
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Section 431:2-105, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There shall be a chief deputy commissioner, who shall
4 be subject to chapter 76. The chief deputy commissioner shall
5 have the power to perform any act or duty assigned by the
6 commissioner. If a commissioner has not been appointed, the
7 chief deputy commissioner shall have the power to perform any
8 act that the commissioner is authorized to perform until the
9 appointment becomes effective. The certificate of the chief
10 deputy commissioner's appointment shall be filed in the office
11 of the lieutenant governor."

12 SECTION 2. Section 431:2-202.5, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "**§431:2-202.5 Approval; when deemed effective.** Except as
15 provided otherwise, any approval required by law shall be deemed
16 granted on the [~~thirtieth~~] sixtieth calendar day following the
17 filing of the request for approval if the commissioner does not



1 take any affirmative action to grant or deny the approval within
2 [~~thirty~~] sixty calendar days of the request."

3 SECTION 3. Section 431:2-206, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) A person competent to serve a summons shall serve
6 upon the commissioner triplicate copies of legal process against
7 an insurer for whom the commissioner is attorney. In the
8 absence of the commissioner, the process may be served upon the
9 chief deputy or the deputy in charge of the insurance function.
10 At the time of service the plaintiff shall pay to the
11 commissioner [~~\$127~~] \$25, taxable as costs in the action."

12 SECTION 4. Section 431:7-101, Hawaii Revised Statutes, is
13 amended by amending subsections (a) and (b) to read as follows:

14 "**\$431:7-101 Fees.** (a) The commissioner shall collect in
15 advance the following fees:

16 (1) Certificate of authority: Issuance\$1,800

17 (2) Organization of domestic insurers and affiliated
18 corporations:

19 (A) Application and all other papers required for
20 issuance of solicitation permit, filing ...\$3,000

21 (B) Issuance of solicitation permit\$300

22 (3) Producer's license:



1	(A)	Issuance, regular license	\$100
2	(B)	Issuance, temporary license	\$100
3	(4)	Nonresident producer's license: Issuance	\$150
4	(5)	Independent adjuster's license: Issuance	\$150
5	(6)	Public adjuster's license: Issuance	\$150
6	(7)	[Workers' compensation claim] <u>Claims</u> adjuster's	
7		limited	
8		license: Issuance	\$150
9	(8)	Independent bill reviewer's license:	
10		Issuance	\$160
11	(9)	Limited producer's license: Issuance	\$120
12	(10)	Managing general agent's license: Issuance	\$150
13	(11)	Reinsurance intermediary's license:	
14		Issuance	\$150
15	(12)	Surplus lines broker's license: Issuance	\$300
16	(13)	Service contract provider's registration:	
17		Issuance	\$150
18	(14)	Approved course provider certificate:	
19		Issuance	\$200
20	(15)	Approved continuing education course certificate:	
21		Issuance	\$60



1 (16) Vehicle protection product warrantor's registration:
2 Issuance\$150

3 (17) Criminal history record check; fingerprinting: For
4 each criminal history record check and fingerprinting
5 check, a fee to be established by the commissioner.

6 (18) Limited line motor vehicle rental company producer's
7 license: Issuance\$2,000

8 [~~(19)~~] ~~Life settlement contract provider's license:~~
9 ~~Issuance\$150~~

10 ~~(20)~~ ~~Life settlement contract broker's license:~~
11 ~~Issuance\$150~~

12 ~~(21)]~~ (19) Examination for license: For each examination,
13 a fee to be established by the commissioner.

14 (b) The fees for services of the department of commerce
15 and consumer affairs subsequent to the issuance of a certificate
16 of authority, license, or other certificate are as follows:

17 (1) \$1,200 per year for all services (including extension
18 of the certificate of authority) for an authorized
19 insurer;

20 (2) \$100 per year for all services (including extension of
21 the license) for a regularly licensed producer;



- 1 (3) \$150 per year for all services (including extension of
2 the license) for a regularly licensed nonresident
3 producer;
- 4 (4) \$90 per year for all services (including extension of
5 the license) for a regularly licensed independent
6 adjuster;
- 7 (5) \$90 per year for all services (including extension of
8 the license) for a regularly licensed public adjuster;
- 9 (6) \$90 per year for all services (including extension of
10 the license) for a [~~workers' compensation~~] claims
11 adjuster's limited license;
- 12 (7) \$120 per year for all services (including extension of
13 the license) for a regularly licensed independent bill
14 reviewer;
- 15 (8) \$90 per year for all services (including extension of
16 the license) for a producer's limited license;
- 17 (9) \$150 per year for all services (including extension of
18 the license) for a regularly licensed managing general
19 agent;
- 20 (10) \$150 per year for all services (including extension of
21 the license) for a regularly licensed reinsurance
22 intermediary;



