
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- Investigations and examination; access to
5 records. (a) Every plan and its owners, operators, officers,
6 employees, and representatives shall:

7 (1) Be subject to an investigation or examination
8 initiated by the commissioner to enforce this chapter;

9 (2) Produce and make freely accessible to the commissioner
10 any accounts, records, documents, and files in the
11 person's possession or control relating to the subject
12 of the investigation or examination; and

13 (3) Cooperate with the investigation or examination.

14 (b) If the commissioner finds the accounts or records to
15 be inadequate, improperly kept, or improperly posted, the
16 commissioner may employ experts to rewrite, post, or balance the
17 accounts at the expense of the plan being examined, if the plan
18 has failed to correct the accounting records after the



1 commissioner has given the plan written notice and a reasonable
2 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 adequately address the
6 concerns stated in the communication.

7 §488- Records and reports. (a) The commissioner shall
8 preserve in permanent form records and reports of the
9 commissioner's proceedings, hearings, investigations, and
10 examinations, and shall file the records in the commissioner's
11 office.

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

15 (c) All records and reports on file with the commissioner
16 shall be confidential and privileged, shall not be made public,
17 shall not be subject to subpoena or discovery, and shall not be
18 admissible as evidence in any private civil action; provided
19 that:

20 (1) This section shall not be construed to limit the
21 commissioner's authority to use the documents,
22 materials, or other information in furtherance of any



1 regulatory or legal action brought as part of the
2 commissioner's official duties;

3 (2) Neither the commissioner nor any person who received
4 documents, materials, or other information while
5 acting under the authority of the commissioner shall
6 be permitted or required to testify in any private
7 civil action concerning any confidential documents,
8 materials, or information subject to this subsection;
9 and

10 (3) Any documents or information received from the
11 National Association of Insurance Commissioners, the
12 federal government, insurance regulatory agencies of
13 foreign countries, or insurance departments of other
14 states, territories, and commonwealths that are
15 confidential in other jurisdictions. The commissioner
16 may share information, including otherwise
17 confidential information, with the National
18 Association of Insurance Commissioners, the federal
19 government, insurance regulatory agencies of foreign
20 countries, or insurance departments of other states,
21 territories, and commonwealths so long as the statutes
22 or regulations of the other jurisdictions permit them



1 to maintain the same level of confidentiality as
2 required under Hawaii law.

3 (d) The commissioner shall not disclose any information
4 that is exempt from disclosure by federal or Hawaii statutes."

5 SECTION 2. Chapter 488, Hawaii Revised Statutes, is
6 amended by amending the title to read as follows:

7 " [†]CHAPTER 488 [†]

8 [PREPAID] LEGAL [SERVICES] SERVICE PLANS"

9 SECTION 3. Section 488-1, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By adding a new definition to read:

12 "Legal service plan" or "plan" means any arrangement by
13 which a person as defined in section 431:1-212, or entity, not
14 otherwise authorized to engage in the practice of law, offers to
15 provide or arranges the provision of legal services in exchange
16 for any valuable consideration that is paid to the plan."

17 2. Repealing the definitions of "department", "group
18 legal service plan", and "prepaid legal service plan":

19 [~~"Department" means the department of commerce and~~
20 ~~consumer affairs.~~]



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 complies with the provisions
20 of chapter 431 and files a statement certifying compliance with
21 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. (a) Sixty days~~
4 ~~prior to implementation of any plan and the accumulation or~~
5 ~~payment of money thereunder, all plan documents shall be~~
6 ~~submitted in writing for approval by the commissioner.]~~

7 Application for certificate of authority; certificate of
8 authority issued or denied. (a) Before conducting business in
9 the State, a plan shall submit to the commissioner:

10 (1) An application for a certificate of authority for
11 approval;

12 (2) Documentation required under subsection (b); and

13 (3) The applicable fee as provided under section 431:7-
14 101.

