



GOV. MSG. NO. 1354

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 06, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 06, 2012, the following bill was signed into law:

SB2766 SD2 HD2 CD1

RELATING TO ENTITIES REGULATED BY THE
INSURANCE COMMISSIONER.

Act 251 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

RECEIVED
SENATE
OFFICE OF THE PRESIDENT

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Approved by the Governor
on JUL 6 2012

ACT 251

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.B. NO. 2766
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO ENTITIES REGULATED BY THE INSURANCE COMMISSIONER.

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

1 SECTION 1. Chapter 432, Hawaii Revised Statutes, is
2 amended by adding a new section to part I of article 1, to be
3 appropriately designated and to read as follows:

4 "§432:1- Fees. (a) The commissioner shall collect, in
5 advance, the following fees:

6 (1) Issuance of certificate of authority: \$150;

7 (2) Organization of domestic mutual benefit societies:

8 (A) Filing of application and documents required for
9 issuance of certificate of registration: \$150;

10 and

11 (B) Issuance of certificate of registration: \$150;

12 and

13 (3) For renewal of the certificate of authority: \$150 per
14 year.

15 (b) If the fee for the renewal of the certificate of
16 authority is not paid before or on the renewal date, a penalty
17 shall be imposed in the amount of fifty per cent of the fee.

18 The commissioner shall provide notice in writing of the



1 delinquency of renewal and the imposition of the authorized
2 penalty. If the fee and the penalty are not paid within thirty
3 days immediately following the date of the notice of
4 delinquency, the commissioner may revoke the certificate of
5 authority and may not reinstate the certificate of authority
6 until the fee and penalty have been paid.

7 (c) All fees and penalties collected pursuant to this
8 section and penalties collected pursuant to sections 432:1-105,
9 432:1-405, and 432:1-407 shall be deposited to the credit of the
10 compliance resolution fund."

11 SECTION 2. Section 432:1-102, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§432:1-102 Applicability of other laws.** (a) Part III of
14 article 10A, and article 10H of chapter 431 shall apply to
15 nonprofit medical indemnity or hospital service associations.
16 Such associations shall be exempt from the provisions of part I
17 of article 10A; provided that such exemption is in compliance
18 with applicable federal statutes and regulations.

19 (b) Article 2, article 2D, [~~part~~] parts II and IV of
20 article 3, article 6, part III of article 7, article 13, article
21 14G, and article 15 of chapter 431, sections 431:3-301,
22 431:3-302, 431:3-303, 431:3-304, and 431:3-305, and the powers



1 granted by those provisions to the commissioner, shall apply to
2 managed care plans, health maintenance organizations, or medical
3 indemnity or hospital service associations that are owned or
4 controlled by mutual benefit societies so long as the
5 application in any particular case is in compliance with and is
6 not preempted by applicable federal statutes and regulations.

7 (c) The commissioner may adopt rules pursuant to chapter
8 91 for the implementation and administration of this chapter."

9 SECTION 3. Section 432:1-202, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) After the organization of a society is completed and
12 a certificate of [~~compliance with law~~] registration is granted
13 by the commissioner, the society shall be governed by its
14 administrative board or body in accordance with its constitution
15 and bylaws."

16 SECTION 4. Section 432:1-301, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§432:1-301 Registration with commissioner: certificate**
19 **of registration and [~~authorization to solicit members.~~]**

20 **certificate of authority.** (a) Before doing business or
21 engaging in any act, any society as defined in section
22 432:1-104(2) shall file with the commissioner:



- 1 (1) Copies of its constitution or organic instrument under
2 which it purports to operate, and the bylaws, and
3 rules and regulations, if any;
- 4 (2) If a society promising or offering to pay death, sick,
5 disability, or other benefits in an amount equal to or
6 in excess of \$25:
- 7 (A) Copies of all proposed forms of benefit
8 certificates, applications, and circulars to be
9 issued by the society; and
- 10 (B) A bond in the sum of \$25,000 with sureties
11 approved by the commissioner. The bond shall be
12 conditioned upon the return of the advance
13 payments referred to in section 432:1-304, if the
14 organization is not completed within one year;
15 and
- 16 (3) Any additional information as the commissioner may
17 require.
- 18 (b) [~~Upon~~] Except as provided in section 432:1-302, upon
19 the filing of the information required by subsection (a), if it
20 appears to the commissioner's satisfaction that the purposes of
21 the society are lawful, [~~the commissioner shall issue a~~



1 ~~certificate registering the society and licensing it to operate~~
2 ~~in the State.~~

3 ~~(c) In the case of any society offering or promising to~~
4 ~~pay death, sick, disability, or other benefits in an amount~~
5 ~~equal to or in excess of \$25, if the commissioner is satisfied~~
6 ~~that the purposes of the society are] not for profit [but], and~~
7 for the benefit of its members, the commissioner shall
8 [authorize] issue a certificate of registration authorizing the
9 society to solicit members as provided in section 432:1-303.

