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# 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 to part I of article 1 a new section 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.

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 notice of delinquency, the  
 4 commissioner may revoke the certificate of authority and shall  
 5 not reinstate the certificate of authority until the fee and  
 6 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 432:1-408 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 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 authority, may thereafter be renewed annually, but in all  
 6 cases shall terminate on the succeeding August 16. The  
 7 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."

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 mutual benefit society shall maintain a minimum net  
9 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~~] \$300  
 22 for filing same. The statement shall be in general form and



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

16 (c) A society neglecting to file the annual statement in  
17 the form and within the time provided by this section shall be  
18 liable for a penalty of \$100 for each day during which [~~such~~]  
19 the neglect continues, and, upon notice by the commissioner to  
20 that effect, its authority to do business in this State shall  
21 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 are now authorized to transact  
 8 business in this State may continue such business until May 1  
 9 next succeeding July 1, 1988. The authority of such societies  
 10 and all societies hereafter licensed, may thereafter be renewed  
 11 annually, but in all cases to terminate on the succeeding May 1.  
 12 However, a license so issued shall continue in full force and  
 13 effect until the new license is issued or specifically refused.  
 14 For each such license or renewal, the society shall pay the  
 15 commissioner [~~\$7.50.~~] \$300. A duly certified copy or duplicate  
 16 of such license shall be prima facie evidence that the licensee  
 17 is a fraternal benefit society within the meaning of this  
 18 article."

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

21        "(a) The commissioner may examine the affairs of any  
 22 health maintenance organization or of any providers with whom



1 such organization has contracts, agreements, or other  
2 arrangements as often as is reasonably necessary for the  
3 protection of the interests of the people of this State but  
4 shall make such examination not fewer than once every [~~three~~  
5 five years[-] for health maintenance organizations domiciled in  
6 this State."

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

9 **"§432D-17 Fees.** (a) The commissioner shall collect in  
10 advance the following fees:

11 (1) For filing an application for a certificate of  
12 authority or amendment thereto, [~~\$600~~] \$900; and

13 (2) For [~~all services subsequent to the issuance of a~~  
14 renewal of the certificate of authority [~~(including~~  
15 ~~extension of the certificate of authority), \$400.~~],  
16 \$600 per year.

17 (b) The commissioner shall [~~notify the~~] provide each  
18 holder of [~~the~~] a certificate of authority [~~by~~] at least thirty  
19 days' advance written notice [~~at least thirty days prior to the~~]  
20 of the applicable extension date [~~of the certificate~~]. If the  
21 fee for the extension of the certificate of authority is not  
22 paid before or on the extension date, a penalty shall be imposed



1 in the amount of fifty per cent of the fee. If the fee and the  
2 penalty are not paid within thirty days immediately following  
3 the extension date, the commissioner may revoke the certificate  
4 of authority and shall not reinstate the certificate of  
5 authority until the fee and penalty have been paid.

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

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

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

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

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





**Report Title:**

Insurance; Insurance Commissioner; Regulated Entities

**Description:**

Updates the insurance code by removing or revising certain provisions that relate to the licensing and regulation of mutual benefit societies and health maintenance organizations; updates financial regulatory requirements and fees to be more consistent with requirements placed on traditional insurance companies.  
(SD1)

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