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# 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 as follows:

3           1. By adding a new section to article 3 to be  
4 appropriately designated and to read:

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

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



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

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

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

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



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

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

20 (e) The commissioner may enter into agreements governing  
21 sharing and use of information consistent with subsections (b),  
22 (c), and (d).



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

6           2. By adding a new section to part II of article 9 to be  
7       appropriately designated and to read:

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

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

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

19           3. By amending subsection (c) of section 431:2-208 to  
20       read:

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



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

7 4. By amending subsection (a) of section 431:4F-103 to  
8 read:

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

12 (1) Qualifying as an insurer licensed to do business in  
13 this ~~[State]~~ state; and

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



1           5. By amending subsection (d) of section 431:9-203 to  
2 read:

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

8           6. By amending subsection (b) of section 431:9-228 to  
9 read:

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

13           7. By amending subsection (f) of section 431:9A-107 to  
14 read:

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 8. By amending subsection (c) of section 431:9A-122 to  
12 read:

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 9. By adding a new definition in section 431:9C-101 to be  
17 appropriately inserted and to read:

18 ""Producer" has the same meaning as in section 431:9A-102."

19 10. By amending section 431:9C-102 to read:

20 "§431:9C-102 **Licensure.** (a) No person, firm,  
21 association, or corporation shall act as a managing general  
22 agent, with respect to risks located in this [~~State~~] state for



1 an insurer licensed in this [~~State,~~] state, unless licensed as a  
2 producer in this [~~State.~~] state.

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

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

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

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





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

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

12       11. By amending section 431:9C-103 to read:

13       "**§431:9C-103 Required contract provisions.** No person,  
14 firm, association, or corporation acting as a managing general  
15 agent shall place business with an insurer unless there is in  
16 force[~~7~~] a written contract between the managing general agent  
17 and the insurer which sets forth the responsibilities of each  
18 party [~~and~~~~7~~]; where both the managing general agent and the  
19 insurer share responsibility for a particular function,  
20 specifies the division of those responsibilities[~~7~~] and which  
21 contains at least the following additional provisions:



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



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

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

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

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



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

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

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

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

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

17 (6) Appropriate underwriting guidelines including:

18 (A) The maximum annual premium volume;

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

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

21 (D) Maximum limits of liability;

22 (E) Applicable exclusions;



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

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

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

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

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

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



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

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

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



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

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

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



1 profits have been verified through examination  
2 pursuant to section 431:9C-105; and  
3 ~~(9)~~ (11) The managing general agent shall not:  
4 (A) Bind reinsurance or retrocessions on behalf of  
5 the insurer, except that the managing general  
6 agent may bind facultative reinsurance contracts  
7 pursuant to obligatory facultative agreements if  
8 the contract with the insurer contains  
9 reinsurance underwriting guidelines including,  
10 for both reinsurance assumed and ceded, a list of  
11 reinsurers with whom those automatic agreements  
12 are in effect, the coverages and amounts or  
13 percentages that may be reinsured, and commission  
14 schedules;  
15 (B) Commit the insurer to participate in insurance or  
16 reinsurance syndicates;  
17 (C) Appoint any producer without assuring that the  
18 producer is lawfully licensed to transact the  
19 type of insurance for which the producer is  
20 appointed;  
21 (D) Without prior approval of the insurer, pay or  
22 commit the insurer to pay a claim over a





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

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

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

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

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

15 12. By amending section 431:9C-104 to read:

16 "[~~+~~]\$431:9C-104[~~+~~] Duties of insurers. (a) An insurer  
17 shall have on file an independent financial examination in a  
18 form acceptable to the commissioner of each managing general  
19 agent with whom it has done business [~~in a form acceptable to~~  
20 ~~the commissioner~~].

