised Statutes,
2 is amended to read as follows:

3 **"§431:10A-105 Required provisions.** Except as provided in
4 section 431:10A-107, each policy of accident and health or
5 sickness insurance delivered or issued for delivery to any
6 person in this State shall contain the provisions set forth
7 below. These provisions shall be in the words in which they
8 appear below; provided that the insurer may substitute
9 corresponding provisions of different wording [~~approved by the~~
10 ~~commissioner~~] certified by an officer of the insurer to be in
11 substantial conformance with the wording below that are in each
12 instance not less favorable in any respect to the insured or the
13 beneficiary. The provisions shall be preceded individually by
14 the specified caption, or by [~~such~~] appropriate individual or
15 group captions or subcaptions [~~as the commissioner may approve.~~]
16 that are substantially similar to the specified captions. The
17 provisions required by this section are as follows:

18 (1) "Entire Contract; Changes: This policy, including the
19 endorsements and the attached papers, if any,
20 constitutes the entire contract of insurance. No
21 change in this policy shall be valid until approved by
22 an executive officer of the insurer and unless the



1 approval is endorsed on or attached to this policy.

2 No agent has authority to change this policy or to
3 waive any of its provisions."

4 (2) (A) "Time Limit on Certain Defenses:

5 (i) After three years from the date of issue of
6 this policy no misstatements, except
7 fraudulent misstatements, made by the
8 applicant in the application for this policy
9 shall be used to void this policy or to deny
10 a claim for loss incurred or disability [÷]
11 as defined in the policy[÷] commencing after
12 the expiration of the three-year period.

13 (ii) No claim for loss incurred or disability
14 [÷]as defined in the policy[÷] commencing
15 after three years from the date of issue of
16 this policy shall be reduced or denied on
17 the ground that a disease or physical
18 condition not excluded on the date of loss
19 from coverage by name or specific
20 description effective [~~on the date of loss~~]
21 had existed prior to the effective date of
22 coverage of this policy."



1 (B) The policy provision set forth in subparagraph
2 (A) (i) shall not be construed to affect any legal
3 requirement for avoidance of a policy or denial
4 of a claim during the initial three-year period,
5 nor to limit the application of section 431:10A-
6 106(1) through (4) in the event of misstatement
7 with respect to age [~~e~~], occupation, or other
8 insurance.

9 (C) A policy that the insured has the right to
10 continue in force subject to its terms by the
11 timely payment of premium until at least age
12 fifty or, in the case of a policy issued after
13 age forty-four, for at least five years from its
14 date of issue, may contain in lieu of
15 subparagraph (A) (i) the following provision
16 [+]
17 [-]from which the clause in parentheses may be
18 omitted at the insurer's option[+]:
19 "Incontestable: After this policy has been in
20 force for a period of three years during the
21 lifetime of the insured (excluding any period
during which the insured is disabled), it shall



- 1 become incontestable as to the statements
2 contained in the application."
- 3 (3) (A) "Grace period: A grace period of (insert a
4 number not less than seven for weekly premium
5 policies, ten for monthly premium policies, and
6 thirty-one for all other policies) days will be
7 granted for the payment of each premium falling
8 due after the first premium, during which grace
9 period the policy shall continue in force."
- 10 (B) A policy that contains a cancellation provision
11 may add at the end of the [~~above~~] provision[+] required by paragraph (3) (a): "subject to the
12 right of the insurer to cancel in accordance with
13 the cancellation provision."
- 14 (C) A policy in which the insurer reserves the right
15 to refuse any renewal shall have at the beginning
16 of the [~~above~~] provision[+] required by paragraph
17 (3) (a): "Unless not less than thirty days prior
18 to the premium due date the insurer has delivered
19 to the insured or has mailed to the insured's
20 last address as shown by the records of the
21 insurer written notice of its intention not to
22



1 renew this policy beyond the period for which the
2 premium has been accepted."

3 (4) (A) "Reinstatement: If any renewal premium is not
4 paid within the time granted to the insured for
5 payment, a subsequent acceptance of premium by
6 the insurer or by any agent duly authorized by
7 the insurer to accept the premium, without
8 requiring in connection therewith an application
9 for reinstatement, shall reinstate the policy;
10 provided that if the insurer or agent requires an
11 application for reinstatement and issues a
12 conditional receipt for the premium tendered, the
13 policy shall be reinstated upon approval of the
14 application by the insurer or, lacking approval,
15 upon the forty-fifth day following the date of
16 conditional receipt unless the insurer has
17 previously notified the insured in writing of its
18 disapproval of the application. The reinstated
19 policy shall cover only loss resulting from
20 accidental injury as may be sustained after the
21 date of reinstatement and loss due to sickness as
22 may begin more than ten days after that date. In



1 all other respects the insured and insurer shall
2 have the same rights as they had under the policy
3 immediately before the due date of the defaulted
4 premium, subject to any provisions endorsed
5 hereon or attached hereto in connection with the
6 reinstatement. Any premium accepted in
7 connection with the reinstatement shall be
8 applied to a period for which premium has not
9 been previously paid, but not to any period more
10 than sixty days prior to the date of
11 reinstatement."

12 (B) The last sentence in subparagraph (A) may be
13 omitted from any policy that the insured has the
14 right to continue in force subject to its terms
15 by the timely payment of premiums until at least
16 age fifty or, in the case of a policy issued
17 after age forty-four, for at least five years
18 from its date of issue.