10 (c) Upon issuance of a certificate of registration
11 pursuant to subsection (b), the society may apply for a
12 certificate of authority. The applicant society shall provide
13 to the commissioner:

- 14 (1) Evidence of compliance with the special deposit
15 requirements of section 432:1-304; and
16 (2) A description of the procedures, approved by the
17 society's administrative board or body in accordance
18 with its constitution and bylaws, to be implemented to
19 comply with the protection against insolvency
20 requirements of section 432:1-407.

21 (d) The applicant society that satisfies the requirements
22 of this chapter shall be issued a certificate of authority in



1 accordance with part II of article 3 of chapter 431. Societies
2 that are currently authorized to transact business in this State
3 may continue to transact business until August 16, 2013. The
4 authority of societies and all societies hereafter issued a
5 certificate of authority, may thereafter be renewed annually,
6 but in all cases shall terminate on the succeeding August 16.

7 The applicant society may appeal a denial of its
8 application pursuant to chapter 91."

9 SECTION 5. Section 432:1-303, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) Each society promising or offering to pay death,
13 sick, disability, or other benefits in an amount equal to or in
14 excess of \$25 may solicit members for the purpose of completing
15 its organization upon receipt from the commissioner of the
16 certificate [~~and authority~~] of registration required in section
17 432:1-301, and [~~shall~~] may collect from each applicant the
18 amount of not [~~less~~] more than one regular monthly payment [~~in~~
19 ~~accordance with its table of rates as provided by its~~
20 ~~constitution and bylaws,~~] and shall issue to each applicant a
21 receipt for the amount so collected."

22 2. By amending subsection (c) to read:



1 "(c) If the society does not offer or promise to pay any
2 death benefits in excess of \$25 upon the death of a member, but
3 merely offers or promises to pay disability benefits by reason
4 of sickness or injury, or to pay any other benefits, with or
5 without provision of death benefit in excess of \$25, the society
6 shall ~~[, before receiving a certificate of compliance with law~~
7 ~~from the commissioner, prove to the commissioner that at least~~
8 ~~one hundred members have each paid in, in cash, at least six~~
9 ~~regular monthly payments to the disability fund. Such payments~~
10 ~~in the aggregate shall:~~

11 ~~(1) Amount to at least twenty times the maximum amount of~~
12 ~~disability or other benefits offered or promised to be~~
13 ~~paid to any one member during or within a period of~~
14 ~~thirty days,~~

15 ~~(2) Be credited to the disability, sick or other benefit~~
16 ~~fund, and~~

17 ~~(3) During the period of organization of the society, be~~
18 ~~held in trust to be returned to the applicants or~~
19 ~~members who have made payment of the same, if and in~~
20 ~~case the organization of the society is not completed~~
21 ~~within one year.] apply for a certificate of authority~~
22 ~~from the commissioner."~~



1 SECTION 6. Section 432:1-304, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§432:1-304 Authority to offer death, sick, disability, or
4 other benefits; special deposit and control of certain funds.

5 Except as provided in this section and section 432:1-305, all
6 regular payments received for account of death benefit, accident
7 and health or sickness, or other [~~benefit funds,~~] benefits,
8 during the period of organization of a society, shall not be
9 used for the payment of any expenses of the society, but shall
10 be placed on deposit or in trust in some bank or trust company
11 approved by the commissioner, payable to the society but under
12 the joint control with the commissioner. In case the
13 organization of the society is not completed within one year,
14 the funds shall be returned to the applicants or members who
15 made payments of the respective amounts. If, however, the
16 organization is completed and the commissioner issues a
17 certificate of [~~compliance with the law,~~] authority, the funds
18 so deposited in trust, together with interest, if any, shall be
19 released by the commissioner in favor of the society."