21 (b) If a managing general agent establishes loss reserves,  
22 the insurer shall annually obtain the opinion of an independent



1 actuary attesting to the adequacy of loss reserves established  
2 for losses incurred and outstanding on business produced by the  
3 managing general agent. [~~This is~~] The opinion required by this  
4 subsection shall be in addition to any other required loss  
5 reserve certification required by this chapter.

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

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

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



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

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

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

18 13. By amending section 431:9N-102 to read:

19 "[~~+~~]**\$431:9N-102**[~~+~~] **License denial, nonrenewal, suspension,**  
20 **or revocation.** In addition to [~~causes in~~] the authority granted  
21 by section 431:9A-112, the commissioner may deny, place on  
22 probation, suspend, revoke, or refuse to issue or renew a bail



1 agent's license and may levy a civil fine or penalty in  
2 accordance with articles 2 and 9A, or take any combination of  
3 these actions, for any of the following causes:

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

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

12 [~~+2~~] [~~Failing~~] (3) Failure to report, to preserve without  
13 use and retain separately, or to return collateral  
14 [~~taken~~] received as security on any bond to the  
15 principal or depositor of the collateral;

16 [~~+3~~] [~~Failing~~] (4) Failure to pay a final, nonappealable  
17 judgment award for failure to return or repay  
18 collateral received to secure a bond;

19 [~~+4~~] (5) Continuing [~~to execute~~] execution of bail bonds  
20 in any court in this [~~State~~] state while on the board,  
21 where the bail forfeiture judgment that resulted in  
22 [~~being placed~~] placement on the board has not been



1           paid, stayed, vacated, exonerated, or otherwise  
 2           discharged; or  
 3        [~~(5) Paying,~~] (6) Payment, directly or indirectly, of any  
 4           commission, service fee, brokerage, or other valuable  
 5           consideration to any person selling, soliciting, or  
 6           negotiating bail within this [~~State~~] state unless, at  
 7           the time the services were performed, the person was  
 8           [a] duly licensed [~~bail agent~~] for the performance of  
 9           the services."

10           14. By amending section 431:10-244 to read:

11           "**§431:10-244 Filing procedure for contracts approved by**  
 12 **commissioner.** Each insurance contract requiring approval by the  
 13 commissioner pursuant to this code, section 392-48 [~~and~~], or  
 14 section 386-124 and each contract certified by the insurer to be  
 15 in conformity with this code shall be accompanied by a \$20 fee  
 16 payable to the commissioner, which [fee] shall be deposited [~~in~~]  
 17 into the commissioner's education and training fund."

18           15. By amending section 431:10A-105 to read:

19           "**§431:10A-105 Required provisions.** Except as provided in  
 20 section 431:10A-107, each policy of accident and health or  
 21 sickness insurance delivered or issued for delivery to any  
 22 person in this [~~State~~] state shall contain the provisions set



1 forth below. These provisions shall be in the words in which  
2 they appear below; provided that the insurer may substitute  
3 corresponding provisions of different wording [~~approved by the~~  
4 ~~commissioner~~] certified by an officer of the insurer to be in  
5 substantial conformance with the wording below that are in each  
6 instance not less favorable in any respect to the insured or the  
7 beneficiary. The provisions shall be preceded individually by  
8 the specified caption, or by [~~such~~] appropriate individual or  
9 group captions or subcaptions [~~as the commissioner may approve.~~]  
10 that are substantially similar to the specified captions. The  
11 provisions required by this section are as follows:

12 (1) "Entire Contract; Changes: This policy, including the  
13 endorsements and the attached papers, if any,  
14 constitutes the entire contract of insurance. No  
15 change in this policy shall be valid until approved by  
16 an executive officer of the insurer and unless the  
17 approval is endorsed on or attached to this policy.  
18 No agent has authority to change this policy or to  
19 waive any of its provisions[-]"i

20 (2) (A) "Time Limit on Certain Defenses:  
21 (i) After three years from the date of issue of  
22 this policy no misstatements, except