19 (5) (A) "Notice of Claim: Written notice of claim [~~must~~
20 shall be given to the insurer within twenty days
21 after the occurrence or commencement of any loss
22 covered by the policy, or as soon thereafter as



1 is reasonably possible. Notice given by or on
2 behalf of the insured or the beneficiary to the
3 insurer at (insert the location of the office as
4 the insurer may designate for the purpose) or to
5 any authorized agent of the insurer, with
6 information sufficient to identify the insured,
7 shall be deemed notice to the insurer."

8 (B) In a policy providing a loss of time benefit that
9 may be payable for at least two years, an insurer
10 may at its option insert the following between
11 the first and second sentences in subparagraph
12 (A): "Subject to the qualification set forth
13 below, if the insured suffers loss of time on
14 account of disability for which indemnity may be
15 payable for at least two years, the insured
16 shall, at least once in every six months after
17 having given notice of claim, give to the insurer
18 notice of continuance of the disability, except
19 in the event of legal incapacity. The period of
20 six months following any filing of proof by the
21 insured or any payment by the insurer on account
22 of the claim or any denial of liability in whole



1 or in part by the insurer shall be excluded in
2 applying this provision. Delay in giving notice
3 shall not impair the insured's right to any
4 indemnity which would otherwise have accrued
5 during the period of six months preceding the
6 date on which notice is actually given."

7 (6) "Claim Forms: The insurer, upon receipt of a notice
8 of claim, will furnish to the claimant [~~the~~] any
9 forms[~~7~~] that are usually furnished by it for filing
10 proofs of loss. If the forms are not furnished within
11 fifteen days after the giving of notice the claimant
12 shall be deemed to have complied with the requirements
13 of this policy as to proof of loss upon submitting,
14 within the time fixed in the policy for filing proofs
15 of loss, written proof covering the occurrence, the
16 character, and the extent of the loss for which claim
17 is made."

18 (7) "Proofs of Loss: In case of claim for loss for which
19 this policy provides any periodic payment contingent
20 upon continuing loss, written proof of loss must be
21 furnished to the insurer at its office within ninety
22 days after the termination of the period for which the

1 insurer is liable, and in case of claim for any other
2 loss within ninety days after the date of loss.
3 Failure to furnish proof of loss within the time
4 required shall not invalidate nor reduce any claim if
5 it was not reasonably possible to give proof within
6 the time required, provided proof is furnished as soon
7 as reasonably possible and in no event, except [~~is~~]
8 the absence of legal capacity, later than fifteen
9 months from the time proof is otherwise required."

10 (8) "Time of Payment of Claims: Indemnities payable under
11 this policy for any loss other than loss for which
12 this policy provides any periodic payment [~~will~~] shall
13 be paid immediately upon receipt of due written proof
14 of loss. Subject to due written proof of loss, all
15 accrued indemnities for loss for which this policy
16 provides periodic payment [~~will~~] shall be paid (insert
17 period for payment which must not be less frequently
18 than monthly) and any balance remaining unpaid upon
19 the termination of liability [~~will~~] shall be paid
20 immediately upon receipt of due written proof."

21 (9) (A) "Payment of Claims: Indemnity for loss of life
22 [~~will~~] shall be payable in accordance with the



1 beneficiary designation and the provisions
2 respecting payment which may be prescribed herein
3 and effective at the time of payment. If no
4 designation or provision is then effective, the
5 indemnity shall be payable to the estate of the
6 insured. Any other accrued indemnities unpaid at
7 the insured's death may, at the option of the
8 insurer, be paid either to the designated
9 beneficiary or to the estate of the insured. All
10 other indemnities [~~will~~] shall be payable to the
11 insured."

12 (B) [~~The~~] Either or both of the following
13 provisions [~~, or either of them,~~] may be included
14 with the provision set forth in subparagraph (A)
15 at the option of the insurer:

16 (i) "If any indemnity of this policy shall be
17 payable to the estate of the insured, or to
18 an insured or beneficiary who is a minor or
19 otherwise not competent to give a valid
20 release, the insurer may pay the indemnity,
21 up to an amount not exceeding \$2,000 to any
22 relative by blood or connection by marriage



1 of the insured or beneficiary who is deemed
2 by the insurer to be equitably entitled
3 thereto. Any payment made by the insurer in
4 good faith pursuant to this provision shall
5 fully discharge the insurer to the extent of
6 the payment."

7 (ii) "Subject to any written direction of the
8 insured in the application or otherwise all
9 or a portion of any indemnities provided by
10 this policy on account of hospital, nursing,
11 medical, or surgical services may, at the
12 insurer's option and unless the insured
13 requests otherwise in writing not later than
14 the time of filing proofs of loss, be paid
15 directly to the hospital or person rendering
16 the services; but it is not required that
17 the service be rendered by a particular
18 hospital or person."

19 (10) "Physical Examinations and Autopsy: The insurer at
20 its own expense shall have the right and opportunity
21 to examine the person of the insured when and as often
22 as it may reasonably require during the pendency of a



1 claim hereunder and to make an autopsy in case of
2 death where it is not forbidden by law."

3 (11) "Legal Actions: No action at law or in equity shall
4 be brought to recover on this policy prior to the
5 expiration of sixty days after written proof of loss
6 has been furnished in accordance with the requirements
7 of this policy. No action at law or in equity shall
8 be brought after the expiration of three years after
9 the time written proof of loss is required to be
10 furnished."

11 (12) (A) "Change of Beneficiary: Unless the insured makes
12 an irrevocable designation of beneficiary, the
13 right to change ~~[of]~~ the beneficiary is reserved
14 to the insured and the consent of the beneficiary
15 or beneficiaries shall not be requisite to
16 surrender or assignment of this policy or to any
17 change of beneficiary or beneficiaries, or to any
18 other changes in this policy."

