

JAN 25 2010

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 amended
2 by adding to part II of article 9 a new section to be
3 appropriately designated and to read as follows:

4 "431:9- Reporting of actions. (a) A licensee shall
5 report to the commissioner any civil or administrative action
6 taken against the licensee in any jurisdiction or by a
7 governmental agency in the United States within thirty days of
8 the final disposition of the matter.

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

12 (c) The report shall include a copy of the initial
13 complaint or indictment filed and any and all other relevant
14 legal documents."

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

17 "(c) An insurer or licensee shall issue a written response
18 with reasonable promptness, in no case more than fifteen working

1 days, to any written inquiry made by the commissioner [~~regarding~~
2 ~~a claim or consumer complaint~~]. The response shall be more than
3 an acknowledgment that the commissioner's communication has been
4 received, and shall adequately address the concerns stated in
5 the communication."

6 SECTION 3. Section 431:3-304, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§431:3-304 Confidentiality.** (a) All financial analysis
9 ratios and examination synopses concerning insurance companies
10 that are submitted to the insurance division by the National
11 Association of Insurance Commissioners' Insurance Regulatory
12 Information System are confidential and may not be disclosed by
13 the insurance division.

14 (b) Documents, materials, or other information in the
15 possession or control of the commissioner that are considered to
16 be related to an actuarial report, working papers, or actuarial
17 opinion summary provided in support of the statement of
18 actuarial opinion and any other material provided by the insurer
19 to the commissioner in connection with the actuarial report,
20 working papers, or actuarial opinion summary, shall be
21 confidential by law and privileged, shall not be subject to
22 chapter 92F, shall not be subject to subpoena, and shall not be

1 subject to discovery or admissible as evidence in any private
2 civil action.

3 (1) The commissioner may release the documents to the
4 Actuarial Board for Counseling and Discipline or its
5 successor so long as the material is required for the
6 purpose of professional disciplinary proceedings and
7 that the Actuarial Board for Counseling and Discipline
8 or its successor establishes procedures satisfactory
9 to the commissioner for preserving the confidentiality
10 of the documents. This section shall not be construed
11 to limit the commissioner's authority to use the
12 documents, materials, or other information in
13 furtherance of any regulatory or legal action brought
14 as part of the commissioner's official duties.

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

21 (c) The commissioner may share documents, materials, or
22 other information, including the confidential and privileged

1 documents, materials, or information subject to subsections (a)
2 and (b), with other state, federal, and international regulatory
3 agencies, with the National Association of Insurance
4 Commissioners and its affiliates and subsidiaries, and with
5 state, federal, and international law enforcement authorities;
6 provided that the recipient agrees to maintain the
7 confidentiality and privileged status of the document, material,
8 or other information and has the legal authority to maintain
9 confidentiality.

10 (d) The commissioner may receive documents, materials, or
11 information, including otherwise confidential and privileged
12 documents, materials, or information, from the National
13 Association of Insurance Commissioners and its affiliates and
14 subsidiaries, and from regulatory and law enforcement officials
15 of other foreign or domestic jurisdictions, and shall maintain
16 as confidential or privileged, subject to subsection (b)(2), any
17 document, material, or information received with notice or the
18 understanding that it is confidential or privileged under the
19 laws of the jurisdiction that is the source of the document,
20 material, or information.

1 (e) The commissioner may enter into agreements governing
2 sharing and use of information consistent with subsections (b)
3 (c), and (d).

4 (f) No waiver of any applicable privilege or claim of
5 confidentiality in the documents, materials, or information
6 shall occur as a result of disclosure to the commissioner under
7 this section or as a result of sharing as authorized in
8 subsections (b), (c), and (d)."

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

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

14 (1) Qualifying as an insurer licensed to do business in
15 this State; and

16 (2) Establishing [~~a~~] trust [~~account,~~] accounts, pursuant
17 to [~~a~~] trust [~~agreement~~] agreements approved by the
18 commissioner with a United States financial
19 institution approved by the commissioner, in an amount
20 at least equal to the minimum capital and surplus or
21 authorized control level risk-based capital, whichever

1 is greater, required to be maintained by a domestic
2 insurer licensed to do the same kind of insurance."

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

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

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

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

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

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

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

4 (4) Pays the applicable fees[-];

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

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

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

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

15 "(f) A licensee shall:

16 (1) Inform the commissioner by any means acceptable to the
17 commissioner of any change of status within thirty
18 days of the change; and

19 (2) Report any change of status to the business
20 registration division if the licensee is a business
21 entity registered with the department of commerce and
22 consumer affairs pursuant to title 23 or title 23A, or

1 if the licensee has registered a trade name pursuant
2 to part I of chapter 482.

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

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

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

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

16 SECTION 10. Section 431:9C-102, Hawaii Revised Statutes,
17 is amended to read as follows:

18 "**§431:9C-102 Licensure.** (a) No person, firm,
19 association, or corporation shall act as a managing general
20 agent, with respect to risks located in this State for an
21 insurer licensed in this State, unless licensed as a producer in
22 this State.

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

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

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

18 ~~(d) The commissioner shall require the managing general
19 agent to maintain an errors and omissions policy in an amount
20 equal to \$1,000,000 or twenty five per cent of annual gross
21 direct written premiums, whichever is greater, with an insurance
22 company licensed to do business within the State or an insurance~~

1 ~~company approved by the commissioner. Each managing general~~
2 ~~agent shall provide the commissioner with:~~

3 ~~(1) Proof of the policy at the time of the initial~~
4 ~~application for licensure;~~

5 ~~(2) Appropriate documentation at the time of each renewal~~
6 ~~to show that the policy continues to be in effect or~~
7 ~~that a new policy has been secured; and~~

8 ~~(3) Any other report required by the commissioner.]"~~

9 SECTION 11. Section 431:9C-103, Hawaii Revised Statutes,
10 is amended to read as follows:

11 **"§431:9C-103 Required contract provisions.** No person,
12 firm, association, or corporation acting as a managing general
13 agent shall place business with an insurer unless there is in
14 force, a written contract between the managing general agent and
15 the insurer which sets forth the responsibilities of each party
16 and, where both the managing general agent and the insurer share
17 responsibility for a particular function, specifies the division
18 of those responsibilities, and which contains at least the
19 following additional provisions:

20 (1) The insurer may terminate the contract for cause upon
21 written notice to the managing general agent. The
22 insurer may suspend the underwriting authority of the

1 managing general agent during the pendency of any
2 dispute regarding the cause for termination;

3 (2) The managing general agent shall render accounts to
4 the insurer detailing all transactions and remit all
5 funds due under the contract to the insurer on not
6 less than a monthly basis;

7 (3) All funds collected for the account of an insurer
8 shall be held by the managing general agent in a
9 fiduciary capacity and deposited in an account in a
10 bank which is a member of the Federal Reserve System.
11 This account shall be used for all payments on behalf
12 of the insurer by the managing general agent. The
13 managing general agent may retain no more than three
14 months estimated claims payments and allocated loss
15 adjustment expenses;

16 (4) Separate records of business written by the managing
17 general agent shall be maintained in the licensee's
18 office. The insurer shall have access to and the
19 right to copy all accounts and records of the managing
20 general agent related to the insurer's business in a
21 form usable by the insurer, and the commissioner shall
22 have access to all books, bank accounts, and records

1 of the managing general agent in a form usable to the
2 commissioner. Records shall be in an organized form
3 according to each class of insurance and shall include
4 the following information to the extent it is
5 applicable:

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

12 (B) The names of any other licensees from whom
13 business is accepted and the names of persons to
14 whom commissions or allowances of any kind are
15 promised or paid;

16 (C) A record of each investigation or adjustment
17 undertaken or consummated and a statement of any
18 fee, commission, or other compensation received or
19 to be received by the adjuster on account of the
20 investigation or adjustment;

21 (D) A record of each bill reviewed and a statement of
22 any fee, commission, or other compensation

1 received or to be received by the independent bill
2 reviewer on account of the bill reviewed; and
3 (E) Any additional information as shall be customary
4 or as may reasonably be required by the
5 commissioner.