1 fraudulent misstatements, made by the  
2 applicant in the application for this policy  
3 shall be used to void this policy or to deny  
4 a claim for loss incurred or disability [(-)]  
5 as defined in the policy[(-)] commencing after  
6 the expiration of the three-year period[(-)];  
7 and

8 (ii) No claim for loss incurred or disability  
9 [(-)] as defined in the policy[(-)] commencing  
10 after three years from the date of issue of  
11 this policy shall be reduced or denied on  
12 the ground that a disease or physical  
13 condition not excluded on the date of loss  
14 from coverage by name or specific  
15 description effective [~~on the date of loss~~]  
16 had existed prior to the effective date of  
17 coverage of this policy[(-)];

18 (B) The policy provision set forth in subparagraph  
19 (A) (i) shall not be construed to affect any legal  
20 requirement for avoidance of a policy or denial  
21 of a claim during the initial three-year period,  
22 nor to limit the application of section 431:10A-



1 106(1) through (4) in the event of misstatement  
2 with respect to age [æ], occupation, or other  
3 insurance[-]; and

4 (C) A policy that the insured has the right to  
5 continue in force subject to its terms by the  
6 timely payment of premium until at least age  
7 fifty or, in the case of a policy issued after  
8 age forty-four, for at least five years from its  
9 date of issue, may contain in lieu of  
10 subparagraph (A)(i) the following provision  
11 [(-)from which the clause in parentheses may be  
12 omitted at the insurer's option(+):

13 "Incontestable: After this policy has been in  
14 force for a period of three years during the  
15 lifetime of the insured (excluding any period  
16 during which the insured is disabled), it shall  
17 become incontestable as to the statements  
18 contained in the application[-]"<sub>i</sub>

19 (3) (A) "Grace period: A grace period of (insert a  
20 number not less than seven for weekly premium  
21 policies, ten for monthly premium policies, and  
22 thirty-one for all other policies) days will be





1 granted for the payment of each premium falling  
2 due after the first premium, during which grace  
3 period the policy shall continue in force[-]"i

4 (B) A policy that contains a cancellation provision  
5 may add at the end of the [~~above~~] provision[+] required by subparagraph (A): "subject to the  
6 right of the insurer to cancel in accordance with  
7 the cancellation provision[-]"; and

8  
9 (C) A policy in which the insurer reserves the right  
10 to refuse any renewal shall have at the beginning  
11 of the [~~above~~] provision[+] required by  
12 subparagraph (A): "Unless not less than thirty  
13 days prior to the premium due date the insurer  
14 has delivered to the insured or has mailed to the  
15 insured's last address as shown by the records of  
16 the insurer written notice of its intention not  
17 to renew this policy beyond the period for which  
18 the premium has been accepted[-]";

19 (4) (A) "Reinstatement: If any renewal premium is not  
20 paid within the time granted to the insured for  
21 payment, a subsequent acceptance of premium by  
22 the insurer or by any agent duly authorized by



1 the insurer to accept the premium, without  
2 requiring in connection therewith an application  
3 for reinstatement, shall reinstate the policy;  
4 provided that if the insurer or agent requires an  
5 application for reinstatement and issues a  
6 conditional receipt for the premium tendered, the  
7 policy shall be reinstated upon approval of the  
8 application by the insurer or, lacking approval,  
9 upon the forty-fifth day following the date of  
10 conditional receipt unless the insurer has  
11 previously notified the insured in writing of its  
12 disapproval of the application. The reinstated  
13 policy shall cover only loss resulting from  
14 accidental injury as may be sustained after the  
15 date of reinstatement and loss due to sickness as  
16 may begin more than ten days after that date. In  
17 all other respects the insured and insurer shall  
18 have the same rights as they had under the policy  
19 immediately before the due date of the defaulted  
20 premium, subject to any provisions endorsed  
21 hereon or attached hereto in connection with the  
22 reinstatement. Any premium accepted in



1 connection with the reinstatement shall be  
2 applied to a period for which premium has not  
3 been previously paid, but not to any period more  
4 than sixty days prior to the date of  
5 reinstatement [-]"; and