19 (B) The first clause of subparagraph (A), relating to
20 the irrevocable designation of beneficiary, may
21 be omitted at the insurer's option."



1 SECTION 17. Section 431:10A-106, Hawaii Revised Statutes,
2 is amended to read as follows:

3 **"§431:10A-106 Optional provisions.** Except as provided in
4 section 431:10A-107, no policy of accident and health or
5 sickness insurance delivered or issued for delivery to any
6 person in this State shall contain the provisions set forth
7 below unless the provisions are in the words in which they
8 appear below; provided that the insurer may substitute
9 corresponding provisions of different wording [~~approved by the~~
10 ~~commissioner~~] certified by an officer of the insurer to be in
11 substantial conformance with the wording below that are in each
12 instance not less favorable in any respect to the insured or the
13 beneficiary. [~~Such~~] The provisions listed in this section are
14 optional provisions. Any [~~such provision~~] of the following
15 provisions contained in the policy shall be preceded
16 individually by the specified caption or, at the option of the
17 insurer, by [~~such~~] appropriate individual or group captions or
18 subcaptions [~~as the commissioner may approve.~~] substantially
19 similar to the specified caption. The provisions are as
20 follows:

21 (1) "Change of Occupation: If the insured is injured or
22 contracts sickness after having changed occupations to



1 one classified by the insurer as more hazardous than
2 that stated in this policy or while doing for
3 compensation anything pertaining to an occupation so
4 classified, the insurer will pay only [~~such~~] the
5 portion of the indemnities provided in this policy
6 [~~as~~] that the premium paid would have purchased at the
7 rates and within the limits fixed by the insurer for
8 the more hazardous occupation. If the insured's
9 occupation changes to one classified by the insurer as
10 less hazardous than that stated in this policy, the
11 insurer, upon receipt of proof of [~~such~~] the change of
12 occupation, will reduce the premium rate accordingly,
13 and will return the excess pro rata unearned premium
14 from the date of change of occupation or from the
15 policy anniversary date immediately preceding receipt
16 of such proof, whichever is [~~the~~] more recent. In
17 applying this provision, the classification of
18 occupational risk and the premium shall be [~~such~~]
19 those as have been last filed by the insurer prior to
20 the occurrence of the loss for which the insurer is
21 liable or prior to date of proof of change in
22 occupation with the state official having supervision



1 of insurance in the state where the insured resided at
2 the time this policy was issued; but if [~~such~~] a
3 filing was not required, then the classification of
4 occupational risk and the premium rates shall be those
5 last made effective by the insurer in [~~such~~] the state
6 where the insured resided prior to the occurrence of
7 the loss or prior to the date of proof of change in
8 occupation."

9 (2) "Misstatement of Age: If the age of the insured has
10 been misstated, all amounts payable under this policy
11 shall be such as the premium paid would have purchased
12 at the insured's correct age."

13 (3) Other insurance in this insurer shall be in one of the
14 following forms:

15 (A) "Other Insurance in This Insurer: If an accident
16 and health or sickness policy or policies
17 previously issued by the insurer to the insured
18 [~~be~~] concurrently in force [~~concurrently~~
19 ~~herewith~~], making the aggregate indemnity for
20 (insert type of coverage or coverages) in excess
21 of \$ (insert maximum limit of indemnity or
22 indemnities) the excess insurance shall be void



1 and all premiums paid for [~~such~~] the excess shall
2 be returned to the insured or to the insured's
3 estate."; or

4 (B) "Other Insurance in This Insurer: Insurance
5 effective at any one time on the insured under a
6 like policy or policies in this insurer is
7 limited to the one [~~such~~] policy elected by the
8 insured, the insured's beneficiary, or the
9 insured's estate, as the case may be, and the
10 insurer [~~will~~] shall return all premiums paid for
11 all other [~~such~~] policies."

12 (4) Insurance with other insurers. Either or both of the
13 following forms shall be used:

14 (A) (i) "Insurance with Other Insurers: If there be
15 other valid coverage, not with this insurer,
16 providing benefits for the same loss on a
17 provision of service basis or on an expense
18 incurred basis and of which this insurer has
19 not been given written notice prior to the
20 occurrence or commencement of loss, the only
21 liability under any expense incurred
22 coverage of this policy shall be for [~~such~~]



1 the proportion of the loss [~~as the amount~~
2 ~~which~~] that would otherwise have been
3 payable [~~hereunder~~] plus the total of the
4 like amounts under all [~~such~~] the other
5 valid coverages for the same loss of which
6 this insurer had notice bears to the total
7 like amounts under all valid coverages for
8 [~~such~~] the loss, and for the return of
9 [~~such~~] the portion of the premiums paid as
10 shall exceed the pro rata portion for the
11 amount so determined. For the purpose of
12 applying this provision when other coverage
13 is on a provision of service basis, the like
14 amount of [~~such~~] other coverage shall be
15 taken as the amount which the services
16 rendered would have cost in the absence of
17 [~~such~~] the other coverage."

18 (ii) "Insurance with Other Insurers: If there be
19 other valid coverage, not with this insurer,
20 providing benefits for the same loss on
21 other than an expense incurred basis and of
22 which this insurer has not been given



1 written notice prior to the occurrence or
2 commencement of loss, the only liability for
3 [such] benefits under this policy shall be
4 for [such] the proportion of the indemnities
5 otherwise provided hereunder for [such] a
6 loss as the like indemnities of which the
7 insurer had notice (including the
8 indemnities under this policy) bear to the
9 total amount of all the indemnities for
10 [such] the loss, and for the return of
11 [such] the portion of the premium paid as
12 shall exceed the pro rata portion for the
13 indemnities thus determined."

