
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. Chapter 488, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§488- Access to records. (a) Every plan and its
5 owners, operators, officers, employees, and representatives
6 shall be subject to investigation or examination by the
7 commissioner, shall produce and make freely accessible to the
8 commissioner all accounts, records, documents, and files in the
9 person's possession or control relating to the subject of the
10 investigation or examination, and shall otherwise cooperate with
11 any investigation or examination by the commissioner.

12 (b) If the commissioner finds the accounts or records of a
13 plan, or its owners, operators, officers, employees, or
14 representatives to be inadequate, improperly kept, or improperly
15 posted, the commissioner may employ experts to rewrite, post, or
16 balance the accounts at the expense of the plan being examined,
17 if the plan has failed to correct the accounts or records after



1 the commissioner has given the plan written notice and a
2 reasonable opportunity to do so.

3 (c) A plan administrator shall provide a written response
4 within seven days to any written inquiry made by the
5 commissioner. The response shall be more than an
6 acknowledgement that the commissioner's communication was
7 received, and shall adequately address the concerns stated in
8 the communication.

9 §488- Records and reports. (a) The commissioner shall
10 preserve in permanent form records and reports of the
11 commissioner's proceedings, hearings, investigations, and
12 examinations, and shall file the records in the commissioner's
13 office.

14 (b) The records of the commissioner and filings in the
15 commissioner's office shall be open to public inspection, except
16 as otherwise provided in this chapter.

17 (c) The commissioner shall maintain the confidentiality of
18 any documents or information received from the National
19 Association of Insurance Commissioners, the federal government,
20 insurance regulatory agencies of foreign countries, or insurance
21 departments of other states, territories, and commonwealths that
22 are confidential in the jurisdiction of origin. Documents and



1 records subject to this subsection shall be confidential and
2 privileged, shall not be made public, shall not be subject to
3 subpoena or discovery, and shall not be admissible as evidence
4 in any private civil action and neither the commissioner nor any
5 other person who received documents, materials, or other
6 information subject to this subsection while acting under the
7 authority of the commissioner shall be permitted or required to
8 testify in any private civil action concerning any confidential
9 documents, materials, or information subject to this subsection.
10 This subsection shall not be construed to limit the
11 commissioner's authority to use any necessary documents,
12 materials, or other information in furtherance of any regulatory
13 or legal action brought as part of the commissioner's official
14 duties. The commissioner may share information, including
15 otherwise confidential information, with the National
16 Association of Insurance Commissioners, the federal government,
17 insurance regulatory agencies of foreign countries, or insurance
18 departments of other states, territories, and commonwealths if
19 the statutes or regulations of the jurisdiction receiving the
20 information permit the receiving person or entity to maintain
21 the same level of confidentiality as required under this
22 subsection and other applicable Hawaii law.



1 ~~"Group legal service plan" is a plan by which legal~~
2 ~~services are rendered to individual members of a group~~
3 ~~identifiable in terms of some common interest."~~

4 ~~"Prepaid legal service plan" or "plan" means a group legal~~
5 ~~service plan in which the cost of the services are prepaid by~~
6 ~~the group member or by some other person or organization in the~~
7 ~~member's behalf."]~~

8 SECTION 4. Section 488-2, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) This chapter shall apply to all plans in the State
11 other than:

12 (1) Plans in which any party to the plan is the federal
13 government or any agency thereof; or

14 (2) Any employer-employee plan that is subject to the
15 federal Employee Retirement Income Security Act of
16 1974, Public Law 93-406.

17 Plans that are owned and operated by an insurer subject to
18 chapter 431 shall be exempt from the requirements of this
19 chapter; provided that the insurer shall comply with the
20 provisions of chapter 431 and file a statement certifying
21 compliance with chapter 431."



1 SECTION 5. Section 488-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§488-3 [Filing and other requirements.]~~ Application for
4 authority; authority issued or denied; plan termination. (a)
5 [~~Sixty days prior to implementation of any plan and the~~
6 ~~accumulation or payment of money thereunder, all plan documents~~
7 ~~shall be submitted in writing for approval by the commissioner.]~~
8 Before conducting business in this State, a plan shall submit
9 for approval with the commissioner an application for a
10 certificate of authority, shall file documentation with the
11 commissioner, and shall pay to the commissioner a fee as
12 provided under section 431:7-101.