6 (B) The last sentence in subparagraph (A) may be  
7 omitted from any policy that the insured has the  
8 right to continue in force subject to its terms  
9 by the timely payment of premiums until at least  
10 age fifty or, in the case of a policy issued  
11 after age forty-four, for at least five years  
12 from its date of issue[-];

13 (5) (A) "Notice of Claim: Written notice of claim [~~must~~]  
14 shall be given to the insurer within twenty days  
15 after the occurrence or commencement of any loss  
16 covered by the policy, or as soon thereafter as  
17 is reasonably possible. Notice given by or on  
18 behalf of the insured or the beneficiary to the  
19 insurer at (insert the location of the office as  
20 the insurer may designate for the purpose) or to  
21 any authorized agent of the insurer, with



1 information sufficient to identify the insured,  
2 shall be deemed notice to the insurer[-]"; and  
3 (B) In a policy providing a loss of time benefit that  
4 may be payable for at least two years, an insurer  
5 may at its option insert the following between  
6 the first and second sentences in subparagraph  
7 (A): "Subject to the qualification set forth  
8 below, if the insured suffers loss of time on  
9 account of disability for which indemnity may be  
10 payable for at least two years, the insured  
11 shall, at least once in every six months after  
12 having given notice of claim, give to the insurer  
13 notice of continuance of the disability, except  
14 in the event of legal incapacity. The period of  
15 six months following any filing of proof by the  
16 insured or any payment by the insurer on account  
17 of the claim or any denial of liability in whole  
18 or in part by the insurer shall be excluded in  
19 applying this provision. Delay in giving notice  
20 shall not impair the insured's right to any  
21 indemnity which would otherwise have accrued



1                   during the period of six months preceding the  
2                   date on which notice is actually given[-]";

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

14           (7) "Proofs of Loss: In case of claim for loss for which  
15           this policy provides any periodic payment contingent  
16           upon continuing loss, written proof of loss must be  
17           furnished to the insurer at its office within ninety  
18           days after the termination of the period for which the  
19           insurer is liable, and in case of claim for any other  
20           loss within ninety days after the date of loss.

21           Failure to furnish proof of loss within the time  
22           required shall not invalidate nor reduce any claim if



1 it was not reasonably possible to give proof within  
2 the time required, provided proof is furnished as soon  
3 as reasonably possible and in no event, except [~~in~~]  
4 the absence of legal capacity, later than fifteen  
5 months from the time proof is otherwise required[~~-~~"];

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

17 (9) (A) "Payment of Claims: Indemnity for loss of life  
18 [~~will~~] shall be payable in accordance with the  
19 beneficiary designation and the provisions  
20 respecting payment which may be prescribed herein  
21 and effective at the time of payment. If no  
22 designation or provision is then effective, the



1 indemnity shall be payable to the estate of the  
2 insured. Any other accrued indemnities unpaid at  
3 the insured's death may, at the option of the  
4 insurer, be paid either to the designated  
5 beneficiary or to the estate of the insured. All  
6 other indemnities [~~will~~] shall be payable to the  
7 insured[-]"; and

8 (B) [~~The~~] Either or both of the following  
9 provisions [~~, or either of them,~~] may be included  
10 with the provision set forth in subparagraph (A)  
11 at the option of the insurer:

12 (i) "If any indemnity of this policy shall be  
13 payable to the estate of the insured, or to  
14 an insured or beneficiary who is a minor or  
15 otherwise not competent to give a valid  
16 release, the insurer may pay the indemnity,  
17 up to an amount not exceeding \$2,000 to any  
18 relative by blood or connection by marriage  
19 of the insured or beneficiary who is deemed  
20 by the insurer to be equitably entitled  
21 thereto. Any payment made by the insurer in  
22 good faith pursuant to this provision shall