14 (B) If the provision set forth in subparagraph (A) (i)
15 is included in a policy that also contains the
16 provision set forth in subparagraph (A) (ii),
17 there shall be added to the caption of the
18 subparagraph (A) (i) provision the phrase,
19 "expense incurred benefits".

20 (C) The insurer may, at its option, include in the
21 provision set forth in subparagraph (A) (i) a
22 definition of other valid coverage, approved as



1 to form by the commissioner, which [definition]
2 shall be limited in subject matter to coverage
3 provided by organizations subject to regulation
4 by insurance law or by insurance authorities of
5 this State or any other state or territory of the
6 United States or any province of Canada, and by
7 hospital or medical service organizations, and to
8 any other coverage the inclusion of which may be
9 approved by the commissioner. In the absence of
10 [such] a definition the term shall not include
11 group insurance, automobile medical payment
12 insurance, or coverage provided by hospital or
13 medical service organizations, union welfare
14 plans, or employer or employee benefit
15 organizations. For the purpose of applying the
16 provision set forth in subparagraph (A) (i) with
17 respect to any insured, any amount of benefit
18 provided for [such] an insured pursuant to any
19 compulsory benefit statute (including any
20 workers' compensation or employers' liability
21 statute), whether provided by a governmental
22 agency or otherwise, shall in all cases be deemed



1 to be other valid coverage of which the insurer
2 has had notice. In applying the provision set
3 forth in subparagraph (A) (i), no third party
4 liability coverage shall be included as other
5 valid coverage.

6 (D) If the provision set forth in subparagraph
7 (A) (ii) is included in a policy that also
8 contains the provision set forth in subparagraph
9 (A) (i), there shall be added to the caption of
10 the subparagraph (A) (ii) provision the phrase,
11 "other benefits".

12 (E) The insurer may, at its option, include in the
13 provision set forth in subparagraph (A) (ii) a
14 definition of other valid coverage, approved as
15 to form by the commissioner, which [~~definition~~]
16 shall be limited in subject matter to coverage
17 provided by organizations subject to regulation
18 by insurance law or by insurance authorities of
19 this State or any other state or territory of the
20 United States or any province of Canada, and to
21 any other coverage the inclusion of which may be
22 approved by the commissioner. In the absence of



1 [~~such~~] a definition the term shall not include
2 group insurance, or benefits provided by union
3 welfare plans or employer or employee benefit
4 organizations. For the purpose of applying the
5 provision set forth in subparagraph (A) (ii) with
6 respect to any insured, any amount of benefit
7 provided for [~~such~~] an insured pursuant to any
8 compulsory benefit statute [~~+~~]including any
9 workers' compensation or employers' liability
10 statute[~~+~~], whether provided by a governmental
11 agency or otherwise, shall in all cases be deemed
12 to be other valid coverage of which the insurer
13 has had notice. In applying the provision set
14 forth in subparagraph (A) (ii), no third party
15 liability coverage shall be included as other
16 valid coverage.

- 17 (5) (A) "Relation of Earnings to Insurance: If the total
18 monthly amount of loss of time benefits promised
19 for the same loss under all valid loss of time
20 coverage upon the insured, whether payable on a
21 weekly or monthly basis, [~~shall exceed~~] exceeds
22 the monthly earnings of the insured at the time



1 disability commenced or the insured's average
2 monthly earnings for the period of two years
3 immediately preceding a disability for which
4 claim is made, whichever is [~~the~~] greater, the
5 insurer [~~will~~] shall be liable only for [~~such~~]
6 the proportionate amount of [~~such~~] benefits under
7 this policy as the amount of [~~such~~] the monthly
8 earnings or [~~such~~] average monthly earnings of
9 the insured bears to the total amount of monthly
10 benefits for the same loss under all [~~such~~]
11 coverage upon the insured at the time [~~such~~]
12 disability commences and for the return of [~~such~~]
13 the part of the premiums paid during [~~such~~] the
14 two preceeding years as shall exceed the pro rata
15 amount of the premiums for the benefits actually
16 paid hereunder; but this shall not operate to
17 reduce the total monthly amount of benefits
18 payable under all [~~such~~] coverage upon the
19 insured below the sum of \$200 or the sum of the
20 monthly benefits specified in [~~such~~] the
21 coverages, whichever is the lesser, nor shall it



1 operate to reduce benefits other than those
2 payable for loss of time."

3 (B) The policy provision in subparagraph (A) may be
4 inserted only in a policy which the insured has
5 the right to continue in force, subject to its
6 terms by the timely payment of premiums until at
7 least age fifty or, in the case of a policy
8 issued after age forty-four, for at least five
9 years from its date of issue.

10 (C) The insurer may, at its option, include in the
11 provision set forth in subparagraph (A) a
12 definition of valid loss of time coverage
13 approved as to form by the commissioner, which
14 [~~definition~~] shall be limited in subject matter
15 to coverage provided by governmental agencies or
16 by organizations subject to regulation by
17 insurance law or by insurance authorities of this
18 State or any state, district, or territory of the
19 United States or any province of Canada, or to
20 any other coverage the inclusion of which may be
21 approved by the commissioner or any combination
22 of [~~such~~] approved coverages. In the absence of



1 [~~such~~] a definition [~~such~~] the terms shall not
2 include any coverage provided for [~~such~~] an
3 insured pursuant to any compulsory benefit
4 statute [~~+~~]including any workers' compensation or
5 employers' liability statute[~~+~~], or benefits
6 provided by union welfare plans or by employer or
7 employee benefit organizations.

