
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Section 431:2-105, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There shall be a chief deputy commissioner, who shall
4 be subject to chapter 76. The chief deputy commissioner shall
5 have the power to perform any act or duty assigned by the
6 commissioner. If a commissioner has not been appointed, the
7 chief deputy commissioner shall have the power to perform any
8 act conferred upon the commissioner until a commissioner has
9 been appointed. The certificate of the chief deputy
10 commissioner's appointment shall be filed in the office of the
11 lieutenant governor."

12 SECTION 2. Section 431:2-206, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) A person competent to serve a summons shall serve
15 upon the commissioner triplicate copies of legal process against
16 an insurer for whom the commissioner is attorney. In the
17 absence of the commissioner, the process may be served upon the
18 chief deputy or the deputy in charge of the insurance function.



1 At the time of service the plaintiff shall pay to the
2 commissioner [~~\$127,~~ \$25, taxable as costs in the action."

3 SECTION 3. Section 431:7-101, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) The commissioner shall collect in advance the
6 following fees:

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

8 (2) Organization of domestic insurers and affiliated
9 corporations:

10 (A) Application and all other papers required for
11 issuance of solicitation permit, filing ... \$3,000

12 (B) Issuance of solicitation permit \$300

13 (3) Producer's license:

14 (A) Issuance, regular license \$100

15 (B) Issuance, temporary license \$100

16 (4) Nonresident producer's license: Issuance \$150

17 (5) Independent adjuster's license: Issuance \$150

18 (6) Public adjuster's license: Issuance \$150

19 (7) [~~Workers' compensation claim~~] Claims adjuster's
20 limited license: Issuance \$150

21 (8) Independent bill reviewer's license:
22 Issuance \$160



- 1 (9) Limited producer's license: Issuance\$120
- 2 (10) Managing general agent's license: Issuance\$150
- 3 (11) Reinsurance intermediary's license:
- 4 Issuance\$150
- 5 (12) Surplus lines broker's license: Issuance\$300
- 6 (13) Service contract provider's registration:
- 7 Issuance\$150
- 8 (14) Approved course provider certificate:
- 9 Issuance\$200
- 10 (15) Approved continuing education course certificate:
- 11 Issuance\$60
- 12 (16) Vehicle protection product warrantor's registration:
- 13 Issuance\$150
- 14 (17) Criminal history record check; fingerprinting: For
- 15 each criminal history record check and fingerprinting
- 16 check, a fee to be established by the commissioner.
- 17 (18) Limited line motor vehicle rental company producer's
- 18 license: Issuance\$2,000
- 19 ~~(19) Life settlement contract provider's license:~~
- 20 ~~Issuance\$150~~
- 21 ~~(20) Life settlement contract broker's license:~~
- 22 ~~Issuance\$150~~



1 ~~(21)]~~ (19) Examination for license: For each examination,
2 a fee to be established by the commissioner.

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

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

9 (2) \$100 per year for all services (including extension of
10 the license) for a regularly licensed producer;

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

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

17 (5) \$90 per year for all services (including extension of
18 the license) for a regularly licensed public adjuster;

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



- 1 (7) \$120 per year for all services (including extension of
2 the license) for a regularly licensed independent bill
3 reviewer;
- 4 (8) \$90 per year for all services (including extension of
5 the license) for a producer's limited license;
- 6 (9) \$150 per year for all services (including extension of
7 the license) for a regularly licensed managing general
8 agent;
- 9 (10) \$150 per year for all services (including extension of
10 the license) for a regularly licensed reinsurance
11 intermediary;
- 12 (11) \$90 per year for all services (including extension of
13 the license) for a licensed surplus lines broker;
- 14 (12) \$150 per year for all services (including renewal of
15 registration) for a service contract provider;
- 16 (13) \$130 per year for all services (including extension of
17 the certificate) for an approved course provider;
- 18 (14) \$40 per year for all services (including extension of
19 the certificate) for an approved continuing education
20 course;



1 (15) \$150 per year for all services (including renewal of
2 registration) for a vehicle protection product
3 warrantor;

4 (16) [~~\$40~~] A fee to be determined by the commissioner for
5 [a] each criminal history record check[~~+~~] and
6 fingerprinting; and

7 (17) \$1,200 per year for all services (including extension
8 of the license) for a regularly licensed limited line
9 motor vehicle rental company producer[~~+~~

10 ~~(18) \$150 per year for all services (including extension of~~
11 ~~the license) for a regularly licensed life settlement~~
12 ~~contract provider; and~~

13 ~~(19) \$150 per year for all services (including extension of~~
14 ~~the license) for a regularly licensed life settlement~~
15 ~~contract broker].~~