13 (b) The documentation required by subsection (a) shall
14 contain in writing the following:

- 15 (1) A brief statement of the plan's financial structure,
16 including a statement of the amount of prepayment,
17 other charges or dues to be paid by plan members, and
18 the manner in which the amounts are to be paid;
- 19 (2) A statement of the amount of benefits, legal services,
20 or reimbursement for legal services to be furnished
21 each member of a plan, and the period during which
22 [~~it~~] they will be furnished; and, if there are



1 exceptions, reductions, exclusions, limitations, or
2 restrictions of benefits, legal services, or
3 reimbursements, a detailed statement of the
4 exceptions, reductions, exclusions, limitations, or
5 restrictions;

6 (3) A statement of the terms and conditions upon which the
7 plan may be canceled or otherwise terminated by the
8 group, the plan administrator, the persons furnishing
9 legal services, or the member; provided that for any
10 cancellation or termination[7] other than by a member,
11 there shall be provision made for the disposition of
12 funds accumulated under the plan;

13 (4) A statement describing the applicability or
14 nonapplicability of the benefits of the plan to the
15 family dependents of the member;

16 (5) A statement of the period of grace which will be
17 allowed the member or the member's group for making
18 any payment due under the plan;

19 (6) A statement describing a procedure for settling
20 disputes between or among the group, the plan
21 administrator, the persons furnishing legal services,
22 and the member; [and]



1 (7) A statement that the plan includes the endorsements
2 thereon and attached papers, if any, and contains the
3 entire contract or contracts to be used among all
4 parties to a plan[-], including the executed written
5 agreement between the plan and any person providing
6 legal services to the plan; and

7 (8) A listing of the owners, operators, officers, and plan
8 administrator of the plan, including the current
9 business address, home address, mailing address,
10 business phone number, business fax number, business
11 electronic mail address, business website address, and
12 home phone number.

13 Any amendments or changes to the documents filed under
14 paragraphs (1) to [~~7~~] (8) shall be filed with the commissioner
15 for approval at least sixty days before they take effect. All
16 documents filed under this section shall be public documents.

17 (c) If the commissioner finds that a plan has met the
18 requirements for and is fully entitled thereto under this
19 section, the commissioner shall issue to it a proper certificate
20 of authority.



1 (d) If the commissioner does not so find, the commissioner
2 shall deny the plan certificate of authority within a reasonable
3 length of time following filing of the application by the plan.

4 (e) If the plan is canceled or otherwise terminated by the
5 group, the plan administrator, or the persons furnishing legal
6 services, the plan shall notify the commissioner in writing at
7 least sixty days before the termination of the plan of the fact
8 of plan termination and the provisions made for the disposition
9 of funds accumulated under the plan."

10 SECTION 6. Section 488-4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§488-4 Accumulated funds, protection, violation.** (a)
13 ~~[Any plan that accumulates funds from payments of premiums prior~~
14 ~~to paying those funds to persons providing legal services shall~~
15 ~~meet the requirements of this section.~~

16 ~~(b)]~~ The plan administrator shall have the
17 responsibilities of a trustee for all funds received,
18 accumulated, or collected under this chapter.

19 ~~[(e)]~~ (b) The plan administrator, upon receipt of
20 ~~[premium]~~ funds intended for payment to a person providing legal
21 services pursuant to this chapter, shall maintain the funds at
22 all times in a federally insured account with a bank, savings



1 and loan association, or financial services loan company located
2 in Hawaii, separate from the plan's own funds or funds held by
3 the plan administrator in any other capacity, in an amount at
4 least equal to the funds collected and unpaid to the persons
5 providing legal services, unless otherwise approved by the
6 commissioner. Only additional funds that are reasonably
7 necessary to pay bank, savings and loan association, or
8 financial services loan company charges may be commingled with
9 the ~~[premium]~~ funds accumulated pursuant to this section. If
10 the bank, savings and loan association, or financial services
11 loan company account is an interest earning account, the plan
12 shall not retain the interest earned on ~~[such]~~ accumulated funds
13 for the plan or plan administrator's own use or benefit without
14 the prior written consent of the person entitled to the funds.
15 A plan trustee account shall be designated on the records of the
16 bank, savings and loan association, or financial services loan
17 company as a "trustee account established pursuant to section
18 488-4, Hawaii Revised Statutes", or words of similar import.