8 (6) "Unpaid Premium: Upon the payment of a claim under
9 this policy, any premium then due and unpaid or
10 covered by any note or written order may be deducted
11 [~~therefrom.~~] from the claim."

12 (7) "Cancellation: The insurer may cancel this policy at
13 any time by written notice delivered to the insured,
14 or mailed to the insured's last address as shown by
15 the records of the insurer[~~, stating~~]. The notice
16 shall state when, not less than five days thereafter,
17 [~~such~~] the cancellation shall be effective[~~, and~~
18 ~~after~~]. After the policy has been continued beyond
19 its original term the insured may cancel this policy
20 at any time by written notice delivered or mailed to
21 the insurer, effective upon receipt or on [~~such~~] a
22 later date [~~as may be~~] specified in [~~such~~] the notice.



1 In the event of cancellation, the insurer [~~will~~] shall
2 return promptly the unearned portion of any premium
3 paid. If the insured cancels, the earned premium
4 shall be computed by the use of the short-rate table
5 last filed with the state official having supervision
6 of insurance in the state where the insured resided
7 when the policy was issued. If the insurer cancels,
8 the earned premium shall be computed pro rata.
9 Cancellation shall be without prejudice to any claim
10 originating prior to the effective date of
11 cancellation."

12 (8) "Conformity with State Statutes: Any provision of
13 this policy which, on its effective date, is in
14 conflict with the statutes of the state in which the
15 insured resides on [~~such~~] the effective date is hereby
16 amended to conform to the minimum requirements of
17 [~~such~~] the applicable statutes."

18 (9) "Illegal Occupation: The insurer shall not be liable
19 for any loss to which a contributing cause was the
20 insured's commission of or attempt to commit a felony
21 or to which a contributing cause was the insured's
22 being engaged in an illegal occupation."



1 (10) "Intoxicants and Narcotics: The insurer shall not be
2 liable for any loss sustained or contracted in
3 consequence of the insured's being intoxicated or
4 under the influence of any narcotic unless
5 administered on the advice of a physician."

6 SECTION 18. Section 431:10A-107, Hawaii Revised Statutes,
7 is amended to read as follows:

8 **"§431:10A-107 Inapplicable or inconsistent provisions.** If
9 any provision of section 431:10A-105 to section 431:10A-111 is
10 in whole or in part inapplicable to or inconsistent with the
11 coverage provided by a particular form of policy, the insurer[
12 ~~with the approval of the commissioner,~~] shall omit from [such]
13 the policy any inapplicable provision or part of a provision,
14 and shall modify any inconsistent provision or part of the
15 provision [~~in such manner as~~] to make the provision [as]
16 contained in the policy consistent with the coverage provided by
17 the policy. An officer of the insurer shall certify conformity
18 with the requirements of state statutes in accordance with this
19 section."

20 SECTION 19. Section 431:10C-210, Hawaii Revised Statutes,
21 is amended to read as follows:



1 "§431:10C-210 **Publication of premium rates.** The
2 commissioner shall publish annually, in a newspaper of general
3 circulation in the State, notice of availability of a list of
4 all motor vehicle insurers with representative annual premiums
5 for motor vehicle insurance. ~~[In addition, the]~~ The
6 commissioner shall have information on premiums for motor
7 vehicle insurance which shall be available to the public on
8 request."

9 SECTION 20. Section 431:10C-215, Hawaii Revised Statutes,
10 is amended by amending subsection (d) to read as follows:

11 "(d) (1) Each insurer licensed to transact motor vehicle
12 insurance or optional additional insurance business in
13 this State shall provide the commissioner with
14 periodic reports on every aspect of the motor vehicle
15 insurance and the optional additional insurance
16 business the insurer transacts in the State,
17 including, but not limited to, reports on the
18 investment, reserve, reinsurance, loss and profit
19 experience, ratemaking and schedules, claims received
20 and paid; and

21 (2) Each insurer subject to this section shall, not less
22 frequently than quarterly, maintain a report ~~[to the~~



1 ~~commissioner]~~ of the details of each claim received,
2 claim paid, application for and sale of a motor
3 vehicle insurance policy, each termination and renewal
4 refusal notice posted, and each cancellation and
5 refusal to renew effected on both motor vehicle
6 insurance and optional additional insurance policy
7 transactions. The insurer shall make available and
8 submit a report to the commissioner at the
9 commissioner's request."

10 SECTION 21. Section 431:10D-111, Hawaii Revised Statutes,
11 is amended by amending subsection (a) to read as follows:

12 "(a) A life insurer may, under [~~such~~] policy provisions or
13 agreements [~~as have been approved by the commissioner consistent~~
14 ~~with this section~~], contract for and accept premium deposits in
15 addition to the regular premiums specified in the policy, for
16 the purpose of paying future premiums, [~~or~~] to facilitate
17 conversion of the policy, or to increase the benefits [~~thereof.~~]
18 of the policy, according to this section."

19 SECTION 22. Section 431:10D-603, Hawaii Revised Statutes,
20 is amended by amending subsection (c) to read as follows:

21 "(c) If the buyer's guide and disclosure document are not
22 provided at or before the time of application, a free-look



1 period of no less than fifteen days shall be provided for the
2 applicant to return the annuity contract without penalty, which
3 period shall run [~~concurrently~~] consecutively with any other
4 free-look period provided by law."