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

21 SECTION 4. Section 431:9-204, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§431:9-204 Applications for license. (a) Application
2 for ~~[any such]~~ an adjuster or independent bill reviewer license
3 shall be made to the commissioner upon forms as prescribed and
4 furnished by the commissioner. As a part of or in connection
5 with ~~[any such]~~ an application~~[,]~~ pursuant to this section, the
6 applicant shall furnish information including:

7 (1) The applicant's identity, personal history,
8 experience, business records, and a full set of
9 fingerprints, including a scanned file from a hard
10 copy fingerprint, for the commissioner to obtain and
11 receive national and state criminal history
12 ~~[+]~~record~~[+]~~ checks from the Federal Bureau of
13 Investigation and the Hawaii criminal justice data
14 center, pursuant to section 846-2.7; and
15 (2) Other pertinent facts as the commissioner may
16 reasonably require.

17 ~~[(b)(1) If the applicant is a partnership or corporation, the~~
18 ~~application shall furnish in addition to the~~
19 ~~requirements set forth in subsection (a):~~

20 ~~(A) The names of all partners or officers; and~~



1 ~~(B) A designation of each individual who is to~~
2 ~~exercise the powers to be conferred by the~~
3 ~~license upon the partnership or corporation.~~

4 ~~(2) Each individual shall be required to furnish~~
5 ~~information to the commissioner as though for an~~
6 ~~individual license.~~

7 ~~(e)]~~ (b) Any person wilfully misrepresenting or omitting
8 any fact required to be disclosed in any [~~such~~] application
9 shall be liable for penalties as provided by this code."

10 SECTION 5. Section 431:9C-101, Hawaii Revised Statutes, is
11 amended by amending the definition of "managing general agent"
12 to read as follows:

13 ""Managing general agent" means any person, firm,
14 association, or corporation that manages all or part of the
15 insurance business of an insurer [~~(+)]~~including the management of
16 a separate division, department, or underwriting office~~(+)]~~ and
17 that acts as an agent for [~~such~~] the insurer whether known as a
18 managing general agent, manager, or other similar term, who,
19 with or without the authority, either separately or together
20 with affiliates, produces, directly or indirectly, and
21 underwrites an amount of gross direct written premium equal to
22 or more than five per cent of the policyholder surplus as



1 reported in the last annual statement of the insurer in any one
2 quarter or year [~~, together with one or more of the following~~
3 ~~activities related to the business produced:] and~~ adjusts or
4 pays claims in excess of [~~an amount determined by the~~
5 ~~commissioner,] \$10,000 or negotiates reinsurance on behalf of
6 the insurer. Notwithstanding the [~~preceding sentence,]~~
7 provisions of this section, the following persons shall not be
8 considered as managing general agents for the purposes of this
9 article:~~

- 10 (1) An employee of the insurer;
- 11 (2) A United States manager of the United States branch of
12 an alien insurer;
- 13 (3) An underwriting manager who, pursuant to contract,
14 manages all the insurance operations of the insurer,
15 is under common control with the insurer, subject to
16 article 11, and whose compensation is not based on the
17 volume of premiums written;
- 18 (4) The attorney-in-fact authorized by and acting for the
19 subscribers of a reciprocal insurer or inter-insurance
20 exchange under a power of attorney; and
- 21 (5) Any person, firm, association, or corporation
22 domiciled in the State and authorized to do business



1 only in the State and acting as a managing general
2 agent for an insurer licensed and conducting business
3 only in the State."

4 SECTION 6. Section 431:10H-228, Hawaii Revised Statutes,
5 is amended by amending subsection (a) to read as follows:

6 "(a) Every insurer, health care service plan, or other
7 entity providing long-term care insurance or benefits in this
8 State shall provide a copy of any long-term care insurance
9 advertisement intended for use in this State whether through
10 written, radio, or television medium to the commissioner for
11 review or approval by the commissioner to ~~[the extent it may be~~
12 ~~reviewed under state law.]~~ determine compliance with this
13 article. In addition, all advertisements shall be retained by
14 the insurer, health care service plan, or other entity for at
15 least three years from the date the advertisement was first
16 used."