- 1 (11) \$90 per year for all services (including extension of
2 the license) for a licensed surplus lines broker;
- 3 (12) \$150 per year for all services (including renewal of
4 registration) for a service contract provider;
- 5 (13) \$130 per year for all services (including extension of
6 the certificate) for an approved course provider;
- 7 (14) \$40 per year for all services (including extension of
8 the certificate) for an approved continuing education
9 course;
- 10 (15) \$150 per year for all services (including renewal of
11 registration) for a vehicle protection product
12 warrantor;
- 13 (16) [~~\$40~~] A fee to be determined by the commissioner for
14 [a] each criminal history record check[~~+~~] and
15 fingerprinting; and
- 16 (17) \$1,200 per year for all services (including extension
17 of the license) for a regularly licensed limited line
18 motor vehicle rental company producer[~~+~~]
- 19 ~~(18) \$150 per year for all services (including extension of~~
20 ~~the license) for a regularly licensed life settlement~~
21 ~~contract provider; and~~



1 ~~(19) \$150 per year for all services (including extension of~~
2 ~~the license) for a regularly licensed life settlement~~
3 ~~contract broker].~~

4 The services referred to in paragraphs (1) to ~~[(19)]~~ (17)
5 shall not include services in connection with examinations,
6 investigations, hearings, appeals, and deposits with a
7 depository other than the department of commerce and consumer
8 affairs."

9 SECTION 5. Section 431:9-204, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§431:9-204 Applications for license.** (a) Application
12 for ~~[any such]~~ an adjuster or independent bill reviewer license
13 shall be made to the commissioner upon forms ~~[as]~~ prescribed and
14 furnished by the commissioner. As a part of or in connection
15 with ~~[any such]~~ the application, the applicant shall furnish
16 information including:

- 17 (1) The applicant's identity, personal history,
18 experience, business records, and a full set of
19 fingerprints, including a scanned file from a hard
20 copy fingerprint, for the commissioner to obtain and
21 receive national and state criminal history
22 ~~[+]record[+]~~ checks from the Federal Bureau of



1 Investigation and the Hawaii criminal justice data
2 center, pursuant to section 846-2.7; and

3 (2) Other pertinent facts as the commissioner may
4 reasonably require.

5 ~~[(b) (1) If the applicant is a partnership or corporation, the
6 application shall furnish in addition to the
7 requirements set forth in subsection (a):~~

8 ~~(A) The names of all partners or officers; and~~

9 ~~(B) A designation of each individual who is to
10 exercise the powers to be conferred by the
11 license upon the partnership or corporation.~~

12 ~~(2) Each individual shall be required to furnish
13 information to the commissioner as though for an
14 individual license.~~

15 ~~(e)] (b) Any person who wilfully [~~misrepresenting~~
16 misrepresents or [~~omitting~~] omits any fact required to be
17 disclosed in [~~any such~~] an application filed pursuant to this
18 section shall be liable for penalties as provided by this code."~~

19 SECTION 6. Section 431:9C-101, Hawaii Revised Statutes, is
20 amended by amending the definition of "managing general agent"
21 to read as follows:



1 "Managing general agent" means any person, firm,
2 association, or corporation that manages all or part of the
3 insurance business of an insurer [~~+~~]including the management of
4 a separate division, department, or underwriting office[~~+~~] and
5 acts as an agent for [~~such~~] the insurer regardless of whether
6 the person, firm, association, or corporation is known as a
7 managing general agent, manager, or other similar term[~~7~~] and
8 who, with or without the authority, either separately or
9 together with affiliates, produces, directly or indirectly, and
10 underwrites an amount of gross direct written premium equal to
11 or more than five per cent of the policyholder surplus as
12 reported in the last annual statement of the insurer in any one
13 quarter or year[~~7, together with one or more of the following~~
14 activities related to the business produced:] and adjusts or
15 pays claims in excess of [an amount determined by the
16 commissioner,] \$10,000 or negotiates reinsurance on behalf of
17 the insurer. Notwithstanding the [preceding sentence,~~7~~
18 specified requirements, the following persons shall not be
19 considered as managing general agents for the purposes of this
20 article:

21 (1) An employee of the insurer;



- 1 (2) A United States manager of the United States branch of
- 2 an alien insurer;
- 3 (3) An underwriting manager who, pursuant to contract,
- 4 manages all the insurance operations of the insurer,
- 5 is under common control with the insurer[7] subject to
- 6 article 11, and whose compensation is not based on the
- 7 volume of premiums written;
- 8 (4) The attorney-in-fact authorized by and acting for the
- 9 subscribers of a reciprocal insurer or inter-insurance
- 10 exchange under a power of attorney; and
- 11 (5) Any person, firm, association, or corporation
- 12 domiciled in the State [~~and~~], authorized to do
- 13 business only in the State, and acting as a managing
- 14 general agent for an insurer licensed and conducting
- 15 business only in the State."

16 SECTION 7. Section 431:10H-228, Hawaii Revised Statutes,
 17 is amended by amending subsection (a) to read as follows:

18 "(a) Every insurer, health care service plan, or other
 19 entity providing long-term care insurance or benefits in this
 20 State shall provide a copy of any long-term care insurance
 21 advertisement intended for use in this State [~~whether~~] through
 22 written, radio, or television [~~medium~~] media to the commissioner



1 for review or approval by the commissioner to [~~the extent it may~~
 2 ~~be reviewed under state law. In addition, all]~~ determine
 3 compliance with this article. All advertisements subject to
 4 this section shall be retained by the insurer, health care
 5 service plan, or other entity for at least three years from the
 6 date the advertisement was first used."

7 SECTION 8. Section 431:11-106, Hawaii Revised Statutes, is
 8 amended by amending subsection (a) to read as follows:

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

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

13 (B) Charges or fees for services performed shall be
 14 reasonable;

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

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



1 accounting information necessary to support the
2 reasonableness of the charges or fees to the
3 respective parties; and

4 (E) The insurer's surplus as regards policyholders
5 following any dividends or distributions to
6 shareholder affiliates shall be reasonable in
7 relation to the insurer's outstanding liabilities
8 and adequate to its financial needs;

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

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

21 (i) With respect to nonlife insurers, the lesser
22 of three per cent of the insurer's admitted



1 assets or twenty-five per cent of surplus as
2 regards policyholders each as of the thirty-
3 first day of December next preceding; or

4 (ii) With respect to life insurers, three per
5 cent of the insurer's admitted assets as of
6 the thirty-first day of December next
7 preceding;

8 (B) Loans or extensions of credit to any person who
9 is not an affiliate, where the insurer makes the
10 loans or extensions of credit with the agreement
11 or understanding that the proceeds of the
12 transactions, in whole or in substantial part,
13 are to be used to make loans or extensions of
14 credit to, to purchase assets of, or to make
15 investments in, any affiliate of the insurer
16 making the loans or extensions of credit;
17 provided that the transactions are equal to or
18 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
4 cent of the insurer's admitted assets as of
5 the thirty-first day of December next
6 preceding;
7 (C) Reinsurance agreements or modifications [~~thereto~~]
8 to reinsurance agreements in which the
9 reinsurance premium or a change in the insurer's
10 liabilities equals or exceeds five per cent of
11 the insurer's surplus as regards policyholders[~~7~~]
12 as of the thirty-first day of December next
13 preceding, including those agreements [~~which~~]
14 that may require as consideration the transfer of
15 assets from an insurer to a nonaffiliate[~~7~~] if an
16 agreement or understanding exists between the
17 insurer and nonaffiliate that any portion of the
18 assets will be transferred to one or more
19 affiliates of the insurer;
20 (D) All management agreements, service contracts, and
21 [~~all~~] cost-sharing arrangements; and



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

5 Nothing in this section shall be deemed to authorize
6 or permit any transactions which, in the case of an
7 insurer not a member of the same holding company
8 system, would be otherwise contrary to law;

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

20 (4) The commissioner, in reviewing transactions pursuant
21 to subsection (a) (2), shall consider whether the
22 transactions comply with the standards set forth in



1 subsection (a)(1) and whether [~~they~~] the transactions
2 may adversely affect the interests of policyholders;
3 and

4 (5) The commissioner shall be notified within thirty days
5 of any investment of the domestic insurer in any one
6 person if the total investment in the person by the
7 insurance holding company system exceeds ten per cent
8 of the [~~corporation's~~] person's voting securities[~~;~~]
9 or the domestic insurer possesses control of the
10 person as the term "control" is defined in section
11 431:11-102."