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

17 (1) A brief statement of the plan's financial structure,
18 including a statement of the amount of prepayment,
19 other charges or dues to be paid by plan members, and
20 the manner in which the amounts are to be paid;

21 (2) A statement of the amount of benefits, legal services,
22 or reimbursement for legal services to be furnished



1 each member of a plan, and the period during which
2 [~~it~~] they will be furnished; and, if there are
3 exceptions, reductions, exclusions, limitations, or
4 restrictions of benefits, legal services, or
5 reimbursements, a detailed statement of the
6 exceptions, reductions, exclusions, limitations, or
7 restrictions;

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

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

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

21 (6) A statement describing a procedure for settling
22 disputes between or among the group, the plan



1 administrator, the persons furnishing legal services,
2 and the member; [~~and~~]

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

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

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

19 (c) The commissioner shall issue a certificate of
20 authority to a plan if the commissioner finds that the plan has
21 met the requirements of this section. If the commissioner does
22 not so find, the commissioner shall deny the plan certificate of



1 authority. The commissioner shall issue or deny a certificate
2 of authority in writing within ninety days following the filing
3 of the application by the plan."

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

6 "**§488-4 Accumulated funds, protection, violation.** [~~(a)~~
7 ~~Any plan which accumulates funds from payments of premiums prior~~
8 ~~to paying those funds to persons providing legal services shall~~
9 ~~meet the requirements of this section.~~

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

13 [~~(e)]~~ (b) The plan administrator, upon receipt of
14 [~~premium]~~ funds intended for payment to a person providing legal
15 services pursuant to this chapter, shall maintain the funds at
16 all times in a federally insured account with a bank, savings
17 and loan association, or financial services loan company located
18 in Hawaii, separate from the plan's own funds or funds held by
19 the plan administrator in any other capacity, in an amount at
20 least equal to the funds collected and unpaid to the persons
21 providing legal services, unless otherwise approved by the
22 commissioner. Only additional funds as may be reasonably



1 necessary to pay bank, savings and loan association, or
2 financial services loan company charges may be commingled with
3 the [~~premium~~] funds. If the bank, savings and loan association,
4 or financial services loan company account is an interest
5 earning account, the plan may not retain the interest earned on
6 such funds for the plan or plan administrator's own use or
7 benefit without the prior written consent of the person entitled
8 to the funds. A plan trustee account shall be designated on the
9 records of the bank, savings and loan association, or financial
10 services loan company as a "trustee account established pursuant
11 to section 488-4, Hawaii Revised Statutes", or words of similar
12 import.

13 [~~(d)~~] (c) The plan administrator shall obtain a \$100,000
14 bond [~~in an amount and form approved by the commissioner~~] which
15 shall be executed by the plan administrator and a surety company
16 authorized to do business in the state as a surety. [~~The bond~~
17 ~~shall be to the benefit of the members of the plan and shall be~~
18 ~~filed with the commissioner.~~] The bond shall run to the State
19 for the benefit of any claimants against the plan to secure the
20 faithful performance of the obligations of the plan. The
21 aggregate liability of the surety shall not exceed the principal
22 sum of the bond. The plan administrator shall provide the



1 commissioner with proof of the bond at the time of the initial
2 request for approval and at any time thereafter as requested by
3 the commissioner. The plan shall not release the bond without
4 the commissioner's approval. In lieu of the bond required by
5 this section, the commissioner may accept letters of credit,
6 certificates of deposits, or other [~~evidences~~] evidence of
7 security in form and amounts deemed appropriate by the
8 commissioner.

9 [~~e~~] (d) Any person, including a plan administrator,
10 owner, operator, officer, employee, or representative who, not
11 being lawfully entitled to [~~such funds,~~] do so, diverts or
12 appropriates funds or any portion thereof [~~to the plan or plan~~
13 administrator's] for the person's own use, shall be subject to
14 penalties as provided by law."

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

17 "**§488-7 Failure to comply; penalty.** (a) Any plan that
18 neglects or refuses to comply with this chapter shall be
19 notified in writing by the commissioner of the neglect or
20 refusal, and of the need to take corrective action within seven
21 days. If the neglect or refusal continues for seven days after
22 notification, the plan[~~, group,~~] or plan administrator may be



1 fined not more than \$1,000 [~~Every day's neglect or refusal~~
2 ~~after the expiration of seven days shall be a separate offense.]~~
3 per day for each day of noncompliance.