6 This paragraph shall not apply to life or accident and
7 health or sickness insurance if the records required of
8 such insurance are customarily maintained in the
9 offices of the insurer;

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

12 (6) Appropriate underwriting guidelines including:

- 13 (A) The maximum annual premium volume;
- 14 (B) The basis of the rates to be charged;
- 15 (C) The types of risks which may be written;
- 16 (D) Maximum limits of liability;
- 17 (E) Applicable exclusions;
- 18 (F) Territorial limitations;
- 19 (G) Policy cancellation provisions; and
- 20 (H) The maximum policy period.

21 The insurer shall have the right to cancel or nonrenew
22 any policy of insurance subject to the applicable laws

1 and rules concerning the cancellation and nonrenewal of
2 insurance policies;

3 (7) The insurer shall require the managing general agent to
4 obtain and maintain a surety bond for the protection of
5 the insurer. The bond amount shall be in the amount of
6 \$100,000 or ten per cent of the managing general
7 agent's total annual written premium nationwide for the
8 insurer in the prior calendar year, whichever is
9 greater; provided that the amount of the surety bond
10 shall not exceed \$500,000;

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

14 [~~7~~] (9) If the contract permits the managing general
15 agent to settle claims on behalf of the insurer:

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

18 (B) A copy of the claim file shall be sent to the
19 insurer at its request or as soon as it becomes
20 known that the claim:

21 (i) Has the potential to exceed an amount
22 determined by the commissioner or exceeds

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- 1 the limit set by the insurer, whichever is
2 less;
- 3 (ii) Involves a coverage dispute;
- 4 (iii) May exceed the managing general agent's
5 claims settlement authority;
- 6 (iv) Is open for more than six months; or
- 7 (v) Is closed by payment of an amount set by the
8 commissioner or an amount set by the
9 insurer, whichever is less;
- 10 (C) All claim files shall be the joint property of the
11 insurer and managing general agent. However, upon
12 an order of liquidation of the insurer, the files
13 shall become the sole property of the insurer or
14 its estate; provided that the managing general
15 agent shall have reasonable access to and the
16 right to copy the files on a timely basis;
- 17 (D) Any settlement authority granted to the managing
18 general agent may be terminated for cause upon the
19 insurer's written notice to the managing general
20 agent or upon the termination of the contract.
21 The insurer may suspend the settlement authority

1 during the pendency of any dispute regarding the
2 cause for termination; and

3 (E) Where electronic claims files are in existence,
4 the contract shall address the timely transmission
5 of the data;

6 [~~+8~~] (10) If the contract provides for a sharing of
7 interim profits by the managing general agent,
8 and the managing general agent has the authority
9 to determine the amount of the interim profits by
10 establishing loss reserves or controlling claim
11 payments, or in any other manner, interim profits
12 shall not be paid to the managing general agent
13 until one year after they are earned for property
14 insurance business and five years after they are
15 earned on casualty business and, in any event,
16 not until the profits have been verified through
17 examination pursuant to section 431:9C-105; and

18 [~~+9~~] (11) The managing general agent shall not:

19 (A) Bind reinsurance or retrocessions on behalf of the
20 insurer, except that the managing general agent
21 may bind facultative reinsurance contracts
22 pursuant to obligatory facultative agreements if

1 the contract with the insurer contains reinsurance
2 underwriting guidelines including, for both
3 reinsurance assumed and ceded, a list of
4 reinsurers with whom those automatic agreements
5 are in effect, the coverages and amounts or
6 percentages that may be reinsured, and commission
7 schedules;

8 (B) Commit the insurer to participate in insurance or
9 reinsurance syndicates;

10 (C) Appoint any producer without assuring that the
11 producer is lawfully licensed to transact the type
12 of insurance for which the producer is appointed;

13 (D) Without prior approval of the insurer, pay or
14 commit the insurer to pay a claim over a specified
15 amount, net of reinsurance, which shall not exceed
16 one per cent of the insurer's policyholder's
17 surplus as of December 31 of the last completed
18 calendar year;

19 (E) Collect any payment from a reinsurer or commit the
20 insurer to any claim settlement with a reinsurer
21 without prior approval of the insurer. If prior

1 approval is given, a report shall be promptly
2 forwarded to the insurer;

3 (F) Permit its subagent to serve on the board of
4 directors of the insurer;

5 (G) Employ an individual who is employed by the
6 insurer also; or

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

8 SECTION 12. Section 431:9C-104, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§~~**431:9C-104**~~§~~ **Duties of insurers.** (a) An insurer
11 shall have on file an independent financial examination of each
12 managing general agent with whom it has done business in a form
13 acceptable to the commissioner.

14 (b) If a managing general agent establishes loss reserves,
15 the insurer shall annually obtain the opinion of an independent
16 actuary attesting to the adequacy of loss reserves established
17 for losses incurred and outstanding on business produced by the
18 managing general agent. This is in addition to any other
19 required loss reserve certification required by this chapter.

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

1 (d) Binding authority for all reinsurance contracts or
2 participation in insurance or reinsurance syndicates shall rest
3 with an officer of the insurer, who shall not be affiliated with
4 the managing general agent.

5 (e) The insurer shall notify the commissioner in writing
6 within thirty days of entering into or terminating a contract
7 with a managing general agent. Notices of appointment of a
8 managing general agent shall include a statement of duties which
9 the managing general agent is expected to perform on behalf of
10 the insurer, the lines of insurance for which the managing
11 general agent is to be authorized to act, and any other
12 information the commissioner may request.

13 (f) An insurer shall review its books and records each
14 quarter to determine if any producer, as defined in section
15 431:11A-101, has become a managing general agent. If the
16 insurer determines that a producer has become a managing general
17 agent, the insurer shall promptly notify the producer and the
18 commissioner of the determination and the insurer and producer
19 shall fully comply with this article within thirty days.

20 (g) An insurer shall not appoint to its board of directors
21 an officer, director, employee, subagent, or controlling
22 shareholder of any of its managing general agents; provided that

1 this subsection shall not apply to relationships governed by
2 article 11.

3 (h) The insurer shall keep the bond and errors and
4 omissions policy required by section 431:9C-103 on file for
5 review by any applicable commissioner."

6 SECTION 13. Section 431:9N-102, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§~~[[~~§431:9N-102~~]]~~ **License denial, nonrenewal,**
9 **suspension, or revocation.** In addition to causes in section
10 431:9A-112, the commissioner may deny, place on probation,
11 suspend, revoke, or refuse to issue or renew a bail agent's
12 license and may levy a civil fine or penalty in accordance with
13 articles 2 and 9A, or any combination of these actions, for any
14 of the following causes:

15 (1) Failing to satisfy, pay, or otherwise discharge a bail
16 forfeiture judgment after having the bail agent's name
17 placed on the board for more than forty-five
18 consecutive days for the same forfeiture;

19 (2) Failing to satisfy, pay, or otherwise discharge a
20 final, nonappealable bail forfeiture judgment within
21 sixty days following notice of entry of judgment;

1 [~~2~~] (3) Failing to report, to preserve without use and
2 retain separately, or to return collateral taken as
3 security on any bond to the principal or depositor of
4 the collateral;

5 [~~3~~] (4) Failing to pay a final, nonappealable judgment
6 award for failure to return or repay collateral
7 received to secure a bond;

8 [~~4~~] (5) Continuing to execute bail bonds in any court in
9 this State while on the board, where the bail
10 forfeiture judgment that resulted in being placed on
11 the board has not been paid, stayed, vacated,
12 exonerated, or otherwise discharged; or

13 [~~5~~] (6) Paying, directly or indirectly, any commission,
14 service fee, brokerage, or other valuable
15 consideration to any person selling, soliciting, or
16 negotiating bail within this State unless, at the time
17 the services were performed, the person was a duly
18 licensed bail agent for the performance of the
19 services."

