



GOV. MSG. NO. 1361

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

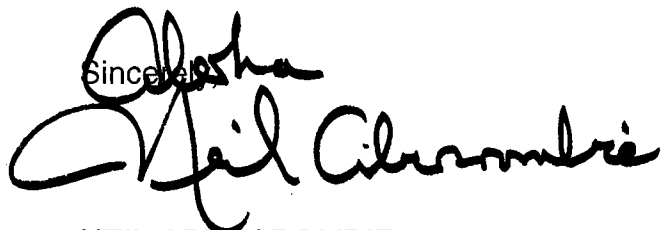
The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

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:

SB2769 SD2 HD3 CD1

RELATING TO INSURANCE.  
**Act 258 (12)**

Sincerely,  


NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved by the Governor

on JUL 6 2012

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

ACT 258

S.B. NO. 2769  
S.D. 2  
H.D. 3  
C.D. 1

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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  
2 amended by adding a new section to part I of article 14 to be  
3 appropriately designated and to read as follows:

4 "§431:14- Publication of homeowners insurance premium  
5 information. (a) Upon the commissioner's request, all  
6 homeowners insurers shall provide homeowners insurance premium  
7 information to the commissioner within thirty days of the  
8 request.

9 (b) The commissioner shall publish annually, by electronic  
10 or online publication on the official website of the insurance  
11 division, a list of all homeowners insurers with representative  
12 annual premiums for homeowners insurance.

13 (c) As used in this section:

14 "Homeowners insurance" means an insurance policy for any  
15 residential property in the State that combines:

16 (1) Indemnity from destruction or damage of the insured's  
17 property by various designated perils; and



1       (2) Indemnity for legal liability of the insured for  
2       death, injury, or disability of any human being or for  
3       damage to property.

4       "Homeowners insurer" means an insurer holding a valid  
5       certificate of authority to engage in the business of making  
6       contracts of homeowners insurance in this State."

7       SECTION 2. Section 431:10C-210, Hawaii Revised Statutes,  
8       is amended to read as follows:

9       **"§431:10C-210 Publication of premium [~~rates.~~] information.**

10      (a) Upon the commissioner's request, all motor vehicle insurers  
11      shall provide motor vehicle insurance premium information to the  
12      commissioner within thirty days of the request.

13      (b) The commissioner shall publish annually, [~~in a~~  
14      newspaper of general circulation in the State, notice of  
15      availability of] by electronic or online publication on the  
16      official website of the insurance division, a list of all motor  
17      vehicle insurers with representative annual premiums for motor  
18      vehicle insurance. The commissioner shall have information on  
19      premiums for motor vehicle insurance, which shall be available  
20      to the public on request."

21      SECTION 3. Section 431:14-103.3, Hawaii Revised Statutes,  
22      is amended to read as follows:



1           " ~~[+]~~§431:14-103.3 Rate adjustment mandates. ~~[+]~~ (a)

2   Except as otherwise provided by law, the commissioner may  
3   mandate insurers to submit new filings for any type of insurance  
4   under section 431:14-102 when the commissioner has actuarially  
5   sound information that current rates may be excessive,  
6   inadequate, or unfairly discriminatory.

7           (b) Insurers shall submit the new rate filings within one  
8   hundred twenty days of the commissioner's mandate.

9           (c) The new rate filings shall be subject to the rate  
10   filing requirements under section 431:14-104.

11           (d) After the commissioner reviews the new rate filings  
12   submitted under this section, if the commissioner finds that the  
13   rates are excessive, inadequate, or unfairly discriminatory, the  
14   commissioner may adjust the rates for any class of insurance for  
15   any insurer pursuant to subsections (e) and (f).