17 SECTION 7. Section 431:11-106, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) (1) Transactions within a holding company system to
20 which an insurer subject to registration is a party
21 shall be subject to the following standards:

22 (A) The terms shall be fair and reasonable;



- 1 (B) Charges or fees for services performed shall be
2 reasonable;
- 3 (C) Expenses incurred and payment received shall be
4 allocated to the insurer in conformity with
5 customary insurance accounting practices
6 consistently applied;
- 7 (D) The books, accounts, and records of each party to
8 all transactions shall be maintained so as to
9 clearly and accurately disclose the nature and
10 details of the transactions including the
11 accounting information necessary to support the
12 reasonableness of the charges or fees to the
13 respective parties; and
- 14 (E) The insurer's surplus as regards policyholders
15 following any dividends or distributions to
16 shareholder affiliates shall be reasonable in
17 relation to the insurer's outstanding liabilities
18 and adequate to its financial needs;
- 19 (2) The following transactions involving a domestic
20 insurer and any person in its holding company system
21 shall not be entered into unless the insurer has
22 notified the commissioner in writing of its intention



1 to enter into the transaction at least thirty days
2 prior [~~thereto,~~] to the transaction or a shorter
3 period as the commissioner may permit, and the
4 commissioner has not disapproved [~~it~~] the transaction
5 within that period:

6 (A) Sales, purchases, exchanges, loans or extensions
7 of credit, guarantees, or investments; provided
8 that the transactions are equal to or exceed:

9 (i) With respect to nonlife insurers, the lesser
10 of three per cent of the insurer's admitted
11 assets or twenty-five per cent of surplus as
12 regards policyholders each as of the thirty-
13 first day of December next preceding; or

14 (ii) With respect to life insurers, three per
15 cent of the insurer's admitted assets as of
16 the thirty-first day of December next
17 preceding;

18 (B) Loans or extensions of credit to any person who
19 is not an affiliate, where the insurer makes the
20 loans or extensions of credit with the agreement
21 or understanding that the proceeds of the
22 transactions, in whole or in substantial part,



1 are to be used to make loans or extensions of
2 credit to, to purchase assets of, or to make
3 investments in[7] any affiliate of the insurer
4 making the loans or extensions of credit;
5 provided that the transactions are equal to or
6 exceed:

- 7 (i) With respect to nonlife insurers, the lesser
8 of three per cent of the insurer's admitted
9 assets or twenty-five per cent of surplus as
10 regards policyholders each as of the thirty-
11 first day of December next preceding; or
12 (ii) With respect to life insurers, three per
13 cent of the insurer's admitted assets as of
14 the thirty-first day of December next
15 preceding;

- 16 (C) Reinsurance agreements or modifications [~~thereto~~]
17 to reinsurance agreements in which the
18 reinsurance premium or a change in the insurer's
19 liabilities equals or exceeds five per cent of
20 the insurer's surplus as regards policyholders,
21 as of the thirty-first day of December next
22 preceding, including those agreements [~~which~~]



1 that may require as consideration the transfer of
2 assets from an insurer to a nonaffiliate, if an
3 agreement or understanding exists between the
4 insurer and nonaffiliate that any portion of the
5 assets will be transferred to one or more
6 affiliates of the insurer;

7 (D) All management agreements, service contracts, and
8 ~~[all]~~ cost-sharing arrangements; and

9 (E) Any material transactions, specified by rule,
10 which the commissioner determines may adversely
11 affect the interests of the insurer's
12 policyholders[-

13 ~~Nothing]~~; provided that nothing in this section shall
14 be deemed to authorize or permit any transactions
15 which, in the case of an insurer not a member of the
16 same holding company system, would be otherwise
17 contrary to law;

18 (3) A domestic insurer may not enter into transactions
19 which are part of a plan or series of like
20 transactions with persons within the holding company
21 system if the purpose of those separate transactions
22 is to avoid the statutory threshold amount and thus



1 avoid the review that would otherwise occur[~~—If~~];
2 provided that the commissioner determines that the
3 separate transactions were entered into over any
4 twelve-month period for that purpose, the commissioner
5 may exercise the commissioner's authority under
6 section 431:11-111;

7 (4) The commissioner, in reviewing transactions pursuant
8 to subsection (a) (2), shall consider whether the
9 transactions comply with the standards set forth in
10 subsection (a) (1) and whether they may adversely
11 affect the interests of policyholders; and

12 (5) The commissioner shall be notified within thirty days
13 of any investment of the domestic insurer in any one
14 person if the total investment in the person by the
15 insurance holding company system exceeds ten per cent
16 of the [~~corporation's~~] person's voting securities[~~—~~]
17 or the domestic insurer possesses control of the
18 person as "control" is defined in section 431:11-102."