20 SECTION 7. Section 432:1-305, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) At no time shall the society, except as provided in
2 subsection (c), use more than twenty-five per cent of the
3 payments up to \$100,000 and seven per cent of the payments in
4 excess of \$100,000, received from its members or applicants in
5 the form of admission fees, dues, contributions, or assessments
6 of any nature for expenses other than taxes, in connection with
7 ~~[the management or operation of the death benefit, sick,~~
8 ~~disability, or other benefit funds.]~~ its management or
9 operations."

10 SECTION 8. Section 432:1-405, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) The commissioner may suspend or revoke the
13 certificate of ~~[compliance]~~ authority of any mutual benefit
14 society that fails to file any of the documents required in
15 subsection (a). In lieu of or in addition to suspension or
16 revocation of the certificate of ~~[compliance]~~ authority of any
17 mutual benefit society, the commissioner may impose on the
18 mutual benefit society a penalty in the amount of not less than
19 \$100 and not more than \$500 for each day of delinquency."

20 SECTION 9. Section 432:1-407, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

22 "(a) Net worth requirements are as follows:



1 (1) Before issuing a certificate of authority pursuant to
2 section 432:1-301, the commissioner shall require that
3 the mutual benefit society has an initial net worth of
4 \$2,000,000 and the society shall thereafter maintain
5 the minimum net worth required under paragraph (2);

6 and

7 ~~(2) [Except as provided in paragraphs (3) and (4), every]~~
8 Every mutual benefit society shall maintain a minimum
9 net worth equal to the greater of:

10 (A) \$2,000,000;

11 (B) Two per cent of annual premium revenues as
12 reported on the most recent annual financial
13 statement filed with the commissioner on the
14 first \$150,000,000 of premium revenues and one
15 per cent of annual premium revenues on the
16 premium revenues in excess of \$150,000,000; or

17 (C) An amount equal to eight per cent of the sum of
18 annual health care expenditures and operating
19 expenses as reported on the most recent financial
20 statement filed with the commissioner[+]

21 ~~(3) The minimum net worth requirement set forth in~~
22 ~~paragraph (2)(A) shall be phased in as follows:~~



1 (A) ~~Seventy five per cent of the required amount by~~
2 ~~January 1, 2001; and~~

3 (B) ~~One hundred per cent of the required amount by~~
4 ~~December 31, 2002; and~~

5 (4) ~~The minimum net worth requirement set forth in~~
6 ~~[paragraph] (2) (C) shall be phased in as follows:~~

7 (A) ~~Fifty per cent of the required amount by~~
8 ~~December 31, 1997;~~

9 (B) ~~Seventy five per cent of the required amount by~~
10 ~~December 31, 1998; and~~

11 (C) ~~One hundred per cent of the required amount by~~
12 ~~December 31, 1999]."~~

13 SECTION 10. Section 432:2-602, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§432:2-602 Reports.** [~~Reports shall be filed in~~
16 ~~accordance with the provisions of this section.~~] (a) Every
17 society transacting business in this State shall annually, on or
18 before March 1, unless for cause shown such time has been
19 extended by the commissioner, file with the commissioner a true
20 statement of its financial condition, transactions, and affairs
21 for the preceding calendar year and pay a fee of \$7.50 for
22 filing same. The statement shall be in general form and context



1 as approved by the National Association of Insurance
2 Commissioners for fraternal benefit societies and as
3 supplemented by additional information required by the
4 commissioner.

5 (b) As part of the annual statement [~~herein~~] required,
6 each society shall, on or before March 1, file with the
7 commissioner a valuation of its certificates in force on
8 December 31 last preceding, provided the commissioner may, in
9 the commissioner's discretion for cause shown, extend the time
10 for filing [~~such~~] the valuation for not more than two calendar
11 months. [~~Such~~] The valuation shall be done in accordance with
12 the standards specified in section 432:2-601. [~~Such~~] The
13 valuation and underlying data shall be certified by a qualified
14 actuary or, at the expense of the society, verified by the
15 actuary of the department of insurance of the state of domicile
16 of the society.

17 (c) A society neglecting to file the annual statement in
18 the form and within the time provided by this section shall be
19 liable for a penalty of \$100 for each day during which [~~such~~]
20 the neglect continues, and, upon notice by the commissioner to
21 that effect, its authority to do business in this State shall
22 cease while [~~such~~] the default continues.