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

1 "**§431:10-244 Filing procedure for contracts approved by**
2 **commissioner.** Each insurance contract requiring approval by the
3 commissioner pursuant to this code, section 392-48 [~~and~~], or
4 section 386-124 or contracts certified by the insurer to be in
5 conformity with this code shall be accompanied by a \$20 fee
6 payable to the commissioner, which fee shall be deposited in the
7 commissioner's education and training fund."

8 SECTION 15. Section 431:10A-105, Hawaii Revised Statutes,
9 is amended to read as follows:

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

1 substantially similar to the specified captions. The provisions
2 are as follows:

3 (1) "Entire Contract; Changes: This policy, including the
4 endorsements and the attached papers, if any,
5 constitutes the entire contract of insurance. No
6 change in this policy shall be valid until approved by
7 an executive officer of the insurer and unless the
8 approval is endorsed on or attached to this policy.
9 No agent has authority to change this policy or to
10 waive any of its provisions."

11 (2) (A) "Time Limit on Certain Defenses:
12 (i) After three years from the date of issue of
13 this policy no misstatements, except
14 fraudulent misstatements, made by the
15 applicant in the application for this policy
16 shall be used to void this policy or to deny
17 a claim for loss incurred or disability (as
18 defined in the policy) commencing after the
19 expiration of the three-year period.
20 (ii) No claim for loss incurred or disability (as
21 defined in the policy) commencing after
22 three years from the date of issue of this

1 policy shall be reduced or denied on the
2 ground that a disease or physical condition
3 not excluded from coverage by name or
4 specific description effective on the date
5 of loss had existed prior to the effective
6 date of coverage of this policy."

- 7 (B) The policy provision set forth in subparagraph
8 (A) (i) shall not be construed to affect any legal
9 requirement for avoidance of a policy or denial
10 of a claim during the initial three-year period,
11 nor to limit the application of section 431:10A-
12 106(1) through (4) in the event of misstatement
13 with respect to age or occupation or other
14 insurance.
- 15 (C) A policy that the insured has the right to
16 continue in force subject to its terms by the
17 timely payment of premium until at least age
18 fifty or, in the case of a policy issued after
19 age forty-four, for at least five years from its
20 date of issue, may contain in lieu of
21 subparagraph (A) (i) the following provision (from
22 which the clause in parentheses may be omitted at

1 the insurer's option): "Incontestable: After
2 this policy has been in force for a period of
3 three years during the lifetime of the insured
4 (excluding any period during which the insured is
5 disabled), it shall become incontestable as to
6 the statements contained in the application."

7 (3) (A) "Grace period: A grace period of (insert a
8 number not less than seven for weekly premium
9 policies, ten for monthly premium policies, and
10 thirty-one for all other policies) days will be
11 granted for the payment of each premium falling
12 due after the first premium, during which grace
13 period the policy shall continue in force."

14 (B) A policy that contains a cancellation provision
15 may add at the end of the above provision:
16 "subject to the right of the insurer to cancel in
17 accordance with the cancellation provision."

18 (C) A policy in which the insurer reserves the right
19 to refuse any renewal shall have at the beginning
20 of the above provision: "Unless not less than
21 thirty days prior to the premium due date the
22 insurer has delivered to the insured or has

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1 mailed to the insured's last address as shown by
2 the records of the insurer written notice of its
3 intention not to renew this policy beyond the
4 period for which the premium has been accepted."

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

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

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

21 (5) (A) "Notice of Claim: Written notice of claim must
22 be given to the insurer within twenty days after

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

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

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

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

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

1 days after the termination of the period for which the
2 insurer is liable, and in case of claim for any other
3 loss within ninety days after the date of loss.

4 Failure to furnish proof of loss within the time
5 required shall not invalidate nor reduce any claim if
6 it was not reasonably possible to give proof within
7 the time required, provided proof is furnished as soon
8 as reasonably possible and in no event, except in the
9 absence of legal capacity, later than fifteen months
10 from the time proof is otherwise required."

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

1 (9) (A) "Payment of Claims: Indemnity for loss of life
2 will be payable in accordance with the
3 beneficiary designation and the provisions
4 respecting payment which may be prescribed herein
5 and effective at the time of payment. If no
6 designation or provision is then effective, the
7 indemnity shall be payable to the estate of the
8 insured. Any other accrued indemnities unpaid at
9 the insured's death may, at the option of the
10 insurer, be paid either to the designated
11 beneficiary or to the estate of the insured. All
12 other indemnities will be payable to the
13 insured."

14 (B) The following provisions, or either of them, may
15 be included with the provision set forth in
16 subparagraph (A) at the option of the insurer:

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

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

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

20 (10) "Physical Examinations and Autopsy: The insurer at its
21 own expense shall have the right and opportunity to
22 examine the person of the insured when and as often as

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1 it may reasonably require during the pendency of a
2 claim hereunder and to make an autopsy in case of
3 death where it is not forbidden by law."

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

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

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

1 SECTION 16. 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 provisions are optional provisions. Any such
14 provision contained in the policy shall be preceded individually
15 by the specified caption or, at the option of the insurer, by
16 such appropriate individual or group captions or subcaptions [~~as~~
17 ~~the commissioner may approve.~~] substantially similar to the
18 specified caption. The provisions are as follows:

19 (1) "Change of Occupation: If the insured is injured or
20 contracts sickness after having changed occupations to
21 one classified by the insurer as more hazardous than
22 that stated in this policy or while doing for

1 compensation anything pertaining to an occupation so
2 classified, the insurer will pay only such portion of
3 the indemnities provided in this policy as the premium
4 paid would have purchased at the rates and within the
5 limits fixed by the insurer for the more hazardous
6 occupation. If the insured's occupation changes to
7 one classified by the insurer as less hazardous than
8 that stated in this policy, the insurer, upon receipt
9 of proof of such change of occupation, will reduce the
10 premium rate accordingly, and will return the excess
11 pro rata unearned premium from the date of change of
12 occupation or from the policy anniversary date
13 immediately preceding receipt of such proof, whichever
14 is the more recent. In applying this provision, the
15 classification of occupational risk and the premium
16 shall be such as have been last filed by the insurer
17 prior to the occurrence of the loss for which the
18 insurer is liable or prior to date of proof of change
19 in occupation with the state official having
20 supervision of insurance in the state where the
21 insured resided at the time this policy was issued;
22 but if such filing was not required, then the

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1 classification of occupational risk and the premium
2 rates shall be those last made effective by the
3 insurer in such state prior to the occurrence of the
4 loss or prior to the date of proof of change in
5 occupation."

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

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

12 (A) "Other Insurance in This Insurer: If an accident
13 and health or sickness policy or policies
14 previously issued by the insurer to the insured
15 be in force concurrently herewith, making the
16 aggregate indemnity for (insert type of coverage
17 or coverages) in excess of \$ (insert maximum
18 limit of indemnity or indemnities) the excess
19 insurance shall be void and all premiums paid for
20 such excess shall be returned to the insured or
21 to the insured's estate."; or

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

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

11 (A) (i) "Insurance with Other Insurers: If there be
12 other valid coverage, not with this insurer,
13 providing benefits for the same loss on a
14 provision of service basis or on an expense
15 incurred basis and of which this insurer has
16 not been given written notice prior to the
17 occurrence or commencement of loss, the only
18 liability under any expense incurred
19 coverage of this policy shall be for such
20 proportion of the loss as the amount which
21 would otherwise have been payable hereunder
22 plus the total of the like amounts under all

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

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

1 provided hereunder for such loss as the like
2 indemnities of which the insurer had notice
3 (including the indemnities under this
4 policy) bear to the total amount of all the
5 indemnities for such loss, and for the
6 return of such portion of the premium paid
7 as shall exceed the pro rata portion for the
8 indemnities thus determined."

9 (B) If the provision set forth in subparagraph (A)(i)
10 is included in a policy that also contains the
11 provision set forth in subparagraph (A)(ii),
12 there shall be added to the caption of the
13 subparagraph (A)(i) provision the phrase,
14 "expense incurred benefits".