4 (b) ~~[The]~~ In addition to penalties provided in subsection
5 (a), the commissioner may deny, suspend, revoke, or refuse to
6 approve the certificate of authority of any plan or any plan
7 amendments [~~and may levy civil penalties as allowed by chapters~~
8 ~~431, 432, 480, 481A, 481B, 481C, and any applicable law for any~~
9 ~~violation of this chapter].~~

10 (c) If the commissioner has cause to believe that any plan
11 is violating or is about to violate any provision of this
12 chapter or any order of the commissioner, the commissioner may
13 issue a cease and desist order to enforce compliance with this
14 chapter or any order of the commissioner, or bring an action in
15 any court of competent jurisdiction to enjoin the plan from
16 continuing the violation or doing any act in furtherance
17 thereof. The commissioner shall have the discretion to include
18 in a cease and desist order, or to request in an action brought
19 in any court, restitution on behalf of persons aggrieved by a
20 violation of this chapter and an assessment of a monetary
21 penalty against any plan, plan administrator, or owner,



1 operator, or officer of the plan that violates this chapter or
2 who has violated an order of the commissioner.

3 (d) If the commissioner takes any action pursuant to
4 subsection (b), the commissioner shall notify the applicant or
5 licensee in writing of the reason for that action. The
6 applicant or licensee may make written demand upon the
7 commissioner, within ten days of the date of receipt of the
8 notice, for a hearing before the commissioner to determine the
9 reasonableness of the commissioner's action. The hearing shall
10 be held within thirty days of receipt of the written demand,
11 unless postponed by mutual consent, and shall be held pursuant
12 to chapter 91."

13 SECTION 8. Section 431:7-101, Hawaii Revised Statutes, is
14 amended to read as follows:

15 1. By amending subsections (a) and (b) to read as
16 follows:

17 "(a) The commissioner shall collect in advance the
18 following fees:

19 (1) Certificate of authority: Issuance [~~\$1,800~~] \$900

20 (2) Organization of domestic insurers and affiliated
21 corporations:



- 1 (A) Application and all other papers required for
- 2 issuance of solicitation permit, filing . [~~\$3,000~~]
- 3 \$1,500
- 4 (B) Issuance of solicitation permit [~~\$300~~] \$150
- 5 (3) Producer's license:
- 6 (A) Issuance, regular license [~~\$100~~] \$50
- 7 (B) Issuance, temporary license [~~\$100~~] \$50
- 8 (4) Nonresident producer's license: Issuance .. [~~\$150~~] \$75
- 9 (5) Independent adjuster's license: Issuance .. [~~\$150~~] \$75
- 10 (6) Public adjuster's license: Issuance [~~\$150~~] \$75
- 11 (7) [~~Workers' compensation claim~~] Claims adjuster's
- 12 limited license: Issuance [~~\$150~~] \$75
- 13 (8) Independent bill reviewer's license:
- 14 Issuance [~~\$160~~] \$80
- 15 (9) Limited producer's license: Issuance [~~\$120~~] \$60
- 16 (10) Managing general agent's license: Issuance [~~\$150~~] \$75
- 17 (11) Reinsurance intermediary's license:
- 18 Issuance [~~\$150~~] \$75
- 19 (12) Surplus lines broker's license: Issuance . [~~\$300~~] \$150
- 20 (13) Service contract provider's registration:
- 21 Issuance [~~\$150~~] \$75



- 1 (14) Approved course provider certificate:
- 2 Issuance[\$200] \$100
- 3 (15) Approved continuing education course certificate:
- 4 Issuance[\$60] \$30
- 5 (16) Vehicle protection product warrantor's registration:
- 6 Issuance[\$150] \$75
- 7 (17) Criminal history record check; fingerprinting: For
- 8 each criminal history record check and fingerprinting
- 9 check, a fee to be established by the commissioner.
- 10 (18) Limited line motor vehicle rental company producer's
- 11 license: Issuance[\$2,000] \$1,000
- 12 ~~(19) Life settlement contract provider's license:~~
- 13 ~~Issuance\$150~~
- 14 ~~(20) Life settlement contract broker's license:~~
- 15 ~~Issuance\$150]~~
- 16 (19) Legal service plan certificate of authority:
- 17 Issuance..... \$500
- 18 ~~(21)]~~ (20) Examination for license: For each examination, a
- 19 fee to be established by the commissioner.
- 20 (b) The fees for services of the department of commerce
- 21 and consumer affairs subsequent to the issuance of a certificate
- 22 of authority, license, or other certificate are as follows:



- 1 (1) [~~\$1,200~~] \$600 per year for all services (including
2 extension of the certificate of authority) for an
3 authorized insurer;
- 4 (2) [~~\$100~~] \$50 per year for all services (including
5 extension of the license) for a regularly licensed
6 producer;
- 7 (3) [~~\$150~~] \$75 per year for all services (including
8 extension of the license) for a regularly licensed
9 nonresident producer;
- 10 (4) [~~\$90~~] \$45 per year for all services (including
11 extension of the license) for a regularly licensed
12 independent adjuster;
- 13 (5) [~~\$90~~] \$45 per year for all services (including
14 extension of the license) for a regularly licensed
15 public adjuster;
- 16 (6) [~~\$90~~] \$45 per year for all services (including
17 extension of the license) for a [~~workers'~~
18 ~~compensation~~] claims adjuster's limited license;
- 19 (7) [~~\$120~~] \$60 per year for all services (including
20 extension of the license) for a regularly licensed
21 independent bill reviewer;



- 1 (8) [~~\$90~~] \$45 per year for all services (including
2 extension of the license) for a producer's limited
3 license;
- 4 (9) [~~\$150~~] \$75 per year for all services (including
5 extension of the license) for a regularly licensed
6 managing general agent;
- 7 (10) [~~\$150~~] \$75 per year for all services (including
8 extension of the license) for a regularly licensed
9 reinsurance intermediary;
- 10 (11) [~~\$90~~] \$45 per year for all services (including
11 extension of the license) for a licensed surplus lines
12 broker;
- 13 (12) [~~\$150~~] \$75 per year for all services (including
14 renewal of registration) for a service contract
15 provider;
- 16 (13) [~~\$130~~] \$65 per year for all services (including
17 extension of the certificate) for an approved course
18 provider;
- 19 (14) [~~\$40~~] \$20 per year for all services (including
20 extension of the certificate) for an approved
21 continuing education course;



- 1 (15) [~~\$150~~] \$75 per year for all services (including
2 renewal of registration) for a vehicle protection
3 product warrantor;
- 4 (16) [~~\$40~~] \$20 for a criminal history record check;
5 fingerprinting: For each criminal history record check
6 and fingerprinting check, a fee to be established by
7 the commissioner.
- 8 (17) \$1,200 per year for all services (including extension
9 of the license) for a regularly licensed limited line
10 motor vehicle rental company producer;
- 11 ~~[(18) \$150 per year for all services (including extension of~~
12 ~~the license) for a regularly licensed life settlement~~
13 ~~contract provider; and~~
- 14 ~~(19) \$150 per year for all services (including extension of~~
15 ~~the license) for a regularly licensed life settlement~~
16 ~~contract broker.]~~
- 17 (18) \$1,000 per year for all services (including extension
18 of the certificate) for an authorized legal service
19 plan.

20 The services referred to in paragraphs (1) to ~~[(19)]~~ (18)
21 shall not include services in connection with examinations,
22 investigations, hearings, appeals, and deposits with a



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

3 2. By amending subsection (e) to read:

4 (e) All fees and penalties shall be deposited to the
5 credit of the compliance resolution fund[~~; provided that~~
6 ~~beginning July 1, 2010, the statutory fees collected pursuant to~~
7 ~~subsections (a) and (b), not including administratively set fees~~
8 ~~and assessments as may be authorized under this section, shall~~
9 ~~be deposited as follows:~~

10 ~~(1) Fifty per cent shall be deposited into the compliance~~
11 ~~resolution fund; and~~

12 ~~(2) Fifty per cent shall constitute an insurance license~~
13 ~~and service tax, which shall be deposited into the~~
14 ~~general fund]."~~

15 SECTION 9. Section 431:7-101, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as follows:

17 "(a) The commissioner shall collect in advance the
18 following fees:

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

20 (2) Organization of domestic insurers and affiliated
21 corporations:



- 1 (A) Application and all other papers required for
- 2 issuance of solicitation permit, filing ...\$3,000
- 3 (B) Issuance of solicitation permit\$300
- 4 (3) Producer's license:
- 5 (A) Issuance, regular license\$100
- 6 (B) Issuance, temporary license\$100
- 7 (4) Nonresident producer's license: Issuance\$150
- 8 (5) Independent adjuster's license: Issuance\$150
- 9 (6) Public adjuster's license: Issuance\$150
- 10 (7) [~~Workers' compensation claim~~] Claims adjuster's
- 11 limited license: Issuance\$150
- 12 (8) Independent bill reviewer's license:
- 13 Issuance\$160
- 14 (9) Limited producer's license: Issuance\$120
- 15 (10) Managing general agent's license: Issuance\$150
- 16 (11) Reinsurance intermediary's license:
- 17 Issuance\$150
- 18 (12) Surplus lines broker's license: Issuance\$300
- 19 (13) Service contract provider's registration:
- 20 Issuance\$150
- 21 (14) Approved course provider certificate:
- 22 Issuance\$200