5 SECTION 23. Section 431:11-101, Hawaii Revised Statutes,
6 is amended by amending subsection (b) to read as follows:

7 "(b) The commissioner may exempt:

8 (1) Any insurer or class of insurers from any provision of
9 this article, when the commissioner deems the
10 exemption consistent with the purposes of this article
11 and in the public interest; or

12 (2) Upon request of the person required to supply
13 information or perform an act, that person from any
14 provision of this article, when the commissioner deems
15 the exception consistent with the purposes of this
16 article and in the public interest."

17 SECTION 24. Section 431:11-106, Hawaii Revised Statutes,
18 is amended by amending subsection (a) to read as follows:

19 "(a) (1) Transactions within a holding company system to
20 which an insurer subject to registration is a party
21 shall be subject to the following standards:

22 (A) The terms shall be fair and reasonable;



- 1 (B) Charges or fees for services performed shall be
2 reasonable;
- 3 (C) Expenses incurred and payment received shall be
4 allocated to the insurer in conformity with
5 customary insurance accounting practices
6 consistently applied;
- 7 (D) The books, accounts, and records of each party to
8 all transactions shall be maintained so as to
9 clearly and accurately disclose the nature and
10 details of the transactions including the
11 accounting information necessary to support the
12 reasonableness of the charges or fees to the
13 respective parties; and
- 14 (E) The insurer's surplus as regards policyholders
15 following any dividends or distributions to
16 shareholder affiliates shall be reasonable in
17 relation to the insurer's outstanding liabilities
18 and adequate to its financial needs.
- 19 (2) The following transactions involving a domestic
20 insurer and any person in its holding company system
21 ~~may~~ shall not be entered into unless the insurer has
22 notified the commissioner in writing of its intention



1 to enter into the transaction at least thirty days
2 prior thereto, or a shorter period as the commissioner
3 may permit, and the commissioner has not disapproved
4 it within that period:

5 (A) Sales, purchases, exchanges, loans [7] or
6 extensions of credit, guarantees, or investments;
7 provided that the transactions are equal to or
8 exceed:

9 (i) With respect to nonlife insurers, the lesser
10 of three per cent of the insurer's admitted
11 assets or twenty-five per cent of surplus as
12 regards policyholders each as of the thirty-
13 first day of December next preceding; or

14 (ii) With respect to life insurers, three per
15 cent of the insurer's admitted assets as of
16 the thirty-first day of December next
17 preceding;

18 (B) Loans or extensions of credit to any person who
19 is not an affiliate, where the insurer makes the
20 loans or extensions of credit with the agreement
21 or understanding that the proceeds of the
22 transactions, in whole or in substantial part,



1 are to be used to make loans or extensions of
2 credit to, to purchase assets of, or to make
3 investments in, any affiliate of the insurer
4 making the loans or extensions of credit;
5 provided that the transactions are equal to or
6 exceed:

7 (i) With respect to nonlife insurers, the lesser
8 of three per cent of the insurer's admitted
9 assets or twenty-five per cent of surplus as
10 regards policyholders each as of the thirty-
11 first day of December next preceding; or

12 (ii) With respect to life insurers, three per
13 cent of the insurer's admitted assets as of
14 the thirty-first day of December next
15 preceding;

16 (C) Reinsurance agreements or modifications thereto
17 in which the reinsurance premium or a change in
18 the insurer's liabilities equals or exceeds five
19 per cent of the insurer's surplus as regards
20 policyholders, as of the thirty-first day of
21 December next preceding, including those
22 agreements which may require as consideration the



1 transfer of assets from an insurer to a
2 nonaffiliate, if an agreement or understanding
3 exists between the insurer and nonaffiliate that
4 any portion of the assets will be transferred to
5 one or more affiliates of the insurer;

6 (D) All management agreements, service contracts, and
7 all cost-sharing arrangements; and

8 (E) Any material transactions, specified by rule,
9 which the commissioner determines may adversely
10 affect the interests of the insurer's
11 policyholders.

12 Nothing in this section shall be deemed to authorize
13 or permit any transactions which, in the case of an
14 insurer not a member of the same holding company
15 system, would be otherwise contrary to law.

16 (3) A domestic insurer may not enter into transactions [7]
17 which are part of a plan or series of like
18 transactions with persons within the holding company
19 system [7] if the purpose of those separate
20 transactions is to avoid the statutory threshold
21 amount and thus avoid the review that would otherwise
22 occur. If the commissioner determines that the



1 separate transactions were entered into over any
2 twelve-month period for that purpose, the commissioner
3 may exercise the commissioner's authority under
4 section 431:11-111.

5 (4) The commissioner, in reviewing transactions pursuant
6 to subsection (a) (2), shall consider whether the
7 transactions comply with the standards set forth in
8 subsection (a) (1) and whether they may adversely
9 affect the interests of policyholders.

10 (5) The commissioner shall be notified within thirty days
11 of any investment of the domestic insurer in any one
12 ~~[corporation]~~ person if the total investment in the
13 ~~[corporation]~~ person by the insurance holding company
14 system exceeds ten per cent of the corporation's
15 voting securities."

16 SECTION 25. Section 431:13-103, Hawaii Revised Statutes,
17 is amended by amending subsection (f) to read as follows:

18 "(f) An insurer or licensee shall issue a written response
19 with reasonable promptness, in no case more than fifteen working
20 days, to any written inquiry made by the commissioner ~~[regarding~~
21 ~~a claim or consumer complaint]~~. The response shall be more than
22 an acknowledgment that the commissioner's communication has been



1 received, and shall adequately address the concerns stated in
2 the communication."

