
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: \$900;

7 (2) Organization of domestic mutual benefit societies:

8 (A) Filing of application and documents required for
9 issuance of certificate of registration: \$1,500;

10 and

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

12 and

13 (3) For renewal of the certificate of authority: \$600 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. If
18 the fee and the penalty are not paid within thirty days



1 immediately following the renewal date, the commissioner may
2 revoke the certificate of authority and shall not reinstate the
3 certificate of authority until the fee and penalty have been
4 paid.

5 (c) All fees and penalties collected pursuant to this
6 section and penalties collected pursuant to sections 432:1-105,
7 432:1-405, and 432:1-408 shall be deposited to the credit of the
8 compliance resolution fund."

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

11 "**§432:1-102 Applicability of other laws.** (a) Part III of
12 article 10A, and article 10H of chapter 431 shall apply to
13 nonprofit medical indemnity or hospital service associations.
14 Such associations shall be exempt from the provisions of part I
15 of article 10A; provided that such exemption is in compliance
16 with applicable federal statutes and regulations.

17 (b) Article 2, article 2D, [~~part~~] parts II and IV of
18 article 3, article 6, part III of article 7, article 13, article
19 14G, and article 15 of chapter 431, sections 431:3-301, 431:3-
20 302, 431:3-303, 431:3-304, and 431:3-305, and the powers granted
21 by those provisions to the commissioner, shall apply to managed
22 care plans, health maintenance organizations, or medical



1 indemnity or hospital service associations that are owned or
2 controlled by mutual benefit societies so long as the
3 application in any particular case is in compliance with and is
4 not preempted by applicable federal statutes and regulations.

5 (c) The commissioner shall adopt rules pursuant to chapter
6 91 for the implementation and administration of this article."

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

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

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

16 "**§432:1-301 Registration with commissioner: certificate**
17 **of registration [and authorization to solicit members.] and**
18 **certificate of authority.** (a) Before doing business or
19 engaging in any act, any society as defined in section 432:1-
20 104(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 now authorized to transact business in this State may
3 continue such business until August 16, 2013. The authority of
4 such societies and all societies hereafter issued a certificate
5 of insurance, may thereafter be renewed annually, but in all
6 cases shall otherwise terminate on the succeeding August 16.
7 The applicant society may appeal the denial of its application
8 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."



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

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

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

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

18 ~~(3) During the period of organization of the society, be~~
19 ~~held in trust to be returned to the applicants or~~
20 ~~members who have made payment of the same, if and in~~
21 ~~case the organization of the society is not completed~~



1 ~~within one year.]~~ apply for a certificate of authority
2 from the commissioner."

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

5 "**§432:1-304 Authority to offer death, sick, disability, or**
6 **other benefits; special deposit and control of certain funds.**

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



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

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

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

14 "(b) The commissioner may suspend or revoke the
15 certificate of [~~compliance~~] authority of any mutual benefit
16 society that fails to file any of the documents required in
17 subsection (a). In lieu of or in addition to suspension or
18 revocation of the certificate of [~~compliance~~] authority of any
19 mutual benefit society, the commissioner may impose on the
20 mutual benefit society a penalty in the amount of not less than
21 \$100 and not more than \$500 for each day of delinquency."



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

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

4 (1) Before issuing a certificate of authority pursuant to
5 section 432:1-301, the commissioner shall require that
6 the mutual benefit society has an initial net worth of
7 \$2,000,000 and the society shall thereafter maintain
8 the minimum net worth required under paragraph (2);

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

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

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

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



- 1 ~~(3) The minimum net worth requirement set forth in~~
2 ~~paragraph (2)(A) shall be phased in as follows:~~
- 3 ~~(A) Seventy five per cent of the required amount by~~
4 ~~January 1, 2001; and~~
- 5 ~~(B) One hundred per cent of the required amount by~~
6 ~~December 31, 2002; and~~
- 7 ~~(4) The minimum net worth requirement set forth in~~
8 ~~[paragraph] (2)(C) shall be phased in as follows:~~
- 9 ~~(A) Fifty per cent of the required amount by December~~
10 ~~31, 1997;~~
- 11 ~~(B) Seventy five per cent of the required amount by~~
12 ~~December 31, 1998; and~~
- 13 ~~(C) One hundred per cent of the required amount by~~
14 ~~December 31, 1999]."~~

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

17 "**§432:2-602 Reports.** [~~Reports shall be filed in~~
18 ~~accordance with the provisions of this section.~~] (a) Every
19 society transacting business in this State shall annually, on or
20 before March 1, unless for cause shown that such time has been
21 extended by the commissioner, file with the commissioner a true
22 statement of its financial condition, transactions and affairs



1 for the preceding calendar year and pay a fee of [~~\$7.50~~] \$300
2 for filing the same. The statement shall be in general form and
3 context as approved by the National Association of Insurance
4 Commissioners for fraternal benefit societies and as
5 supplemented by additional information required by the
6 commissioner.