- 1 (15) Approved continuing education course certificate:
- 2 Issuance\$60
- 3 (16) Vehicle protection product warrantor's registration:
- 4 Issuance\$150
- 5 (17) Criminal history record check; fingerprinting: For
- 6 each criminal history record check and fingerprinting
- 7 check, a fee to be established by the commissioner.
- 8 (18) Limited line motor vehicle rental company producer's
- 9 license: Issuance\$2,000
- 10 ~~[-(19) Life settlement contract provider's license:~~
- 11 ~~Issuance\$150~~
- 12 ~~[-(20) Life settlement contract broker's license:~~
- 13 ~~Issuance\$150]~~
- 14 (19) Legal service plan certificate of authority:
- 15 Issuance..... \$1000
- 16 [+21+] (20) Examination for license: For each examination, a
- 17 fee to be established by the commissioner.
- 18 (b) The fees for services of the department of commerce
- 19 and consumer affairs subsequent to the issuance of a certificate
- 20 of authority, license, or other certificate are as follows:

- 1 (1) \$1,200 per year for all services (including extension
2 of the certificate of authority) for an authorized
3 insurer;
- 4 (2) \$100 per year for all services (including extension of
5 the license) for a regularly licensed producer;
- 6 (3) \$150 per year for all services (including extension of
7 the license) for a regularly licensed nonresident
8 producer;
- 9 (4) \$90 per year for all services (including extension of
10 the license) for a regularly licensed independent
11 adjuster;
- 12 (5) \$90 per year for all services (including extension of
13 the license) for a regularly licensed public adjuster;
- 14 (6) \$90 per year for all services (including extension of
15 the license) for a [~~workers' compensation~~] claims
16 adjuster's limited license;
- 17 (7) \$120 per year for all services (including extension of
18 the license) for a regularly licensed independent bill
19 reviewer;
- 20 (8) \$90 per year for all services (including extension of
21 the license) for a producer's limited license;



- 1 (9) \$150 per year for all services (including extension of
2 the license) for a regularly licensed managing general
3 agent;
- 4 (10) \$150 per year for all services (including extension of
5 the license) for a regularly licensed reinsurance
6 intermediary;
- 7 (11) \$90 per year for all services (including extension of
8 the license) for a licensed surplus lines broker;
- 9 (12) \$150 per year for all services (including renewal of
10 registration) for a service contract provider;
- 11 (13) \$130 per year for all services (including extension of
12 the certificate) for an approved course provider;
- 13 (14) \$40 per year for all services (including extension of
14 the certificate) for an approved continuing education
15 course;
- 16 (15) \$150 per year for all services (including renewal of
17 registration) for a vehicle protection product
18 warrantor;
- 19 (16) \$40 for a criminal history record check; provided that
20 there shall be a fee for each criminal history record
21 check and fingerprinting check, to be established by
22 the commissioner;



1 (17) \$1,200 per year for all services (including extension
2 of the license) for a regularly licensed limited line
3 motor vehicle rental company producer;

4 [~~(18) \$150 per year for all services (including extension of~~
5 ~~the license) for a regularly licensed life settlement~~
6 ~~contract provider; and~~

7 ~~(19) \$150 per year for all services (including extension of~~
8 ~~the license) for a regularly licensed life settlement~~
9 ~~contract broker.]~~

10 (18) \$1,000 per year for all services (including extension
11 of the certificate) for an authorized legal service
12 plan.

13 The services referred to in paragraphs (1) to [~~(19)] (18)
14 shall not include services in connection with examinations,
15 investigations, hearings, appeals, and deposits with a
16 depository other than the department of commerce and consumer
17 affairs."~~

18 SECTION 10. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 11. This Act shall take effect upon its approval;
21 provided that section 8 shall take effect on July 1, 2014, and
22 section 9 shall be repealed on July 1, 2014.



Report Title:

Legal Service Plans

Description:

Updates regulation of legal service plans. (HB1050 HD1)

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