19 ~~[(d)]~~ (c) The plan administrator shall obtain a \$100,000
20 bond ~~[in an amount and form approved by the commissioner]~~ which
21 shall be executed by the plan administrator and a surety company
22 authorized to do business in the State as a surety. ~~[The bond~~



1 ~~shall be to the benefit of the members of the plan and shall be~~
2 ~~filed with the commissioner.]~~ The bond shall run to the state
3 for the benefit of any claimants against the plan to secure the
4 faithful performance of the obligations of the plan. The
5 aggregate liability of the surety shall not exceed the principal
6 sum of the bond. The plan administrator shall provide the
7 commissioner with proof of the bond at the time of the initial
8 request for approval and at any time thereafter as requested by
9 the commissioner. The plan shall not release the bond without
10 the commissioner's approval. In lieu of the bond required by
11 this section, the commissioner may accept letters of credit,
12 certificates of deposits, or other [evidences] evidence of
13 security in form and amounts deemed appropriate by the
14 commissioner.

15 ~~[(e)]~~ (d) Any person, including a plan administrator,
16 owner, operator, officer, employee, or representative who, not
17 being lawfully entitled to do so, diverts or appropriates funds
18 accumulated pursuant to this section or any portion [thereof to
19 the plan or plan administrator's] of accumulated funds for the
20 person's own use, shall be subject to penalties as provided by
21 law."



1 SECTION 7. Section 488-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§488-7 Failure to comply; penalty.** (a) Any plan that
4 ~~[neglects or refuses to]~~ does not comply with this chapter shall
5 be notified in writing by the commissioner of the ~~[neglect or~~
6 ~~refusal,]~~ noncompliance and of the need to take corrective
7 action within seven days. If the ~~[neglect or refusal]~~
8 noncompliance continues for seven days after notification, the
9 plan~~[, group,]~~ or plan administrator may be fined not more than
10 \$1,000~~[. Every day's neglect or refusal after the expiration of~~
11 ~~seven days shall be a separate offense.]~~ per day for each day of
12 noncompliance.

13 (b) [The] In addition to penalties provided in subsection
14 (a), the commissioner may deny, suspend, revoke, or refuse to
15 approve the certificate of authority of any plan or any plan
16 amendments ~~[and may levy civil penalties as allowed by chapters~~
17 ~~431, 432, 480, 481A, 481B, 481C, and any applicable law for any~~
18 ~~violation of this chapter].~~

19 (c) If the commissioner takes any action pursuant to
20 subsection (b), the commissioner shall notify the applicant or
21 licensee in writing of the reason for that action. The
22 applicant or licensee may submit a written request within ten



1 days of the date of receipt of the notice for a hearing before
2 the commissioner to determine the propriety of the
3 commissioner's action. A hearing pursuant to this subsection
4 shall be held within thirty days of receipt of the written
5 request, unless postponed by mutual consent, and shall be
6 conducted pursuant to chapter 91.

7 (d) If the commissioner has cause to believe that any plan
8 is violating or is about to violate any provision of this
9 chapter or any order of the commissioner, the commissioner may
10 issue a cease and desist order to enforce compliance with this
11 chapter or any order of the commissioner, or may bring an action
12 in any court of competent jurisdiction to enjoin the plan from
13 continuing the violation. The commissioner may order or
14 petition the court to order restitution on behalf of persons
15 aggrieved by a violation of this chapter and an assessment of a
16 monetary penalty against any plan, plan administrator, or owner,
17 operator, or officer of the plan for violation of this chapter
18 or an order of the commissioner."

19 SECTION 8. Section 431:7-101, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) The commissioner shall collect in advance the
22 following fees:



- 1 (1) Certificate of authority: Issuance\$1,800
- 2 (2) Organization of domestic insurers and affiliated
- 3 corporations:
- 4 (A) Application and all other papers required for
- 5 issuance of solicitation permit, filing ...\$3,000
- 6 (B) Issuance of solicitation permit\$300
- 7 (3) Producer's license:
- 8 (A) Issuance, regular license\$100
- 9 (B) Issuance, temporary license\$100
- 10 (4) Nonresident producer's license: Issuance\$150
- 11 (5) Independent adjuster's license: Issuance\$150
- 12 (6) Public adjuster's license: Issuance\$150
- 13 (7) [~~Workers' compensation claim~~] Claim adjuster's
- 14 limited license: Issuance\$150
- 15 (8) Independent bill reviewer's license:
- 16 Issuance\$160
- 17 (9) Limited producer's license: Issuance\$120
- 18 (10) Managing general agent's license: Issuance\$150
- 19 (11) Reinsurance intermediary's license:
- 20 Issuance\$150
- 21 (12) Surplus lines broker's license: Issuance\$300
- 22 (13) Service contract provider's registration:



| | | | |
|----|----------------------|---|-------------------|
| 1 | | Issuance | \$150 |
| 2 | (14) | Approved course provider certificate: | |
| 3 | | Issuance | \$200 |
| 4 | (15) | Approved continuing education course certificate: | |
| 5 | | Issuance | \$60 |
| 6 | (16) | Vehicle protection product warrantor's registration: | |
| 7 | | Issuance | \$150 |
| 8 | (17) | Criminal history record check; fingerprinting: For | |
| 9 | | each criminal history record check and fingerprinting | |
| 10 | | check, a fee to be established by the commissioner. | |
| 11 | (18) | Limited line motor vehicle rental company | |
| 12 | | producer's license: Issuance | \$2,000 |
| 13 | (19) | Life settlement contract provider's license: | |
| 14 | | Issuance | \$150 |
| 15 | (20) | Life settlement contract broker's license: | |
| 16 | | Issuance | \$150] |
| 17 | (19) | <u>Legal service plan certificate of authority:</u> | |
| 18 | | <u>Issuance before July 1, 2014</u> | <u>\$500</u> |
| 19 | | <u>Issuance on or after July 1, 2014</u> | <u>\$1,000</u> |
| 20 | (21) (20) | Examination for license: For each examination, | |
| 21 | | a fee to be established by the commissioner. | |



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

4 (1) \$1,200 per year for all services (including extension
5 of the certificate of authority) for an authorized
6 insurer;

7 (2) \$100 per year for all services (including extension of
8 the license) for a regularly licensed producer;

9 (3) \$150 per year for all services (including extension of
10 the license) for a regularly licensed nonresident
11 producer;

12 (4) \$90 per year for all services (including extension of
13 the license) for a regularly licensed independent
14 adjuster;

15 (5) \$90 per year for all services (including extension of
16 the license) for a regularly licensed public adjuster;

17 (6) \$90 per year for all services (including extension of
18 the license) for a [~~workers' compensation~~] claims
19 adjuster's limited license;

20 (7) \$120 per year for all services (including extension of
21 the license) for a regularly licensed independent bill
22 reviewer;



- 1 (8) \$90 per year for all services (including extension of
2 the license) for a producer's limited license;
- 3 (9) \$150 per year for all services (including extension of
4 the license) for a regularly licensed managing general
5 agent;
- 6 (10) \$150 per year for all services (including extension of
7 the license) for a regularly licensed reinsurance
8 intermediary;
- 9 (11) \$90 per year for all services (including extension of
10 the license) for a licensed surplus lines broker;
- 11 (12) \$150 per year for all services (including renewal of
12 registration) for a service contract provider;
- 13 (13) \$130 per year for all services (including extension of
14 the certificate) for an approved course provider;
- 15 (14) \$40 per year for all services (including extension of
16 the certificate) for an approved continuing education
17 course;
- 18 (15) \$150 per year for all services (including renewal of
19 registration) for a vehicle protection product
20 warrantor;



- 1 (16) [\$40] A fee to be established by the commissioner for
2 [a] each criminal history record check[+] and
3 fingerprinting;
- 4 (17) \$1,200 per year for all services (including extension
5 of the license) for a regularly licensed limited line
6 motor vehicle rental company producer;
- 7 ~~(18) \$150 per year for all services (including extension of~~
8 ~~the license) for a regularly licensed life settlement~~
9 ~~contract provider; and~~
- 10 ~~(19) \$150 per year for all services (including extension of~~
11 ~~the license) for a regularly licensed life settlement~~
12 ~~contract broker.]~~
- 13 (18) \$500 per year for all services provided before July 1,
14 2014 (including extension of the certificate) for an
15 authorized legal services plan; and
- 16 (19) \$1,000 per year for all services provided on or after
17 July 1, 2014 (including extension of the certificate)
18 for an authorized legal services plan.

19 The services referred to in paragraphs (1) to (19) shall
20 not include services in connection with examinations,
21 investigations, hearings, appeals, and deposits with a



1 depository other than the department of commerce and consumer
2 affairs."

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect upon its approval;
6 provided that the amendments made to section 431:7-101, Hawaii
7 Revised Statutes, by section 8 of this Act shall not be repealed
8 upon the repeal and reenactment of that section pursuant to Act
9 59, Session Laws of Hawaii 2010.

10



Report Title:

Legal Service Plans

Description:

Updates regulation of legal service plans; updates fees charged to insurers by the department of commerce and consumer affairs. (SD1)

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