19 SECTION 8. Section 431:14G-105, Hawaii Revised Statutes,
20 is amended by amending subsections (a) and (b) to read as
21 follows:



1 "(a) Every managed care plan shall file [~~in triplicate~~]
2 with the commissioner, every rate, charge, classification,
3 schedule, practice, or rule and every modification of any of the
4 foregoing that it proposes to use. Every filing shall [~~state~~]:

5 (1) State its proposed effective date [~~and shall~~
6 indicate];

7 (2) Indicate the character and extent of the coverage
8 contemplated[. ~~The filing also shall include~~];

9 (3) Include a report on investment income[~~-~~]; and

10 (4) Be accompanied by a \$50 fee payable to the
11 commissioner and shall be deposited in the
12 commissioner's education and training fund.

13 ~~(b) [Each filing shall be accompanied by a \$50 fee payable~~
14 ~~to the commissioner and shall be deposited in the commissioner's~~
15 ~~education and training fund.]~~ For each filing, an insurer shall
16 submit to the commissioner:

17 (1) An electronic copy of the filing; or

18 (2) Two printed copies of the filing.

19 The commissioner may also request a printed version of an
20 electronic filing submitted pursuant to paragraph (1)."

21 SECTION 9. Section 431P-16, Hawaii Revised Statutes, is
22 amended by amending subsection (e) to read as follows:



1 "(e) After each covered event, if the board [~~shall~~
2 ~~determine~~] determines that the moneys in the hurricane reserve
3 trust fund, excluding moneys determined by the board to be
4 needed to continue fund operations following that covered event,
5 will be insufficient to pay claims and other obligations of the
6 fund arising out of that covered event, the Hawaii hurricane
7 relief fund [~~is authorized to~~] shall levy a surcharge not to
8 exceed seven and one-half per cent a year on premiums charged
9 for all property and casualty insurance policies issued for
10 risks insured in this State. These moneys may be deposited into
11 the hurricane reserve trust fund or into trust or custodial
12 accounts, created for the benefit of the fund's secured parties,
13 that are held inside or outside the hurricane reserve trust
14 fund. The [~~formula to calculate the amount and period of the~~
15 ~~surcharge for each covered event and the procedures and~~
16 ~~methodology for payment of claims and other obligations of the~~
17 ~~fund shall be provided in the plan of operation and the~~]
18 surcharge [~~may~~] shall remain in effect until all claims and
19 other obligations of the fund, including but not limited to
20 claims under fund policies of hurricane property insurance,
21 claims financing transactions, bonds, notes, and other
22 obligations arising out of that covered event, shall have been



1 fully discharged. The amount and reason for any surcharge
2 ~~made~~ levied pursuant to this subsection shall be separately
3 stated on any billing sent to an insured. The surcharge shall
4 not be considered premiums for any other purpose, including the
5 computation of gross premium tax or the determination of
6 producers' commissions. The fund may establish procedures for
7 insurers to collect the surcharge from their customers who hold
8 property or casualty policies."

9 SECTION 10. Section 432:1-306, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) ~~[After the organization of the society is completed,~~
12 ~~and before a certificate of compliance is granted by the~~
13 ~~commissioner, the]~~ The society shall deposit with the
14 commissioner [one-half the maximum amount required to be
15 maintained in its death benefit and disability, or sick, or
16 other benefit fund, as provided in section 432:1-401,] fifty per
17 cent of the minimum net worth requirement as provided in section
18 432:1-407(a)(2), either in cash or in securities approved by the
19 commissioner[-]; provided that the deposit shall be not less
20 than \$1,000,000 and shall not exceed \$20,000,000."

21 SECTION 11. Section 431:2-202.5, Hawaii Revised Statutes,
22 is repealed.



1 [~~"§431:2-202.5 Approval; when deemed effective. Except as~~
2 ~~provided otherwise, any approval required by law shall be deemed~~
3 ~~granted on the thirtieth calendar day following the filing of~~
4 ~~the request for approval if the commissioner does not take any~~
5 ~~affirmative action to grant or deny the approval within thirty~~
6 ~~calendar days of the request."]~~

7 SECTION 12. Section 432:1-401, Hawaii Revised Statutes, is
8 repealed.

9 [~~"§432:1-401 Benefit funds. Each society shall at all~~
10 ~~times maintain:~~

- 11 ~~(1) In its death benefit fund, at least five times the~~
12 ~~maximum amount of death benefit offered or promised to~~
13 ~~be paid to any one member, and~~
- 14 ~~(2) In its sick, disability or other benefit fund, at~~
15 ~~least twenty times the maximum amount of sick,~~
16 ~~disability or other benefits, whichever maximum amount~~
17 ~~is greater, offered or promised to be paid to any one~~
18 ~~member during or within a period of thirty days."]~~

19 SECTION 13. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 14. This Act shall take effect on July 1, 2050.



Report Title:

Insurance

Description:

Updates the Insurance Code and related provisions. Effective
07/01/2050. (SD2)

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