1 fully discharge the insurer to the extent of  
2 the payment [-]"; and

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

15 (10) "Physical Examinations and Autopsy: The insurer at  
16 its own expense shall have the right and opportunity  
17 to examine the person of the insured when and as often  
18 as it may reasonably require during the pendency of a  
19 claim hereunder and to make an autopsy in case of  
20 death where it is not forbidden by law [-]";

21 (11) "Legal Actions: No action at law or in equity shall  
22 be brought to recover on this policy prior to the





1 expiration of sixty days after written proof of loss  
2 has been furnished in accordance with the requirements  
3 of this policy. No action at law or in equity shall  
4 be brought after the expiration of three years after  
5 the time written proof of loss is required to be  
6 furnished[-]"; and

7 (12) (A) "Change of Beneficiary: Unless the insured makes  
8 an irrevocable designation of beneficiary, the  
9 right to change [e] the beneficiary is reserved  
10 to the insured and the consent of the beneficiary  
11 or beneficiaries shall not be requisite to  
12 surrender or assignment of this policy or to any  
13 change of beneficiary or beneficiaries, or to any  
14 other changes in this policy[-]"; and

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

18 16. By amending section 431:10A-106 to read:

19 "**§431:10A-106 Optional provisions.** Except as provided in  
20 section 431:10A-107, no policy of accident and health or  
21 sickness insurance delivered or issued for delivery to any  
22 person in this [State] state shall contain the provisions set



1 forth below unless the provisions are in the words in which they  
2 appear below; provided that the insurer may substitute  
3 corresponding provisions of different wording [~~approved by the~~  
4 ~~commissioner~~] certified by an officer of the insurer to be in  
5 substantial conformance with the wording below that are in each  
6 instance not less favorable in any respect to the insured or the  
7 beneficiary. [~~Such~~] The provisions listed in this section are  
8 optional provisions. Any [~~such provision~~] of the following  
9 provisions contained in the policy shall be preceded  
10 individually by the specified caption or, at the option of the  
11 insurer, by [~~such~~] appropriate individual or group captions or  
12 subcaptions [~~as the commissioner may approve.~~] substantially  
13 similar to the specified caption. The provisions are as  
14 follows:

15 (1) "Change of Occupation: If the insured is injured or  
16 contracts sickness after having changed occupations to  
17 one classified by the insurer as more hazardous than  
18 that stated in this policy or while doing for  
19 compensation anything pertaining to an occupation so  
20 classified, the insurer will pay only [~~such~~] the  
21 portion of the indemnities provided in this policy  
22 [~~as~~] that the premium paid would have purchased at the



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



1 the loss or prior to the date of proof of change in  
2 occupation[-]" ;

3 (2) "Misstatement of Age: If the age of the insured has  
4 been misstated, all amounts payable under this policy  
5 shall be such as the premium paid would have purchased  
6 at the insured's correct age[-]" ;

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

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

20 (B) "Other Insurance in This Insurer: Insurance  
21 effective at any one time on the insured under a  
22 like policy or policies in this insurer is



1 limited to the one [such] policy elected by the  
2 insured, the insured's beneficiary, or the  
3 insured's estate, as the case may be, and the  
4 insurer [~~will~~] shall return all premiums paid for  
5 all other [such] policies[-]";

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

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



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

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



1 insurer had notice (including the  
2 indemnities under this policy) bear to the  
3 total amount of all the indemnities for  
4 ~~[such]~~ the loss, and for the return of  
5 ~~[such]~~ the portion of the premium paid as  
6 shall exceed the pro rata portion for the  
7 indemnities thus determined~~[-]~~ i