12 SECTION 9. Section 431:14G-105, Hawaii Revised Statutes,
13 is amended by amending subsections (a) and (b) to read as
14 follows:

15 "(a) Every managed care plan shall file [~~in triplicate~~]
16 with the commissioner[~~;~~] every rate, charge, classification,
17 schedule, practice, or rule and every modification of any of the
18 foregoing that it proposes to use. Every filing shall [~~state~~]:

19 (1) State its proposed effective date [~~and shall~~
20 ~~indicate~~];

21 (2) Indicate the character and extent of the coverage
22 contemplated[~~. The filing also shall include~~];



1 (3) Include a report on investment income[-]; and

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

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

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

10 (2) Two printed copies of the filing;

11 provided that the commissioner may request an insurer that
12 submits an electronic copy of the filing pursuant to paragraph
13 (1) to also submit a printed copy of the electronic filing."

14 SECTION 10. Section 431P-16, Hawaii Revised Statutes, is
15 amended by amending subsection (e) to read as follows:

16 "(e) After each covered event, if the board [~~shall~~
17 ~~determine~~] determines that the moneys in the hurricane reserve
18 trust fund, excluding moneys determined by the board to be
19 needed to continue fund operations following [~~that~~] the covered
20 event, will be insufficient to pay claims and other obligations
21 of the fund arising out of that covered event, the Hawaii
22 hurricane relief fund [~~is authorized to~~] shall levy a surcharge



1 not to exceed seven and one-half per cent a year on premiums
2 charged for all property and casualty insurance policies issued
3 for risks insured in this State. These moneys may be deposited
4 into the hurricane reserve trust fund or into trust or custodial
5 accounts~~[7]~~ created for the benefit of the fund's secured
6 parties~~[7]~~ that are held inside or outside the hurricane reserve
7 trust fund. The ~~[formula to calculate the amount and period of~~
8 ~~the surcharge for each covered event and the procedures and~~
9 ~~methodology for payment of claims and other obligations of the~~
10 ~~fund shall be provided in the plan of operation and the]~~
11 surcharge ~~[may]~~ shall remain in effect until all claims and
12 other obligations of the fund, including but not limited to
13 claims under fund policies of hurricane property insurance,
14 claims financing transactions, bonds, notes, and other
15 obligations arising out of that covered event~~[7-shall]~~ have been
16 fully discharged. The amount and reason for any surcharge made
17 pursuant to this subsection shall be separately stated on any
18 billing sent to an insured. The surcharge shall not be
19 considered premiums for any other purpose~~[7]~~ including the
20 computation of gross premium tax or the determination of
21 producers' commissions. The fund may establish procedures for



1 insurers to collect the surcharge from customers who hold
2 property or casualty policies."

3 SECTION 11. Section 432:1-306, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) [~~After the organization of the society is completed,~~
6 ~~and before a certificate of compliance is granted by the~~
7 ~~commissioner, the]~~ The society shall deposit with the
8 commissioner [one-half the maximum amount required to be
9 maintained in its death benefit and disability, or sick, or
10 other benefit fund, as provided in section 432:1-401,] fifty per
11 cent of the minimum net worth requirement provided in section
12 432:1-407(a)(2), either in cash or in securities approved by the
13 commissioner[-]; provided that the deposit shall be not less
14 than \$1,000,000 and shall not exceed \$20,000,000."

15 SECTION 12. Section 432:1-401, Hawaii Revised Statutes, is
16 repealed.

17 [~~"§432:1-401 **Benefit funds.** Each society shall at all~~
18 ~~times maintain:~~

19 ~~(1) In its death benefit fund, at least five times the~~
20 ~~maximum amount of death benefit offered or promised to~~
21 ~~be paid to any one member, and~~



1 ~~(2) In its sick, disability or other benefit fund, at~~
2 ~~least twenty times the maximum amount of sick,~~
3 ~~disability or other benefits, whichever maximum amount~~
4 ~~is greater, offered or promised to be paid to any one~~
5 ~~member during or within a period of thirty days."]~~

6 SECTION 13. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 14. This Act shall take effect on July 1, 2011;
9 provided that the amendments made to section 431:7-101, Hawaii
10 Revised Statutes, shall not be repealed when that section is
11 reenacted on July 1, 2014, pursuant to section 7(3) of Act 59,
12 Session Laws of Hawaii 2010.



Report Title:

Insurance

Description:

Updates the Insurance Code and related provisions. (SD2)

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