15 (C) The insurer may, at its option, include in the
16 provision set forth in subparagraph (A)(i) a
17 definition of other valid coverage, approved as
18 to form by the commissioner, which definition
19 shall be limited in subject matter to coverage
20 provided by organizations subject to regulation
21 by insurance law or by insurance authorities of
22 this State or any other state or territory of the

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1 United States or any province of Canada, and by
2 hospital or medical service organizations, and to
3 any other coverage the inclusion of which may be
4 approved by the commissioner. In the absence of
5 such definition the term shall not include group
6 insurance, automobile medical payment insurance,
7 or coverage provided by hospital or medical
8 service organizations, union welfare plans, or
9 employer or employee benefit organizations. For
10 the purpose of applying the provision set forth
11 in subparagraph (A) (i) with respect to any
12 insured, any amount of benefit provided for such
13 insured pursuant to any compulsory benefit
14 statute (including any workers' compensation or
15 employers' liability statute), whether provided
16 by a governmental agency or otherwise, shall in
17 all cases be deemed to be other valid coverage of
18 which the insurer has had notice. In applying
19 the provision set forth in subparagraph (A) (i),
20 no third party liability coverage shall be
21 included as other valid coverage.

1 (D) If the provision set forth in subparagraph
2 (A) (ii) is included in a policy that also
3 contains the provision set forth in subparagraph
4 (A) (i), there shall be added to the caption of
5 the subparagraph (A) (ii) provision the phrase,
6 "other benefits".

7 (E) The insurer may, at its option, include in the
8 provision set forth in subparagraph (A) (ii) a
9 definition of other valid coverage, approved as
10 to form by the commissioner, which definition
11 shall be limited in subject matter to coverage
12 provided by organizations subject to regulation
13 by insurance law or by insurance authorities of
14 this State or any other state or territory of the
15 United States or any province of Canada, and to
16 any other coverage the inclusion of which may be
17 approved by the commissioner. In the absence of
18 such definition the term shall not include group
19 insurance, or benefits provided by union welfare
20 plans or employer or employee benefit
21 organizations. For the purpose of applying the
22 provision set forth in subparagraph (A) (ii) with

1 respect to any insured, any amount of benefit
2 provided for such insured pursuant to any
3 compulsory benefit statute (including any
4 workers' compensation or employers' liability
5 statute), whether provided by a governmental
6 agency or otherwise, shall in all cases be deemed
7 to be other valid coverage of which the insurer
8 has had notice. In applying the provision set
9 forth in subparagraph (A)(ii), no third party
10 liability coverage shall be included as other
11 valid coverage.

- 12 (5) (A) "Relation of Earnings to Insurance: If the total
13 monthly amount of loss of time benefits promised
14 for the same loss under all valid loss of time
15 coverage upon the insured, whether payable on a
16 weekly or monthly basis, shall exceed the monthly
17 earnings of the insured at the time disability
18 commenced or the insured's average monthly
19 earnings for the period of two years immediately
20 preceding a disability for which claim is made,
21 whichever is the greater, the insurer will be
22 liable only for such proportionate amount of such

1 benefits under this policy as the amount of such
2 monthly earnings or such average monthly earnings
3 of the insured bears to the total amount of
4 monthly benefits for the same loss under all such
5 coverage upon the insured at the time such
6 disability commences and for the return of such
7 part of the premiums paid during such two years
8 as shall exceed the pro rata amount of the
9 premiums for the benefits actually paid
10 hereunder; but this shall not operate to reduce
11 the total monthly amount of benefits payable
12 under all such coverage upon the insured below
13 the sum of \$200 or the sum of the monthly
14 benefits specified in such coverages, whichever
15 is the lesser, nor shall it operate to reduce
16 benefits other than those payable for loss of
17 time."

18 (B) The policy provision in subparagraph (A) may be
19 inserted only in a policy which the insured has
20 the right to continue in force, subject to its
21 terms by the timely payment of premiums until at
22 least age fifty or, in the case of a policy

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1 issued after age forty-four, for at least five
2 years from its date of issue.

3 (C) The insurer may, at its option, include in the
4 provision set forth in subparagraph (A) a
5 definition of valid loss of time coverage
6 approved as to form by the commissioner, which
7 definition shall be limited in subject matter to
8 coverage provided by governmental agencies or by
9 organizations subject to regulation by insurance
10 law or by insurance authorities of this State or
11 any state, district, or territory of the United
12 States or any province of Canada, or to any other
13 coverage the inclusion of which may be approved
14 by the commissioner or any combination of such
15 coverages. In the absence of such definition
16 such terms shall not include any coverage
17 provided for such insured pursuant to any
18 compulsory benefit statute (including any
19 workers' compensation or employers' liability
20 statute), or benefits provided by union welfare
21 plans or by employer or employee benefit
22 organizations.

- 1 (6) "Unpaid Premium: Upon the payment of a claim under
2 this policy, any premium then due and unpaid or
3 covered by any note or written order may be deducted
4 therefrom."
- 5 (7) "Cancellation: The insurer may cancel this policy at
6 any time by written notice delivered to the insured,
7 or mailed to the insured's last address as shown by
8 the records of the insurer, stating when, not less
9 than five days thereafter, such cancellation shall be
10 effective; and after the policy has been continued
11 beyond its original term the insured may cancel this
12 policy at any time by written notice delivered or
13 mailed to the insurer, effective upon receipt or on
14 such later date as may be specified in such notice.
15 In the event of cancellation, the insurer will return
16 promptly the unearned portion of any premium paid. If
17 the insured cancels, the earned premium shall be
18 computed by the use of the short-rate table last filed
19 with the state official having supervision of
20 insurance in the state where the insured resided when
21 the policy was issued. If the insurer cancels, the
22 earned premium shall be computed pro rata.

1 Cancellation shall be without prejudice to any claim
2 originating prior to the effective date of
3 cancellation."

4 (8) "Conformity with State Statutes: Any provision of
5 this policy which, on its effective date, is in
6 conflict with the statutes of the state in which the
7 insured resides on such date is hereby amended to
8 conform to the minimum requirements of such statutes."

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

14 (10) "Intoxicants and Narcotics: The insurer shall not be
15 liable for any loss sustained or contracted in
16 consequence of the insured's being intoxicated or
17 under the influence of any narcotic unless
18 administered on the advice of a physician."

19 SECTION 17. Section 431:10A-107, Hawaii Revised Statutes,
20 is amended to read as follows:

21 "**§431:10A-107 Inapplicable or inconsistent provisions.** If
22 any provision of section 431:10A-105 to section 431:10A-111 is

1 in whole or in part inapplicable to or inconsistent with the
2 coverage provided by a particular form of policy, the insurer[~~—~~
3 ~~with the approval of the commissioner,~~] shall omit from such
4 policy any inapplicable provision or part of a provision, and
5 shall modify any inconsistent provision or part of the provision
6 in such manner as to make the provision as contained in the
7 policy consistent with the coverage provided by the policy. An
8 officer of the insurer shall certify conformity with the
9 requirements of state statutes in accordance with this section."

10 SECTION 18. Section 431:10C-210, Hawaii Revised Statutes,
11 is amended to read as follows:

12 "**§431:10C-210 Publication of premium rates.** The
13 commissioner shall publish annually, in a newspaper of general
14 circulation in the State, notice of availability of a list of
15 all motor vehicle insurers with representative annual premiums
16 for motor vehicle insurance. [~~In addition, the~~] The
17 commissioner shall have information on premiums for motor
18 vehicle insurance which shall be available to the public on
19 request."

20 SECTION 19. Section 431:10C-215, Hawaii Revised Statutes,
21 is amended by amending subsection (d) to read as follows:

1 "(d) (1) Each insurer licensed to transact motor vehicle
2 insurance or optional additional insurance business in
3 this State shall provide the commissioner with
4 periodic reports on every aspect of the motor vehicle
5 insurance and the optional additional insurance
6 business the insurer transacts in the State,
7 including, but not limited to, reports on the
8 investment, reserve, reinsurance, loss and profit
9 experience, ratemaking and schedules, claims received
10 and paid; and

11 (2) Each insurer shall, not less frequently than
12 quarterly, maintain a report [~~to the commissioner~~] of
13 the details of each claim received, claim paid,
14 application for and sale of a motor vehicle insurance
15 policy, each termination and renewal refusal notice
16 posted, and each cancellation and refusal to renew
17 effected on both motor vehicle insurance and optional
18 additional insurance policy transactions. The insurer
19 shall make available and submit a report to the
20 commissioner at the commissioner's request."