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

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



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



1 (A) (ii) with respect to any insured, any amount  
2 of benefit provided for [~~such~~] an insured  
3 pursuant to any compulsory benefit statute  
4 [~~+~~]including any workers' compensation or  
5 employers' liability statute[~~+~~], whether provided  
6 by a governmental agency or otherwise, shall in  
7 all cases be deemed to be other valid coverage of  
8 which the insurer has had notice. In applying  
9 the provision set forth in subparagraph (A) (ii),  
10 no third party liability coverage shall be  
11 included as other 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~~] exceeds  
17 the monthly earnings of the insured at the time  
18 disability commenced or the insured's average  
19 monthly earnings for the period of two years  
20 immediately preceding a disability for which  
21 claim is made, whichever is [~~the~~] greater, the  
22 insurer [~~will~~] shall be liable only for [~~such~~]



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

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



1           least age fifty or, in the case of a policy  
2           issued after age forty-four, for at least five  
3           years from its date of issue[-]; and  
4           (C) The insurer may, at its option, include in the  
5           provision set forth in subparagraph (A) a  
6           definition of valid loss of time coverage  
7           approved as to form by the commissioner, which  
8           ~~[definition]~~ shall be limited in subject matter  
9           to coverage provided by governmental agencies or  
10          by organizations subject to regulation by  
11          insurance law or by insurance authorities of this  
12          [State] state or any state, district, or  
13          territory of the United States or any province of  
14          Canada, or to any other coverage the inclusion of  
15          which may be approved by the commissioner or any  
16          combination of [such] approved coverages. In the  
17          absence of [such] a definition [such] the terms  
18          shall not include any coverage provided for  
19          [such] an insured pursuant to any compulsory  
20          benefit statute [-] including any workers'  
21          compensation or employers' liability statute[-],



1 or benefits provided by union welfare plans or by  
2 employer or employee benefit organizations ~~[ ]~~;

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

7 (7) "Cancellation: The insurer may cancel this policy at  
8 any time by written notice delivered to the insured,  
9 or mailed to the insured's last address as shown by  
10 the records of the insurer ~~[, stating]~~. The notice  
11 shall state when, not less than five days thereafter,  
12 ~~[such]~~ the cancellation shall be effective ~~[, and~~  
13 ~~after]~~. After the policy has been continued beyond  
14 its original term the insured may cancel this policy  
15 at any time by written notice delivered or mailed to  
16 the insurer, effective upon receipt or on ~~[such]~~ a  
17 later date ~~[as may be]~~ specified in ~~[such]~~ the notice.  
18 In the event of cancellation, the insurer ~~[will]~~ shall  
19 return promptly the unearned portion of any premium  
20 paid. If the insured cancels, the earned premium  
21 shall be computed by the use of the short-rate table  
22 last filed with the state official having supervision



1 of insurance in the state where the insured resided  
2 when the policy was issued. If the insurer cancels,  
3 the earned premium shall be computed pro rata.

4 Cancellation shall be without prejudice to any claim  
5 originating prior to the effective date of  
6 cancellation[-]";

7 (8) "Conformity with State Statutes: Any provision of  
8 this policy which, on its effective date, is in  
9 conflict with the statutes of the state in which the  
10 insured resides on [such] the effective date is hereby  
11 amended to conform to the minimum requirements of  
12 [such] the applicable statutes[-]";

13 (9) "Illegal Occupation: The insurer shall not be liable  
14 for any loss to which a contributing cause was the  
15 insured's commission of or attempt to commit a felony  
16 or to which a contributing cause was the insured's  
17 being engaged in an illegal occupation[-]"; and

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



1 17. By amending section 431:10A-107 to read:

2 "§431:10A-107 **Inapplicable or inconsistent provisions.** If  
3 any provision of section 431:10A-105 to section 431:10A-111 is  
4 in whole or in part inapplicable to or inconsistent with the  
5 coverage provided by a particular form of policy, the insurer[  
6 ~~with the approval of the commissioner,~~] shall omit from [such]  
7 the policy any inapplicable provision or part of a provision,  
8 and shall modify any inconsistent provision or part of the  
9 provision [~~in such manner as~~] to make the provision [as]  
10 contained in the policy consistent with the coverage provided by  
11 the policy. An officer of the insurer shall certify conformity  
12 with the requirements of state statutes in accordance with this  
13 section."