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

18 (c) A society neglecting to file the annual statement in
19 the form and within the time provided by this section shall be
20 liable for a penalty of \$100 for each day during which [~~such~~]
21 the neglect continues, and, upon notice by the commissioner to



1 that effect, its authority to do business in this State shall
2 cease while [~~such~~] the default continues.

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

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

9 "(a) Societies which are now authorized to transact
10 business in this State may continue such business until May 1
11 next succeeding July 1, 1988. The authority of such societies
12 and all societies hereafter licensed, may thereafter be renewed
13 annually, but in all cases to terminate on the succeeding May 1.
14 However, a license so issued shall continue in full force and
15 effect until the new license is issued or specifically refused.
16 For each such license or renewal, the society shall pay the
17 commissioner [~~\$7.50-~~] \$300. A duly certified copy or duplicate
18 of such license shall be prima facie evidence that the licensee
19 is a fraternal benefit society within the meaning of this
20 article."

21 SECTION 12. Section 432D-13, Hawaii Revised Statutes, is
22 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 ~~years-~~] five years for health maintenance organizations
8 domiciled in 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,~~] \$900; 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 \$600 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, 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 481X-2, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding a new definition to be appropriately inserted
4 and to read as follows:

5 "Portable electronics" means electronic devices that can
6 be transported by the consumer and the accessories related to
7 the use of the device."

8 2. By amending the definition of "service contract" to
9 read as follows:

10 "Service contract" means a contract or agreement for a
11 separately stated consideration and a specific duration, to
12 perform or indemnify the repair, replacement, or maintenance of
13 property for operational or structural failure due either to a
14 defect in materials or artisanship, or to normal wear and tear,
15 with or without additional provision for incidental payment or
16 indemnity under limited circumstances[7] for accidental loss,
17 including but not limited to, as pertains to automobiles or
18 their components, towing, rental, tire repair, and emergency
19 road service. Service contracts may provide for the repair,
20 replacement, or maintenance of property damaged by power surges,
21 or accidentally damaged during handling[-], or the damage or
22 loss of portable electronics due to theft or accidental harm."



1 SECTION 16. Section 481X-4, Hawaii Revised Statutes is
2 amended to read as follows:

3 "**§481X-4 Financial responsibility.** A provider shall
4 comply with the requirements under any one of the following
5 paragraphs, and shall not be subject to any other financial
6 security requirements under state law:

7 (1) The provider shall insure all service contracts under
8 a contractual liability insurance policy issued by an
9 insurer authorized to transact insurance in this State
10 or issued pursuant to part III of article 8 of chapter
11 431;

12 (2) The provider shall:

13 (A) Maintain a funded reserve account exclusively for
14 all obligations under service contracts issued
15 and in force in this State. The reserves shall
16 not be less than forty per cent of the gross
17 consideration received from the sale of the
18 service contract[~~, less claims paid,~~] for all in
19 force contracts. For the calculation of the
20 minimum reserve amount, the gross consideration
21 may be reduced by the amount of claims paid on
22 the in force service contracts. The reserve



1 account shall be subject to examination by the
2 commissioner; and

3 (B) Place in trust with the commissioner, for all
4 service contracts issued and in force in this
5 State, a financial security deposit having a
6 value that is the larger of \$25,000 or five per
7 cent of the gross consideration received[~~7 less~~
8 ~~claims paid for the sale of the service~~
9 ~~contracts~~]. For the calculation of the minimum
10 financial security deposit, the gross
11 consideration may be reduced by the amount of
12 claims paid for the in force service contracts.

13 The financial security deposit shall consist of
14 one of the following:

- 15 (i) A surety bond issued by an authorized
16 surety;
- 17 (ii) Securities of the type eligible for deposit
18 by authorized insurers in this State;
- 19 (iii) Cash;
- 20 (iv) A letter of credit issued by a qualified
21 financial institution; or



1 (v) Another form of security authorized by the
2 commissioner by rule; or

3 (3) The provider or its parent company shall:

4 (A) Maintain a net worth or stockholders' equity of
5 at least \$100,000,000; and

6 (B) Upon request, provide the commissioner with a
7 copy of the provider's or the provider's parent
8 company's most recent Form 10-K or Form 20-F
9 filed with the Securities and Exchange Commission
10 within the last calendar year, or if the company
11 does not file with the Securities and Exchange
12 Commission, a copy of the provider's or the
13 provider's parent company's audited financial
14 statements.

15 If the financial responsibility requirement under this
16 paragraph is to be maintained by the provider's parent
17 company, the parent company shall guarantee the
18 provider's obligations under service contracts sold by
19 the provider in this State."

20 SECTION 17. Section 432:1-307, Hawaii Revised Statutes, is
21 repealed.



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

13 SECTION 18. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 19. This Act shall take effect on July 1, 2050.



Report Title:

Insurance Commissioner; Streamlining

Description:

Removes confusing and obsolete provisions to streamline licensing process. Updates financial regulatory requirements to be more consistent with requirements placed on traditional insurance companies. Modernizes the fee amounts paid by these entities. Effective July 1, 2050. (HB2504 HD1)

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