21 SECTION 20. Section 431:10D-111, Hawaii Revised Statutes,
22 is amended by amending subsection (a) to read as follows:

1 "(a) A life insurer may, under such policy provisions or
2 agreements [~~as have been approved by the commissioner consistent~~
3 ~~with this section~~], contract for and accept premium deposits in
4 addition to the regular premiums specified in the policy, for
5 the purpose of paying future premiums, or to facilitate
6 conversion of the policy, or to increase the benefits
7 thereof[~~—~~], which shall be in compliance with this section."

8 SECTION 21. Section 431:10D-603, Hawaii Revised Statutes,
9 is amended by amending subsection (c) to read as follows:

10 "(c) If the buyer's guide and disclosure document are not
11 provided at or before the time of application, a free-look period
12 of no less than fifteen days shall be provided for the applicant
13 to return the annuity contract without penalty, which period
14 shall run [~~concurrently~~] consecutively with any other free-look
15 period provided by law."

16 SECTION 22. Section 431:11-101, Hawaii Revised Statutes,
17 is amended by amending subsection (b) to read as follows:

18 "(b) The commissioner may exempt:

19 (1) Any insurer or class of insurers from any provision of
20 this article, when the commissioner deems the
21 exemption consistent with the purposes of this article
22 and in the public interest; or

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

6 SECTION 23. Section 431:11-106, Hawaii Revised Statutes,
7 is amended by amending subsection (a) to read as follows:

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

11 (A) The terms shall be fair and reasonable;
12 (B) Charges or fees for services performed shall be
13 reasonable;

14 (C) Expenses incurred and payment received shall be
15 allocated to the insurer in conformity with
16 customary insurance accounting practices
17 consistently applied;

18 (D) The books, accounts, and records of each party to
19 all transactions shall be maintained so as to
20 clearly and accurately disclose the nature and
21 details of the transactions including the
22 accounting information necessary to support the

1 reasonableness of the charges or fees to the
2 respective parties; and
3 (E) The insurer's surplus as regards policyholders
4 following any dividends or distributions to
5 shareholder affiliates shall be reasonable in
6 relation to the insurer's outstanding liabilities
7 and adequate to its financial needs.

8 (2) The following transactions involving a domestic
9 insurer and any person in its holding company system
10 may not be entered into unless the insurer has
11 notified the commissioner in writing of its intention
12 to enter into the transaction at least thirty days
13 prior thereto, or a shorter period as the commissioner
14 may permit, and the commissioner has not disapproved
15 it within that period:

16 (A) Sales, purchases, exchanges, loans, or extensions
17 of credit, guarantees, or investments; provided
18 that the transactions are equal to or exceed:

19 (i) With respect to nonlife insurers, the lesser
20 of three per cent of the insurer's admitted
21 assets or twenty-five per cent of surplus as

1 regards policyholders each as of the thirty-
2 first day of December next preceding; or
3 (ii) With respect to life insurers, three per cent
4 of the insurer's admitted assets as of the
5 thirty-first day of December next preceding;
6 (B) Loans or extensions of credit to any person who
7 is not an affiliate, where the insurer makes the
8 loans or extensions of credit with the agreement
9 or understanding that the proceeds of the
10 transactions, in whole or in substantial part,
11 are to be used to make loans or extensions of
12 credit to, to purchase assets of, or to make
13 investments in, any affiliate of the insurer
14 making the loans or extensions of credit provided
15 the transactions are equal to or exceed:
16 (i) With respect to nonlife insurers, the lesser
17 of three per cent of the insurer's admitted
18 assets or twenty-five per cent of surplus as
19 regards policyholders each as of the thirty-
20 first day of December next preceding; or
21 (ii) With respect to life insurers, three per
22 cent of the insurer's admitted assets as of

1 the thirty-first day of December next

2 preceding;

- 3 (C) Reinsurance agreements or modifications thereto
4 in which the reinsurance premium or a change in
5 the insurer's liabilities equals or exceeds five
6 per cent of the insurer's surplus as regards
7 policyholders, as of the thirty-first day of
8 December next preceding, including those
9 agreements which may require as consideration the
10 transfer of assets from an insurer to a
11 nonaffiliate, if an agreement or understanding
12 exists between the insurer and nonaffiliate that
13 any portion of the assets will be transferred to
14 one or more affiliates of the insurer;
- 15 (D) All management agreements, service contracts, and
16 all cost-sharing arrangements; and
- 17 (E) Any material transactions, specified by rule,
18 which the commissioner determines may adversely
19 affect the interests of the insurer's
20 policyholders.

21 Nothing in this section shall be deemed to authorize
22 or permit any transactions which, in the case of an

- 1 insurer not a member of the same holding company
2 system, would be otherwise contrary to law.
- 3 (3) A domestic insurer may not enter into transactions,
4 which are part of a plan or series of like
5 transactions with persons within the holding company
6 system, if the purpose of those separate transactions
7 is to avoid the statutory threshold amount and thus
8 avoid the review that would otherwise occur. If the
9 commissioner determines that the separate transactions
10 were entered into over any twelve-month period for
11 that purpose, the commissioner may exercise the
12 commissioner's authority under section 431:11-111.
- 13 (4) The commissioner, in reviewing transactions pursuant
14 to subsection (a)(2), shall consider whether the
15 transactions comply with the standards set forth in
16 subsection (a)(1) and whether they may adversely
17 affect the interests of policyholders.
- 18 (5) The commissioner shall be notified within thirty days
19 of any investment of the domestic insurer in any one
20 ~~[corporation]~~ person if the total investment in the
21 ~~[corporation]~~ person by the insurance holding company

1 system exceeds ten per cent of the corporation's
2 voting securities."

3 SECTION 24. Section 431:13-103, Hawaii Revised Statutes,
4 is amended by amending subsection (f) to read as follows:

5 "(f) An insurer or licensee shall issue a written response
6 with reasonable promptness, in no case more than fifteen working
7 days, to any written inquiry made by the commissioner [~~regarding~~
8 ~~a claim or consumer complaint~~]. The response shall be more than
9 an acknowledgment that the commissioner's communication has been
10 received, and shall adequately address the concerns stated in
11 the communication."

12 SECTION 25. Section 431:19-107, Hawaii Revised Statutes,
13 is amended by amending subsection (b) to read as follows:

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

16 (1) Annual statement and audit:

17 (A) On or before March 1, or such day subsequent
18 thereto as the commissioner upon request and for
19 cause may specify, an annual statement using the
20 National Association of Insurance Commissioners'
21 annual statement blank plus any additional
22 information required by the commissioner, which

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1 shall be a true statement of its financial
2 condition, transactions, and affairs as of the
3 immediately preceding December 31. The reported
4 information shall be verified by oaths of at
5 least two of the captive's principal officers;

6 (B) On or before June 1, or such day subsequent
7 thereto as the commissioner upon request and for
8 cause may specify, an audit by a designated
9 independent certified public accountant or
10 accounting firm of the financial statements
11 reporting the financial condition and results of
12 the operation of the captive; and

13 (C) The annual statement and audit shall be prepared
14 in accordance with the National Association of
15 Insurance Commissioners' annual statement
16 instructions, accounting practices and procedures
17 manual, and rules adopted by the commissioner
18 following the [~~practice~~] practices and procedures
19 prescribed by the National Association of
20 Insurance [~~Commissioners' practices and~~
21 ~~procedures manuals,~~] Commissioners; and

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

8 SECTION 26. Section 431:19-109, Hawaii Revised Statutes,
9 is amended by amending subsection (a) to read as follows:

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

- 13 (1) Insolvency or impairment of capital or surplus;
- 14 (2) Failure to meet the requirements of section 431:19-104
15 ~~[or section 431:19-105];~~
- 16 (3) Refusal or failure to submit an annual report, as
17 required by section 431:19-107 or any other report or
18 statement required by law or by lawful order of the
19 commissioner;
- 20 (4) Failure to comply with the provisions of its own
21 articles of incorporation, articles of association, or
22 bylaws;

- 1 (5) Failure to submit to examination or any legal
- 2 obligation relative thereto, as required by section
- 3 431:19-108;
- 4 (6) Refusal or failure to pay the cost of examination as
- 5 required by section 431:19-108;
- 6 (7) Use of methods that, although not otherwise
- 7 specifically prohibited by law, nevertheless render
- 8 its operation detrimental or its condition unsound
- 9 with respect to the public or to its policyholders;
- 10 (8) Failure to maintain actuarially appropriate loss
- 11 reserves as determined by the commissioner; provided
- 12 that the commissioner shall issue at least one warning
- 13 to the captive insurance company to correct the
- 14 problem prior to suspending or revoking the
- 15 certificate of authority; and
- 16 (9) Failure otherwise to comply with the laws of this
- 17 State."