14 18. By amending section 431:10C-210 to read:

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



1 19. By amending subsection (d) of section 431:10C-215 to  
2 read:

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

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





1           submit a report to the commissioner at the  
2           commissioner's request."

3           20. By amending subsection (a) of section 431:10D-111 to  
4 read:

5           "(a) A life insurer may, under [~~sueh~~] policy provisions or  
6 agreements [~~as have been approved by the commissioner consistent~~  
7 ~~with this section~~], contract for and accept premium deposits in  
8 addition to the regular premiums specified in the policy, for  
9 the purpose of paying future premiums, [~~ex~~] to facilitate  
10 conversion of the policy, or to increase the benefits [~~thereof.~~]  
11 of the policy, according to this section."

12           21. By amending subsection (c) of section 431:10D-603 to  
13 read:

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

20           22. By amending subsection (b) of section 431:11-101 to  
21 read:

22           "(b) The commissioner may exempt:



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

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

10 23. By amending subsection (a) of section 431:11-106 to  
11 read:

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

- 15 (A) The terms shall be fair and reasonable;
- 16 (B) Charges or fees for services performed shall be  
17 reasonable;
- 18 (C) Expenses incurred and payment received shall be  
19 allocated to the insurer in conformity with  
20 customary insurance accounting practices  
21 consistently applied;



1 (D) The books, accounts, and records of each party to  
2 all transactions shall be maintained so as to  
3 clearly and accurately disclose the nature and  
4 details of the transactions including the  
5 accounting information necessary to support the  
6 reasonableness of the charges or fees to the  
7 respective parties; and

8 (E) The insurer's surplus as regards policyholders  
9 following any dividends or distributions to  
10 shareholder affiliates shall be reasonable in  
11 relation to the insurer's outstanding liabilities  
12 and adequate to its financial needs[-];

13 (2) The following transactions involving a domestic  
14 insurer and any person in its holding company system  
15 [may] shall not be entered into unless the insurer has  
16 notified the commissioner in writing of its intention  
17 to enter into the transaction at least thirty days  
18 prior thereto, or a shorter period as the commissioner  
19 may permit, and the commissioner has not disapproved  
20 it within that period: .

21 (A) Sales, purchases, exchanges, loans[-] or  
22 extensions of credit, guarantees, or investments;



1 provided that the transactions are equal to or  
2 exceed:

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

8 (ii) With respect to life insurers, three per  
9 cent of the insurer's admitted assets as of  
10 the thirty-first day of December next  
11 preceding;

12 (B) Loans or extensions of credit to any person who  
13 is not an affiliate, where the insurer makes the  
14 loans or extensions of credit with the agreement  
15 or understanding that the proceeds of the  
16 transactions, in whole or in substantial part,  
17 are to be used to make loans or extensions of  
18 credit to, to purchase assets of, or to make  
19 investments in, any affiliate of the insurer  
20 making the loans or extensions of credit;  
21 provided that the transactions are equal to or  
22 exceed:



- 1 (i) With respect to nonlife insurers, the lesser  
2 of three per cent of the insurer's admitted  
3 assets or twenty-five per cent of surplus as  
4 regards policyholders each as of the thirty-  
5 first day of December next preceding; or  
6 (ii) With respect to life insurers, three per  
7 cent of the insurer's admitted assets as of  
8 the thirty-first day of December next  
9 preceding;
- 10 (C) Reinsurance agreements or modifications thereto  
11 in which the reinsurance premium or a change in  
12 the insurer's liabilities equals or exceeds five  
13 per cent of the insurer's surplus as regards  
14 policyholders, as of the thirty-first day of  
15 December next preceding, including those  
16 agreements which may require as consideration the  
17 transfer of assets from an insurer to a  
18 nonaffiliate, if an agreement or understanding  
19 exists between the insurer and nonaffiliate that  
20 any portion of the assets will be transferred to  
21 one or more affiliates of the insurer;



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

3 (E) Any material transactions, specified by rule,  
4 which the commissioner determines may adversely  
5 affect the interests of the insurer's  
6 policyholders.