1 (d) All fees and penalties collected pursuant to this
2 section and section 432:2-603 and penalties collected pursuant
3 to section 432:2-703 shall be deposited to the credit of the
4 compliance resolution fund."

5 SECTION 11. Section 432:2-603, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Societies [~~which~~] that are now authorized to transact
8 business in this State may continue [~~such~~] to transact business
9 until May 1 next succeeding July 1, 1988. The authority of
10 [~~such~~] societies and all societies hereafter licensed, may
11 thereafter be renewed annually, but in all cases to terminate on
12 the succeeding May 1. However, a license so issued shall
13 continue in full force and effect until the new license is
14 issued or specifically refused. For each [~~such~~] license or
15 renewal[~~r~~] subject to this section, the society shall pay the
16 commissioner \$7.50. A duly certified copy or duplicate of
17 [~~such~~] the license shall be prima facie evidence that the
18 licensee is a fraternal benefit society within the meaning of
19 this article."

20 SECTION 12. Section 432D-13, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) The commissioner may examine the affairs of any
2 health maintenance organization or of any providers with whom
3 such organization has contracts, agreements, or other
4 arrangements as often as is reasonably necessary for the
5 protection of the interests of the people of this State but
6 shall make such examination not fewer than once every [~~three~~
7 five years[-] for health maintenance organizations domiciled in
8 this State."

9 SECTION 13. Section 432D-17, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§432D-17 Fees.** (a) The commissioner shall collect in
12 advance the following fees:

- 13 (1) For filing an application for a certificate of
14 authority or amendment thereto, \$600; and
15 (2) For [~~all services subsequent to the issuance of a~~
16 renewal of the certificate of authority [~~including~~
17 ~~extension of the certificate of authority~~], \$400[-]
18 per year.

19 (b) The commissioner shall [~~notify the~~] provide each
20 holder of [~~the~~] a certificate of authority [~~by~~] at least thirty
21 days' advance written notice [~~at least thirty days prior to the~~
22 of the applicable extension date [~~of the certificate~~]. If the



1 fee for the extension of the certificate of authority is not
2 paid before or on the extension date, a penalty shall be imposed
3 in the amount of fifty per cent of the fee. If the fee and the
4 penalty are not paid within thirty days immediately following
5 the extension date, the commissioner may revoke the certificate
6 of authority and shall not reinstate the certificate of
7 authority until the fee and penalty have been paid.

8 (c) All fees and penalties collected pursuant to this
9 section and penalties collected pursuant to section 432D-14
10 shall be [~~remitted by the commissioner to the director of~~
11 ~~finance and shall be placed to the credit of the general fund.~~]
12 deposited to the credit of the compliance resolution fund."

13 SECTION 14. Section 432D-19, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) Article 2, article 2D, part IV of article 3, article
16 6, part III of article 7, article 13, article 14G, and article
17 15 of chapter 431, and sections 431:3-301 and 431:3-302, and the
18 powers granted by those provisions to the commissioner shall
19 apply to health maintenance organizations, so long as the
20 application in any particular case is in compliance with and is
21 not preempted by applicable federal statutes and regulations."



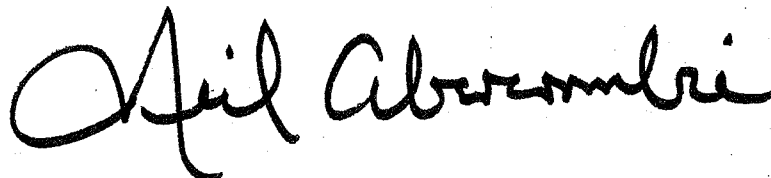
1 SECTION 15. Section 432:1-307, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§432:1-307 Authority to offer death, sick, disability,
4 or other benefits; certificate of existence. The commissioner
5 may make such examination and require such information from time
6 to time as the commissioner may deem advisable. Upon
7 presentation of satisfactory proof that the society has complied
8 with this article, and any other applicable law, the
9 commissioner shall issue to the society a certificate to that
10 effect. The certificate shall be prima facie evidence of the
11 existence of the society as of the date of the certificate. The
12 commissioner shall cause a record of the certificate to be made
13 and a certified copy of the record may be given in evidence with
14 the same effect as the original certificate."]~~

15 SECTION 16. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 17. This Act shall take effect on July 1, 2012.

APPROVED this 6 day of JUL, 2012



GOVERNOR OF THE STATE OF HAWAII