18 SECTION 27. Section 431:30-102, Hawaii Revised Statutes,
19 is amended by amending the definition of "member" to read as
20 follows:

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

4 SECTION 28. Section 431:30-112, Hawaii Revised Statutes,
5 is amended by amending subsection (d) to read as follows:

6 "(d) A compacting state may opt out of a uniform standard,
7 either by legislation or by rule adopted by the insurance
8 commissioner. If a compacting state elects to opt out of a
9 uniform standard by rule, it shall:

10 (1) Give written notice to the commission no later than
11 ten business days after the later of the adoption of
12 the uniform standard or the state becoming a
13 compacting state; [and]

14 (2) Find that the uniform standard does not provide
15 reasonable protections to the citizens of the state,
16 given the conditions in the state. The commissioner
17 shall make specific findings of fact and conclusions
18 of law, based on a preponderance of the evidence,
19 detailing the conditions in the state that warrant a
20 departure from the uniform standard and determining
21 that the uniform standard would not reasonably protect
22 the citizens of the state. The commissioner shall

1 consider and balance the following factors and find
2 that the conditions in the state and needs of the
3 citizens of the state outweigh:

4 (A) The intent of the legislature to participate in,
5 and reap the benefits of, an interstate agreement
6 to establish national uniform consumer
7 protections for the products subject to this Act;
8 and

9 (B) The presumption that a uniform standard adopted
10 by the commission provides reasonable protections
11 to consumers of the relevant product.

12 Notwithstanding the foregoing, a compacting state may,
13 at the time of its enactment of this compact,
14 prospectively opt out of all uniform standards
15 involving long-term care insurance products by
16 expressly providing for such opt out in the enacted
17 compact, and such an opt out shall not be treated as a
18 material variance in the offer or acceptance of any
19 state to participate in this compact. Such an opt out
20 shall be effective at the time of enactment of this
21 compact by the compacting state and shall apply to all
22 existing uniform standards involving long-term care

1 insurance products and those subsequently adopted[-];
2 and
3 (3) In accordance with the provisions of paragraph (2),
4 this State has prospectively opted out of all uniform
5 standards involving long-term care insurance products
6 promulgated by the commission, as this State has
7 previously enacted article 10H providing additional
8 standards for federal conformity and universal
9 availability for reciprocal beneficiary and multi-
10 generation populace which facilitates flexibility and
11 innovation in the development of long-term care
12 insurance coverage."

13 SECTION 29. Section 432:1-404, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Each society shall file with the commissioner
16 annually, on or before March 1 in each year, a statement under
17 oath, and in such form and detail as the commissioner shall
18 prescribe; provided that any association or society organized
19 and operating as a nonprofit medical indemnity or hospital
20 service association shall file a report with the commissioner
21 covering the preceding calendar year and verified by at least
22 two principal officers. Each mutual benefit society shall file

1 quarterly with the commissioner, on or before the forty-fifth
2 day after each quarter, a copy of its quarterly report verified
3 by at least two principal officers. The report shall comply
4 with sections 431:3-301 and 431:3-302. The commissioner may
5 prescribe the forms on which the report is to be filed.

6 In addition, any association or society organized and
7 operating as a nonprofit medical indemnity or hospital service
8 association annually shall file with the commissioner the
9 following by the dates specified:

10 (1) An audit, by an independent certified public
11 accountant or an accounting firm designated by the
12 association or society, of the financial statements,
13 reporting the financial condition and results of
14 operations of the association or society on or before
15 June 1, or a later date as the commissioner upon
16 request or for cause may specify. The association or
17 society, on an annual basis and prior to the
18 commencement of the audit, shall notify the
19 commissioner in writing of the name and address of the
20 person or firm retained to conduct the annual audit.
21 The commissioner may disapprove the association's or
22 society's designation within fifteen days of receipt

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1 of the association's or society's notice, and the
2 association or society shall be required to designate
3 another independent certified public accountant or
4 accounting firm. The audit required in this paragraph
5 shall be prepared in accordance with the National
6 Association of Insurance Commissioners' [~~annual~~
7 ~~statement instructions,~~] accounting practices and
8 procedures manual and rules adopted by the
9 commissioner following the practices and procedures
10 prescribed by the National Association of Insurance
11 [~~Commissioners' accounting practices and procedures~~
12 ~~manuals,~~] Commissioners; and

- 13 (2) A description of the available grievance procedures,
14 the total number of grievances handled through those
15 procedures, a compilation of the causes underlying
16 those grievances, and a summary of the final
17 disposition of those grievances on or before March 1."

18 SECTION 30. Section 432D-5, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Every health maintenance organization shall file
21 annually, on or before March 1, a report verified by at least
22 two principal officers covering the preceding calendar year.

1 Each health maintenance organization shall file quarterly with
2 the commissioner, on or before the forty-fifth day after each
3 quarter, a copy of its quarterly report verified by at least two
4 principal officers. These reports shall comply with sections
5 431:3-301 and 431:3-302. The commissioner may prescribe the
6 forms on which the reports are to be filed. In addition, the
7 health maintenance organization annually shall file with the
8 commissioner the following by the dates specified:

9 (1) An audit, by an independent certified public
10 accountant or an accounting firm designated by the
11 health maintenance organization of the financial
12 statements, reporting the financial condition and
13 results of operations of the health maintenance
14 organization on or before June 1, or a later date as
15 the commissioner upon request or for cause may
16 specify. The health maintenance organization, on an
17 annual basis and prior to the commencement of the
18 audit, shall notify the commissioner in writing of the
19 name and address of the person or firm retained to
20 conduct the annual audit. The commissioner may
21 disapprove the health maintenance organization's
22 designation within fifteen days of receipt of the

1 health maintenance organization's notice, and the
2 health maintenance organization shall be required to
3 designate another independent certified public
4 accountant or accounting firm. The audit required in
5 this paragraph shall be prepared in accordance with
6 the National Association of Insurance Commissioners'
7 ~~[annual statement instructions,]~~ accounting practices
8 and procedures manual and rules adopted by the
9 commissioner following the practices and procedures
10 prescribed by the National Association of Insurance
11 ~~[Commissioners' accounting practices and procedures~~
12 ~~manuals,]~~ Commissioners;

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

16 (3) A description of the available grievance procedures,
17 the total number of grievances handled through those
18 procedures, a compilation of the causes underlying
19 those grievances, and a summary of the final
20 disposition of those grievances on or before March 1."

21 SECTION 31. Section 431:30-105, Hawaii Revised Statutes,
22 is repealed.

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1 ["~~[§431:30-105] Appointment to commission.~~ The governor,
2 with the advice and consent of the senate, shall appoint the
3 member of the commission that represents the State."]

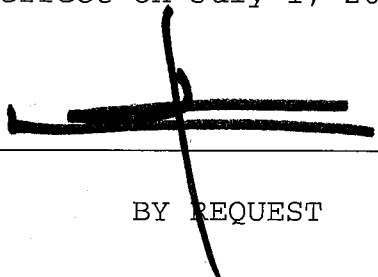
4 SECTION 32. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 33. This Act shall take effect on July 1, 2010.