7 Nothing in this section shall be deemed to authorize  
8 or permit any transactions which, in the case of an  
9 insurer not a member of the same holding company  
10 system, would be otherwise contrary to law[-] i

11 (3) A domestic insurer may not enter into transactions[-]  
12 which are part of a plan or series of like  
13 transactions with persons within the holding company  
14 system[-] if the purpose of those separate  
15 transactions is to avoid the statutory threshold  
16 amount and thus avoid the review that would otherwise  
17 occur. If the commissioner determines that the  
18 separate transactions were entered into over any  
19 twelve-month period for that purpose, the commissioner  
20 may exercise the commissioner's authority under  
21 section 431:11-111[-] i



1 (4) The commissioner, in reviewing transactions pursuant  
2 to subsection (a) (2), shall consider whether the  
3 transactions comply with the standards set forth in  
4 subsection (a) (1) and whether they may adversely  
5 affect the interests of policyholders ~~[ ]~~; and

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

12 24. By amending subsection (f) of section 431:13-103 to  
13 read:

14 "(f) An insurer or licensee shall issue a written response  
15 with reasonable promptness, in no case more than fifteen working  
16 days, to any written inquiry made by the commissioner regarding  
17 a claim ~~[ ]~~, consumer complaint [ ], or sales or marketing  
18 practice. The response shall be more than an acknowledgment  
19 that the commissioner's communication has been received, and  
20 shall adequately address the concerns stated in the  
21 communication."



1           25. By amending subsection (b) of section 431:19-107 to  
2 read:

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

5           (1) Annual statement and audit:

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

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





1 reporting the financial condition and results of  
2 the operation of the captive; and  
3 (C) The annual statement and audit shall be prepared  
4 in accordance with the National Association of  
5 Insurance Commissioners' annual statement  
6 instructions, accounting practices and procedures  
7 manual, and rules adopted by the commissioner  
8 following the [~~practice~~] practices and procedures  
9 prescribed by the National Association of  
10 Insurance [~~Commissioners' practices and~~  
11 ~~procedures manuals,~~] Commissioners; and  
12 (2) On or before each March 1, or such day subsequent  
13 thereto as the commissioner upon request and for cause  
14 may specify, a risk-based capital report in accordance  
15 with section 431:3-402; provided that a class 3  
16 association captive insurance company shall not be  
17 required to file risk-based capital reports with the  
18 National Association of Insurance Commissioners."  
19 26. By amending the definition of "member" in section  
20 431:30-102 to read:



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 27. By amending subsection (d) of section 431:30-112 to  
5 read:

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  
8 ~~[Act,]~~ article; 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]~~ An  
20 opt out pursuant to this section shall be effective at  
21 the time of enactment of this compact by the  
22 compacting state and shall apply to all existing



1 uniform standards involving long-term care insurance  
2 products and those subsequently adopted[-]; and  
3 (3) In accordance with the provisions of paragraph (2),  
4 this State does prospectively opt 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 2. 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



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]~~ by this  
5 paragraph shall be prepared in accordance with the  
6 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; 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 3. 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  
5 ~~[in]~~ by this paragraph shall be prepared in accordance  
6 with the National Association of Insurance  
7 Commissioners' ~~[annual statement instructions,]~~  
8 accounting practices and procedures manual and rules  
9 adopted by the commissioner following the practices  
10 and procedures prescribed by the National Association  
11 of Insurance ~~[Commissioners' accounting practices and~~  
12 ~~procedures 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 4. Section 431:30-105, Hawaii Revised Statutes, is  
22 repealed.





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

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

7



**Report Title:**

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

**Description:**

Modernizes Insurance Code. Effective July 1, 2010. (CD1)

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