16           (e) If, any time subsequent to the applicable review  
17   period provided for in sections 431:14-104 and 431:14-120, the  
18   commissioner does not approve a new rate filing by an insurer,  
19   the commissioner shall issue a written notice of disapproval of  
20   the filed rate to the insurer. The written notice shall set  
21   forth the commissioner's proposed rate and the actuarial,  
22   statutory, factual, and legal bases for both the disapproval of



1 the rate filed by the insurer and the commissioner's proposed  
2 rate. Within thirty days of the commissioner's written notice  
3 of disapproval, the insurer may file a written request to the  
4 commissioner for a hearing pursuant to subsection (f); provided  
5 that:

- 6 (1) If the insurer fails to file a written request for  
7 hearing, the commissioner's proposed rate shall become  
8 effective sixty days after the expiration of the  
9 deadline to file a written request for a hearing; and  
10 (2) If the insurer files a written request for a hearing,  
11 the existing effective rate shall remain in effect  
12 until sixty days after the final order is rendered by  
13 the director of commerce and consumer affairs and the  
14 appeals process has been exhausted.

15 (f) The hearing allowed under subsection (e) shall be  
16 conducted under the following procedure:

- 17 (1) The hearing shall commence within twenty days of  
18 receipt of the written demand for a hearing, and  
19 written notice of the hearing shall be provided to the  
20 parties not less than ten days prior to the hearing;



- 1        (2) The commissioner shall present the commissioner's  
2        proposed rate and the insurer shall present its rate  
3        filing, in addition to other relevant evidence;
- 4        (3) Within fifteen days after the conclusion of the  
5        hearing, the hearings officer shall issue a proposed  
6        decision; and
- 7        (4) The rate found to be in compliance with this article  
8        shall be effective sixty days after the final order is  
9        rendered by the director of commerce and consumer  
10       affairs and the appeals process has been exhausted."

11       SECTION 4. Section 431:14-104, Hawaii Revised Statutes, is  
12 amended as follows:

13       1. By amending subsections (f) and (g) to read:

14       "(f) Specific inland marine rates on risks specially  
15 rated, made by a rating organization~~[7]~~ or advisory  
16 organization, shall be filed with the commissioner.

17       (g) An insurer may satisfy its obligation to make the  
18 filings by becoming a member of, or a subscriber to, a licensed  
19 rating organization ~~[which]~~ or advisory organization that makes  
20 the filings, except for those lines of insurance for which the  
21 commissioner determines individual insurer rate filings shall be  
22 made. Nothing contained in this article shall be construed as



1 requiring any insurer to become a member of or a subscriber to  
2 any rating organization[-] or advisory organization."

3 2. By amending subsections (j), (k), and (l) to read:

4 "(j) Except as provided herein and in subsections (k) and  
5 (l) and section 431:14-120, each filing shall be on file for a  
6 waiting period of thirty days before the filing becomes  
7 effective. The period may be extended by the commissioner for  
8 an additional period not to exceed fifteen days if the  
9 commissioner gives written notice within the waiting period to  
10 the insurer, rating organization, or advisory organization that  
11 made the filing that the commissioner needs the additional time  
12 for the consideration of the filing. Upon the written  
13 application by the insurer, rating organization, or advisory  
14 organization, the commissioner may authorize a filing [~~which~~  
15 that the commissioner has reviewed to become effective before  
16 the expiration of the waiting period or any extension thereof.  
17 A filing shall be deemed to meet the requirements of this  
18 article unless disapproved by the commissioner, as provided in  
19 section 431:14-106, within the waiting period or any extension  
20 thereof.

21 (k) The following rates shall become effective when filed:



- 1           (1) Specific inland marine rates on risks specially rated  
2                   by a rating organization[+] or advisory organization;  
3           (2) Any special filing with respect to a surety or  
4                   guaranty bond required by law or by court or executive  
5                   order or by order or rule of a public body, not  
6                   covered by a previous filing; and  
7           (3) Any special filing with respect to any class of  
8                   insurance, subdivision, or combination thereof [~~which~~]  
9                   that is subject to individual risk premium  
10                   modification and has been agreed to by an insured  
11                   under a formal or informal bid process.