7

8

INTRODUCED BY: _____



9

BY REQUEST

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.

JUSTIFICATION SHEET

- DEPARTMENT: Commerce and Consumer Affairs
- TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.
- PURPOSE: To update and modernize the Insurance Code, chapter 431, Hawaii Revised Statutes (HRS), and other insurance-related chapters of the HRS by:
- (1) Amending section 431:3-304, HRS, to extend protection to property and casualty insurers regarding confidentiality of documents supporting the statement of actuarial opinion, similar to that afforded to life insurers;
 - (2) Amending section 431:4F-103(a), HRS, to allow port-of-entry insurers to diversify assets used to satisfy capital and surplus requirements;
 - (3) Promoting uniformity of licensing laws governing insurance producers, adjusters, and independent bill reviewers by revising sections 431:9-203(d) and 431:9A-107(f), HRS, by allowing licensees to report address changes online in sections 431:9-228(b) and 431:9A-122(c), HRS, and adding to Article 9 a new section similar to section 431:9A-117, HRS;
 - (4) Amending section 431:9-222.5(a), HRS, to provide an exemption from the licensing examination requirement for crop loss adjusters who have successfully passed a licensing examination approved by the federal Risk Management Agency;
 - (5) Revising managing general agent laws in Article 9C, chapter 431, HRS, to

conform with the current National Association of Insurance Commissioners (NAIC) model law;

- (6) Clarifying in section 431:10-244, HRS, that insurance contracts requiring the Insurance Commissioner's (Commissioner) approval under the Insurance Code, temporary disability insurance law, or workers' compensation law or certified by the insurer to be in conformance with the Insurance Code must be accompanied by the applicable filing fee;
- (7) Allowing insurers to certify compliance with sections 431:10A-105, 431:10A-106, 431:10A-107, and 431:10D-111, HRS, rather than requiring the Commissioner's approval of these policy provisions;
- (8) Allowing the Commissioner to publish notice of availability of motor vehicle insurance (MVI) premium rates and to request detailed reports on MVI claims and cancellations, rather than mandating filing of these reports, in sections 431:10C-210 and 431:10C-215(d), HRS, respectively;
- (9) Clarifying in section 431:11-101(b), HRS, that the exemption in the insurance holding company law applies to any insurer, as well as any class of insurers, where it is consistent with the law and serves the public interest;
- (10) Substituting the term "person" for "corporation" in section 431:11-106(a), HRS;
- (11) Adding to sections 431:19-107(b), 432:1-404(a), and 432D-5(a), HRS, an express reference to rules governing audited financial statements for captive insurers, mutual benefit

societies, and health maintenance organizations, respectively;

- (12) Adding consumer protection measures: (a) to require in sections 431:2-208(c) and 431:13-103(f), HRS, prompt response from insurers to the Commissioner's request for any information; (b) to provide additional time in 431:10D-603(c), HRS, for consumers to review an annuity policy during "free-look" period, where producer does not provide a buyer's guide and disclosure documents as required by law; and (c) to provide in section 431:9N-102, HRS, for revocation or suspension of a bail agent's license for failure to discharge bail forfeiture judgments;
- (13) Deleting in section 431:19-109(a), HRS, the reference to a repealed statute; and
- (14) Amending sections 431:30-102 and 431:30-112(d), HRS, and repealing section 431:30-105, HRS, of the interstate insurance product regulation compact (IIPRC) to designate the commissioner as the representative to the IIPRC, to allow the State to opt out of uniform standards for long-term care insurance products, and to delete the appointment and confirmation of Hawaii's IIPRC representative, respectively.

MEANS:

Add a new section to article 9, chapter 431, HRS; amend sections 431:2-208(c), 431:3-304, 431:4F-103(a), 431:9-203(d), 431:9-222.5(a), 431:9-228(b), 431:9A-107(f), 431:9A-122(c), 431:9C-102, 431:9C-103, 431:9C-104, 431:9N-102, 431:10-244, 431:10A-105, 431:10A-106, 431:10A-107, 431:10C-210, 431:10C-215(d), 431:10D-111(a), 431:10D-603(c), 431:11-101(b), 431:11-106(a), 431:13-103(f), 431:19-107(b), 431:19-109(a), 431:30-102,

431:30-112(d), 432:1-404(a), 432D-5(a), HRS; and repeal section 431:30-105, HRS.

JUSTIFICATION:

Sections 431:2-208(c) and 431:13-103(f), HRS, currently require an insurer or licensee to respond with reasonable promptness to any written inquiry made by the Commissioner regarding a claim or consumer complaint. These sections do not ensure that insurers and licensees provided prompt responses to the Commissioner's inquiries. This amendment will aid the Commissioner's ability to conduct investigations adequately and encourage timely and consistent responses to the Commissioner's inquiries.

Property and casualty insurers are now required to file the actuarial opinion summary, in addition to the statement of actuarial opinion. Confidentiality for the documents supporting the actuarial opinion is currently provided to life insurers in section 431:5-307(j)(4)(G), HRS. The amendments in section 431:3-304, HRS, extend to property and casualty insurers confidentiality of the documents supporting the statement of actuarial opinion, including the actuarial opinion summary, actuarial reports, and working papers.

Section 431:4F-103(a)(2), HRS, currently refers to a single trust account that an alien insurer admitted under article 4F, chapter 431, HRS, must establish as a condition of licensure. These amendments will allow port-of-entry insurers to diversify the assets used to satisfy capital and surplus requirements, therefore reducing the concentration of risk.

Insurance adjusters, independent bill reviewers, and producers are currently required to report any change of status to the Commissioner within 30 days of the change, pursuant to sections 431:9-203(b) and 431:9A-107(f), HRS.

Licenses are currently required to report their business and residence addresses, which must be physical locations. Since some licenses use mailing addresses, sections 431:9-203(d) and 431:9A-107(f), HRS, need revision to require reports of changes in the mailing address.

Crop loss adjusters are required to pass a licensing examination to obtain a limited license under section 431:9-222.5(a)(3), HRS. The federal Department of Agriculture, Risk Management Agency (RMA) currently approves proficiency examinations administered by third-parties. This amendment provides an exemption from the examination requirement for applicants who have successfully passed an RMA-approved exam.

Licenses are now able to report address changes online via the National Insurance Producer Registry (NIPR). Thus, amending sections 431:9-228(b) and 431:9A-122(c), HRS, will facilitate this process and use statutory language consistent with sections 431:9-203(b) and 431:9A-107(f), HRS.

Anyone who is convicted of a felony is prohibited from engaging in the business of insurance, pursuant to section 431:2-201.3, HRS. Section 431:9A-117, HRS, currently requires producers to report with 30 days any civil, administrative, and criminal actions taken against the producer. To ensure the public's protection and for consistency with section 431:2-201.3, adjusters and independent bill reviewers should similarly be required to report any action taken against them.

Section 431:9C-103, HRS, requires managing general agents (MGA) to furnish the insurer with a bond in an amount equal to \$100,000 or 10 percent of annual gross direct written premiums, whichever is greater. Presently,

Hawaii law requires an MGA to furnish a bond as part of the requirements of licensing. The NAIC adopted amendments to its Managing General Agents Model Law that move this requirement from licensing and make it a part of the required contract provisions between the insurer and the MGA. This revision places the burden of compliance with the insurer, the party who is statutorily responsible for the MGA's acts. This revision also makes sense because, as explicitly stated in section 431:9C-102, the bond requirement is for the protection of the insurer. This being the case, benefit will ultimately inure to consumers should problems develop with the MGA.

The upper bond amount limit of 10 percent requires insurers writing large amounts of direct written premiums to furnish bonds in an extraordinarily high amount, conceivably in the millions of dollars. This has had a deterrent effect on large insurance companies desiring to do business in the State of Hawaii. Recognizing this problem, the NAIC revised the Managing General Agents Model Act to impose a \$500,000 cap on the bond requirement. Adoption of this cap, as proposed, will improve Hawaii's business climate for insurers, which in turn will improve the State's competitiveness in the global insurance industry and enhance the State's potential for increased insurance options for its businesses and residents. This amendment also will conform Hawaii law to national standards, thus facilitating reciprocity with the other states.