3 SECTION 26. Section 431:19-107, Hawaii Revised Statutes,
4 is amended by amending subsection (b) to read as follows:

5 "(b) Each class 3 captive insurance company shall annually
6 file with the commissioner the following:

7 (1) Annual statement and audit:

8 (A) On or before March 1, or such day subsequent
9 thereto as the commissioner upon request and for
10 cause may specify, an annual statement using the
11 National Association of Insurance Commissioners'
12 annual statement blank plus any additional
13 information required by the commissioner, which
14 shall be a true statement of its financial
15 condition, transactions, and affairs as of the
16 immediately preceding December 31. The reported
17 information shall be verified by oaths of at
18 least two of the captive's principal officers;

19 (B) On or before June 1, or such day subsequent
20 thereto as the commissioner upon request and for
21 cause may specify, an audit by a designated
22 independent certified public accountant or



1 accounting firm of the financial statements
2 reporting the financial condition and results of
3 the operation of the captive; and

4 (C) The annual statement and audit shall be prepared
5 in accordance with the National Association of
6 Insurance Commissioners' annual statement
7 instructions, accounting practices and procedures
8 manual, and rules adopted by the commissioner
9 following the [~~practice~~] practices and procedures
10 prescribed by the National Association of
11 Insurance [~~Commissioners' practices and~~
12 ~~procedures manuals;~~] Commissioners; and

13 (2) On or before each March 1, or such day subsequent
14 thereto as the commissioner upon request and for cause
15 may specify, a risk-based capital report in accordance
16 with section 431:3-402; provided that a class 3
17 association captive insurance company shall not be
18 required to file risk-based capital reports with the
19 National Association of Insurance Commissioners."

20 SECTION 27. Section 431:19-109, Hawaii Revised Statutes,
21 is amended by amending subsection (a) to read as follows:



1 "(a) The certificate of authority of a captive insurance
2 company to do business in this State may be suspended or revoked
3 by the commissioner for any of the following reasons:

- 4 (1) Insolvency or impairment of capital or surplus;
- 5 (2) Failure to meet the requirements of section 431:19-104
6 ~~[or section 431:19-105]~~;
- 7 (3) Refusal or failure to submit an annual report, as
8 required by section 431:19-107 or any other report or
9 statement required by law or by lawful order of the
10 commissioner;
- 11 (4) Failure to comply with the provisions of its own
12 articles of incorporation, articles of association, or
13 bylaws;
- 14 (5) Failure to submit to examination or any legal
15 obligation relative thereto, as required by section
16 431:19-108;
- 17 (6) Refusal or failure to pay the cost of examination as
18 required by section 431:19-108;
- 19 (7) Use of methods that, although not otherwise
20 specifically prohibited by law, nevertheless render
21 its operation detrimental or its condition unsound
22 with respect to the public or to its policyholders;



1 (8) Failure to maintain actuarially appropriate loss
 2 reserves as determined by the commissioner; provided
 3 that the commissioner shall issue at least one warning
 4 to the captive insurance company to correct the
 5 problem prior to suspending or revoking the
 6 certificate of authority; and

7 (9) Failure otherwise to comply with the laws of this
 8 State."

9 SECTION 28. Section 431:30-102, Hawaii Revised Statutes,
 10 is amended by amending the definition of "member" to read as
 11 follows:

12 ""Member" means the [~~person chosen by~~] commissioner of a
 13 compacting state, as its representative to the commission, or
 14 the [~~person's~~] commissioner's designee."

15 SECTION 29. Section 431:30-112, Hawaii Revised Statutes,
 16 is amended by amending subsection (d) to read as follows:

17 "(d) A compacting state may opt out of a uniform standard,
 18 either by legislation or by rule adopted by the insurance
 19 commissioner. If a compacting state elects to opt out of a
 20 uniform standard by rule, it shall:

21 (1) Give written notice to the commission no later than
 22 ten business days after the later of the adoption of



1 the uniform standard or the state becoming a
2 compacting state; [and]

3 (2) Find that the uniform standard does not provide
4 reasonable protections to the citizens of the state,
5 given the conditions in the state. The commissioner
6 shall make specific findings of fact and conclusions
7 of law, based on a preponderance of the evidence,
8 detailing the conditions in the state that warrant a
9 departure from the uniform standard and determining
10 that the uniform standard would not reasonably protect
11 the citizens of the state. The commissioner shall
12 consider and balance the following factors and find
13 that the conditions in the state and needs of the
14 citizens of the state outweigh:

15 (A) The intent of the legislature to participate in,
16 and reap the benefits of, an interstate agreement
17 to establish national uniform consumer
18 protections for the products subject to this
19 ~~[Act]~~ article; and

20 (B) The presumption that a uniform standard adopted
21 by the commission provides reasonable protections
22 to consumers of the relevant product.



1 Notwithstanding the foregoing, a compacting state may,
2 at the time of its enactment of this compact,
3 prospectively opt out of all uniform standards
4 involving long-term care insurance products by
5 expressly providing for such opt out in the enacted
6 compact, and such an opt out shall not be treated as a
7 material variance in the offer or acceptance of any
8 state to participate in this compact. [~~Such an~~] An
9 opt out pursuant to this section shall be effective at
10 the time of enactment of this compact by the
11 compacting state and shall apply to all existing
12 uniform standards involving long-term care insurance
13 products and those subsequently adopted~~[.]~~; and

14 (3) In accordance with the provisions of paragraph (2),
15 this State does prospectively opt out of all uniform
16 standards involving long-term care insurance products
17 promulgated by the commission, as this State has
18 previously enacted article 10H providing additional
19 standards for federal conformity and universal
20 availability for reciprocal beneficiary and multi-
21 generation populace which facilitates flexibility and



1 innovation in the development of long-term care
2 insurance coverage."