12 The rates shall be deemed to meet the requirements of this  
13 article until the time the commissioner reviews the filing and  
14 so long as the filing remains in effect.

- 15           (1) The commissioner, by written order, may suspend or  
16 modify the requirement of filing as to any class of insurance,  
17 subdivision, or combination thereof, or as to classes of risks,  
18 the rates for which cannot practicably be filed before they are  
19 used. The orders shall be made known to the affected insurers  
20 [~~and~~], rating organizations[-], and advisory organizations. The  
21 commissioner may make examinations as the commissioner may deem





1 advisable to ascertain whether any rates affected by the order  
2 meet the standards set forth in section 431:14-103(a)(1)."

3 SECTION 5. Section 431:14-106, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§431:14-106 Disapproval of filings.** (a) If, within the  
6 waiting period or any extension of the waiting period as  
7 provided in section 431:14-104(j), the commissioner finds that a  
8 filing does not meet the requirements of this article, the  
9 commissioner shall send to the insurer, rating organization, or  
10 advisory organization [~~which~~] that made the filing, written  
11 notice of disapproval of the filing specifying in what respects  
12 the filing fails to meet the requirements of this article,  
13 specifying the actuarial, statutory, factual, and legal bases  
14 for the disapproval, including an explanation of the application  
15 thereof that resulted in disapproval, and stating that the  
16 filing shall not become effective.

17 (b) If, within thirty days:

18 (1) After a specific inland marine rate on a risk  
19 specially rated by a rating organization or advisory  
20 organization subject to section 431:14-104(k) has  
21 become effective; or



1 (2) After a special surety or guaranty filing subject to  
2 section 431:14-104(k) has become effective;  
3 the commissioner finds that [~~such~~] the filing does not meet the  
4 requirements of this article, the commissioner shall send to the  
5 insurer, rating organization, or advisory organization that made  
6 the filing, written notice of disapproval of the filing  
7 specifying in what respects the filing fails to meet the  
8 requirements of this article and stating when, within a  
9 reasonable period thereafter, the filing shall be deemed no  
10 longer effective. The disapproval shall not affect any contract  
11 made or issued prior to the expiration of the period set forth  
12 in the notice.

13 (c) If, any time subsequent to the applicable review  
14 period provided for in subsections (a) or (b), the commissioner  
15 finds that a filing does not comply with the requirements of  
16 this article, the commissioner shall order a hearing upon the  
17 filing. The hearing shall be held upon not less than ten days'  
18 written notice to every insurer [~~and~~], rating organization  
19 [~~who~~], or advisory organization that made [~~such~~] the filing.  
20 The notice shall specify the matters to be considered at the  
21 hearing[~~-~~] and specify the actuarial, statutory, factual, and  
22 legal bases for the commissioner's finding of noncompliance.



1 If, after a hearing, the commissioner finds that a filing does  
2 not meet the requirements of this article, the commissioner,  
3 within thirty days of the hearing, shall issue an order  
4 specifying in what respects the filing fails to meet ~~[such]~~ the  
5 requirements, and stating when, within a reasonable period  
6 thereafter, the filing shall be deemed no longer effective.  
7 Copies of the order shall be sent to every such insurer ~~[and]~~,  
8 rating organization~~[-]~~, or advisory organization whose filing is  
9 affected by the order. The order shall not affect any contract  
10 or policy made or issued prior to the expiration of the period  
11 set forth in the order.

12 (d) If a filing is disapproved, in whole or in part, a  
13 written request for a hearing may be filed pursuant to section  
14 431:14-118. The insurer shall bear the burden of proving that  
15 the filing meets the requirements of this article.