Section 431:9C-102, HRS, also requires the MGA to maintain an errors and omissions policy in an amount equal to \$1 million or 25 percent of annual gross direct written premiums, whichever is greater. As with the 10 percent upper limit on bond requirements, the 25 percent upper limit applicable to the coverage amount for the errors and omissions policy requirement has a deterrent effect on

insurance companies writing large amounts of direct written premiums since it may result in requiring the MGA to have an errors and omissions policy in the amount of several million dollars.

The NAIC's Managing General Agents Model Act authorizes but does not require state commissioners to impose errors and omissions policy requirements on managing general agents. Having enacted the errors and omissions requirement for MGA, our State provides enhanced protections that other states may not provide. As with the bond requirements, the proposed deletion of the 25 percent upper limit will enhance our State's potential to increase insurance options for its businesses and residents. Furthermore, the inclusion of the errors and omissions requirements in the insurer's required contract provisions, rather than as part of licensing, will again place the burden of compliance with the insurer, the party who is statutorily responsible for the MGA's acts. Accordingly, this revision to section 431:9C-103, HRS, ultimately will benefit consumers should problems develop with the MGA.

As a means of ensuring compliance by the insurer, section 431:9C-104, HRS, allows any applicable Commissioner to view the bond and errors and omissions policy.

Section 431:9N-102, HRS, provides grounds to deny, nonrenew, suspend, or revoke a bail agent's license, in addition to those provided in section 431:9A-112, HRS. The Insurance Division has received complaints about bail agents who have not satisfied bail forfeiture judgments. This amendment will provide an additional ground for taking enforcement action against errant bail agents.

Section 431:10-244, HRS, provides for a fee to accompany the filing of insurance

contracts requiring the Commissioner's approval pursuant to the workers' compensation and temporary disability laws. This amendment would add those filed under chapter 431, HRS, (the "insurance code"), including the interstate insurance product regulation compact, to this requirement.

Insurers are required to include certain policy provisions, or to use substantially similar language that is not less favorable to insureds and beneficiaries, in accident and health or sickness policies and to obtain the Commissioner's approval, pursuant to sections 431:10A-105, 431:10A-106, 431:10A-107, and 431:10D-111, HRS. Permitting insurers to certify compliance in lieu of awaiting the Commissioner's approval facilitates insurers' ability to market their products and reduces the cost and burden of regulatory compliance. These amendments also streamline operations and improve administrative efficiency for the Insurance Division.

Section 431:10C-210, HRS, currently requires the Commissioner to publish annually in the newspaper a list of all motor vehicle insurers with representative annual premiums. This information is also currently available online on the Insurance Division's website. This amendment would allow the Commissioner to publish notice of availability of this information on the website, rather than requiring the Commissioner to prepare and publish this information in five different publications, including publications in each county.

Section 431:10C-215(d)(2), HRS, currently requires motor vehicle insurers to provide quarterly reports detailing each claim received, claim paid, application and sale of a MVI policy, termination and renewal refusal notice posted, and cancellation and refusal to renew effected on both mandated and optional MVI policy transactions. This

amendment would make the reports available to the Commissioner at the Commissioner's request, reducing the cost of compliance for motor vehicle insurers.

Section 431:10D-603, HRS, currently requires a life insurance producer to provide a buyer's guide and a disclosure statement to consumers when the application for an annuity contract is taken. Where the buyer's guide and disclosure statement are not provided, a free-look period of 15 days is provided for the applicant to return the annuity contract, pursuant to section 431:10D-603(c), HRS. The 15-day period under 431:10D-603(c), HRS, runs concurrently with the free-look period under sections 431:10-214 and 431:10D-505(a)(4), HRS, which provide a 10-day and 30-day free-look period, respectively. Where no annuity policy is being replaced, the ten-day free-look period applies and the consumer gets only an additional five days to review the annuity contract, where the additional 15-day runs concurrently with the 10-day period. Where there is a replacement, the 30-day free-look period applies and the consumer gets no additional time to review the annuity contract, since the additional 15-day period runs concurrently with the 30-day period. Given this scenario, section 431:10D-603(c), HRS, does not provide incentive for the producer to comply with these disclosure requirements. This amendment is intended to provide some means of consumer protection by allowing additional time to review the annuity policy, where there is non-compliance by the producer.

Section 431:11-101(b)(1), HRS, currently allows the Commissioner to exempt any class of insurers from provisions of the insurance company holding company law in article 11, chapter 431, HRS, where an exemption is consistent with the purposes of article 11 and serves the public interest. This

amendment clarifies that the exemption applies to any insurer, in addition to any class of insurers, providing the Commissioner with the flexibility to act timely in cases where prompt action is appropriate and consistent with the public interest.

Section 431:11-106(a)(5), HRS, currently requires a domestic insurer to notify the Commissioner within 30 days of an investment in any corporation, where the total investment by the insurance holding company in any one corporation exceeds 10 percent of the corporation's voting securities. This amendment substitutes "person" for "corporation" for consistency with the definitions in section 431:11-102, HRS.

Sections 431:19-107(b)(1)(C), 432:1-404(a)(1), and 432D-5(a)(1), HRS, currently expressly refer to NAIC annual statement instructions. The NAIC intends to delete reference to the model audit rule from the annual statement instructions and requires state insurance regulators to adopt these provisions by January 1, 2010, either by statute or rule. The Commissioner has proceeded to adopt rules pertaining to the model audit rule. Thus, the statutory references in sections 431:19-107(b)(1)(C), 432:1-404(a)(1), and 432D-5(a)(1) to NAIC annual statement instructions will become outdated upon adoption of the rules.

Section 431:19-109(a)(2), HRS, currently refers to section 431:19-105, HRS, which was repealed by Act 232, Session Laws of Hawaii 2007. Therefore, this reference is outdated and needs to be deleted.

Hawaii adopted the IIPRC in article 30 of the insurance code effective January 1, 2005, pursuant to Act 104, Session Laws of Hawaii 2004. Section 431:30-102, HRS, currently defines the member of the IIPRC as the person chosen by the compacting state and section 431:30-105, HRS, requires the Governor, with the advice and consent of the Senate, to

appoint Hawaii's member to the IIPRC. The majority of compacting states designate the Insurance Commissioner or the Commissioner's designee as the member who represents the state on the IIPRC. Section 431:30-102, HRS, currently defines the commissioner to mean the chief insurance regulatory official of a state. The proposed amendments define Hawaii's representative to the IIPRC as the Commissioner or the Commissioner's designee. With the foregoing, section 431:30-105 is no longer necessary and should be repealed. These amendments would streamline the insurance code and promote national uniformity of state laws governing the IIPRC.

Section 431:30-112(d)(2), HRS, currently allows a state belonging to the IIPRC to opt out of a uniform standard, where the uniform standard does not provide reasonable protections to its state's citizens. Hawaii adopted the Long-Term Care Insurance Model Regulation in article 10H of the insurance code. Hawaii law provides additional standards for federal uniformity, availability for reciprocal beneficiaries in accordance with state law, and flexibility and innovation in the development of long-term care insurance coverage. Given the foregoing protections, allowing Hawaii to opt out of the uniform standard for long-term care insurance promotes the public's interest.

These revisions represent efforts to streamline operations, improve administrative efficiency, contribute to the Insurance Division retaining NAIC accreditation, and reduce the cost of insurance regulation.

Impact on the public: This bill will make provisions of the insurance code and other insurance-related chapters of the HRS more understandable, technically correct, and consistent, and decrease the cost and burden of regulatory compliance.

Impact on the department and other agencies: These amendments streamline operations, improve administrative efficiency,

contribute to the Insurance Division retaining NAIC accreditation, and reduce confusion and inefficiency in implementing Hawaii insurance laws.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-106.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: July 1, 2010.