3 SECTION 30. Section 432:1-404, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Each society shall file with the commissioner
6 annually, on or before March 1 in each year, a statement under
7 oath, and in such form and detail as the commissioner shall
8 prescribe; provided that any association or society organized
9 and operating as a nonprofit medical indemnity or hospital
10 service association shall file a report with the commissioner
11 covering the preceding calendar year and verified by at least
12 two principal officers. Each mutual benefit society shall file
13 quarterly with the commissioner, on or before the forty-fifth
14 day after each quarter, a copy of its quarterly report verified
15 by at least two principal officers. The report shall comply
16 with sections 431:3-301 and 431:3-302. The commissioner may
17 prescribe the forms on which the report is to be filed.

18 In addition, any association or society organized and
19 operating as a nonprofit medical indemnity or hospital service
20 association annually shall file with the commissioner the
21 following by the dates specified:



1 (1) An audit, by an independent certified public
2 accountant or an accounting firm designated by the
3 association or society, of the financial statements,
4 reporting the financial condition and results of
5 operations of the association or society on or before
6 June 1, or a later date as the commissioner upon
7 request or for cause may specify. The association or
8 society, on an annual basis and prior to the
9 commencement of the audit, shall notify the
10 commissioner in writing of the name and address of the
11 person or firm retained to conduct the annual audit.
12 The commissioner may disapprove the association's or
13 society's designation within fifteen days of receipt
14 of the association's or society's notice, and the
15 association or society shall be required to designate
16 another independent certified public accountant or
17 accounting firm. The audit required ~~[in]~~ by this
18 paragraph shall be prepared in accordance with the
19 National Association of Insurance Commissioners'
20 ~~[annual statement instructions,]~~ accounting practices
21 and procedures manual and rules adopted by the
22 commissioner following the practices and procedures



1 prescribed by the National Association of Insurance
 2 [Commissioners' ~~accounting practices and procedures~~
 3 ~~manuals;~~] Commissioners; and

4 (2) A description of the available grievance procedures,
 5 the total number of grievances handled through those
 6 procedures, a compilation of the causes underlying
 7 those grievances, and a summary of the final
 8 disposition of those grievances on or before March 1."

9 SECTION 31. Section 432D-5, Hawaii Revised Statutes, is
 10 amended by amending subsection (a) to read as follows:

11 "(a) Every health maintenance organization shall file
 12 annually, on or before March 1, a report verified by at least
 13 two principal officers covering the preceding calendar year.
 14 Each health maintenance organization shall file quarterly with
 15 the commissioner, on or before the forty-fifth day after each
 16 quarter, a copy of its quarterly report verified by at least two
 17 principal officers. These reports shall comply with sections
 18 431:3-301 and 431:3-302. The commissioner may prescribe the
 19 forms on which the reports are to be filed. In addition, the
 20 health maintenance organization annually shall file with the
 21 commissioner the following by the dates specified:

1 (1) An audit, by an independent certified public
2 accountant or an accounting firm designated by the
3 health maintenance organization of the financial
4 statements, reporting the financial condition and
5 results of operations of the health maintenance
6 organization on or before June 1, or a later date as
7 the commissioner upon request or for cause may
8 specify. The health maintenance organization, on an
9 annual basis and prior to the commencement of the
10 audit, shall notify the commissioner in writing of the
11 name and address of the person or firm retained to
12 conduct the annual audit. The commissioner may
13 disapprove the health maintenance organization's
14 designation within fifteen days of receipt of the
15 health maintenance organization's notice, and the
16 health maintenance organization shall be required to
17 designate another independent certified public
18 accountant or accounting firm. The audit required
19 ~~[in]~~ by this paragraph shall be prepared in accordance
20 with the National Association of Insurance
21 Commissioners' ~~[annual statement instructions]~~
22 accounting practices and procedures manual and rules



1 adopted by the commissioner following the practices
2 and procedures prescribed by the National Association
3 of Insurance [~~Commissioners' accounting practices and~~
4 ~~procedures manuals,~~] Commissioners;

5 (2) A list of the providers who have executed a contract
6 that complies with section 432D-8(d) on or before
7 March 1; and

8 (3) A description of the available grievance procedures,
9 the total number of grievances handled through those
10 procedures, a compilation of the causes underlying
11 those grievances, and a summary of the final
12 disposition of those grievances on or before March 1."

13 SECTION 32. Section 431:30-105, Hawaii Revised Statutes,
14 is repealed.

15 ~~["§431:30-105] Appointment to commission. The governor,~~
16 ~~with the advice and consent of the senate, shall appoint the~~
17 ~~member of the commission that represents the State."]~~

18 SECTION 33. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 34. This Act shall take effect on July 1, 2050.

21



Report Title:

Insurance Producers; Adjusters; Independent Bill Reviewers;
Managing General Agents; Bail Agents; Port-of-Entry Insurance;
Captive Insurance; Mutual Benefit Societies; Health Maintenance
Organizations; Access to Records; Confidentiality of Documents;
Interstate Insurance Product Regulation Compact

Description:

Modernizes Insurance Code. Effective 7/1/50. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