16 ~~[(d)-(1)]~~ (e) Any person or organization aggrieved with  
17 respect to any filing ~~[which]~~ that is in effect may make written  
18 demand to the commissioner for a hearing thereon; provided~~[-]~~  
19 ~~however, that the]~~ that:

20 (1) The insurer [or], rating organization [which], or  
21 advisory organization that made the filing shall not  
22 be authorized to proceed under this subsection[-];



1           (2) The demand shall specify the grounds to be relied upon  
2           by the aggrieved person or organization, and [such]  
3           the demand [must] shall show that [such] the person or  
4           organization has a specific economic interest affected  
5           by the filing[-];

6           (3) If the commissioner finds that the demand is made in  
7           good faith, that the applicant would be so aggrieved  
8           if the person's or organization's grounds are  
9           established, and that the grounds otherwise justify  
10          [such] a hearing, the commissioner [~~shall~~], within  
11          thirty days after receipt of the demand, shall hold a  
12          hearing. The hearing shall be held upon not less than  
13          ten days' written notice to the aggrieved party and to  
14          every insurer [~~and~~], rating organization [~~which~~], or  
15          advisory organization that made [such] the filing.  
16          The aggrieved party shall bear the burden of proving  
17          that the filing fails to meet the standards set forth  
18          in section 431:14-103(a)(1); and

19          (4) If, after the hearing, the commissioner finds that the  
20          filing does not meet the requirements of this article,  
21          the commissioner shall issue an order specifying in  
22          what respects the filing fails to meet the



1 requirements of this article, and stating when, within  
2 a reasonable period, the filing shall be deemed no  
3 longer effective. Copies of the order shall be sent  
4 to the applicant and to every such insurer [and],  
5 rating organization~~[-]~~, or advisory organization. The  
6 order shall not affect any contract or policy made or  
7 issued prior to the expiration of the period set forth  
8 in the order.

9 ~~[(e)]~~ (f) No manual of classifications, rules, rating plan,  
10 or any modification of any of the foregoing ~~[which]~~ that  
11 establishes standards for measuring variations in hazards or  
12 expense provisions, or both, and ~~[which]~~ that has been filed  
13 pursuant to the requirements of section 431:14-104 shall be  
14 disapproved if the rates thereby produced meet the requirements  
15 of this article.

16 ~~[(f)]~~ (g) The notices, hearings, orders, and appeals  
17 referred to in this section are in all applicable respects  
18 subject to chapter 91, unless expressly provided otherwise."

19 SECTION 6. Section 431:10C-209.5, Hawaii Revised Statutes,  
20 is repealed.

21 ~~["§431:10C-209.5] Intervention by commissioner to adjust~~  
22 ~~rates. (a) The commissioner, annually, may reduce rates and~~



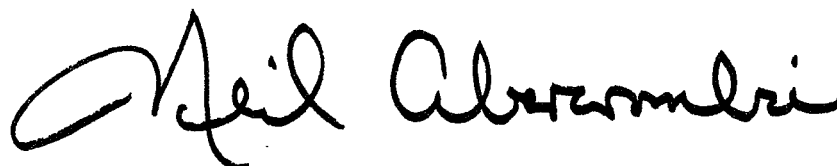
1 ~~may adjust rates prospectively for any class or type of~~  
2 ~~mandatory coverage or optional additional motor vehicle~~  
3 ~~insurance coverage for any insurer or group of insurers, if~~  
4 ~~rates are excessive, inadequate, or unfairly discriminatory.~~

5 ~~(b) An affected party that objects to a rate adjustment~~  
6 ~~pursuant to subsection (a) shall be entitled to a public hearing~~  
7 ~~under chapter 91, at which all affected and interested parties~~  
8 ~~shall have an opportunity to examine, comment, and present~~  
9 ~~testimony on the impact and application of the proposed or~~  
10 ~~revised rates." ]~~

11 SECTION 7. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect on July 1, 2012.

APPROVED this 6 day of JUL, 2012



GOVERNOR OF THE STATE OF HAWAII