
A BILL FOR AN ACT

RELATING TO HEALTH INSURERS ASSESSMENTS.

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

1 SECTION 1. The legislature finds that the Patient
2 Protection and Affordable Care Act mandates health insurance
3 exchanges to be self-sustaining beginning in January 2015. To
4 comply with this requirement, and pursuant to section 435H-3,
5 Hawaii Revised Statutes, the Hawaii health connector authorized
6 a two per cent rate increase on all health plans sold to
7 individuals through the connector beginning January 1, 2014.
8 The connector further authorized an additional two per cent rate
9 increase on all plans sold to small businesses through the
10 connector, beginning July 1, 2014.

11 The legislature notes that the additional connector fee
12 applies only to issuers that sell products through the
13 connector. The federal act requires those issuers to price
14 their products sold outside of the connector at the same level
15 as the products sold through the connector. Consequently,
16 issuers that only sell plans outside of the connector do not
17 bear the burden of having the prices of their products increased
18 by the connector fee.



1 The legislature finds that this discrepancy creates an
2 inequity that:

3 (1) Provides a competitive advantage to issuers that only
4 sell plans outside of the connector; and

5 (2) Creates a disincentive for issuers to participate in
6 the connector.

7 The legislature further finds that this situation is contrary to
8 the intent of the federal act, which is to create a competitive
9 marketplace through which the uninsured may receive health care
10 coverage.

11 The legislature believes that, while it is imperative to
12 ensure the long-term sustainability of the connector, it must be
13 done in a way that promotes competition and ensures equity among
14 the competitors. The legislature finds that the insurance
15 commissioner is best situated to strike the proper balance among
16 promoting competition, facilitating a self-sustaining health
17 insurance exchange market, and maintaining reasonable health
18 insurance rates.

19 The purpose of this Act is to authorize the insurance
20 commissioner to assess a fee on all issuers selling plans, both
21 inside and outside of the health insurance exchange, to sustain



1 the connector while ensuring more competition at reasonable
2 costs.

3 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§435H- Hawaii health connector universal federally
7 mandated sustainability fee; special subaccount established.

8 (a) There is established within the compliance resolution fund
9 a special subaccount to be designated as the Hawaii health
10 connector sustainability special subaccount. The subaccount
11 fund balances are to be expended by the commissioner only as
12 provided by this subsection. All moneys from the Hawaii health
13 connector universal federally mandated sustainability fee under
14 subsection (c) shall be deposited into the subaccount. Moneys
15 from the subaccount shall be transferred to the connector,
16 pursuant to procedures established by the commissioner, and may
17 only be used to support the administration, operations, and
18 prudent cash management of the connector.

19 (b) By April 1 of each year, the board of directors of the
20 connector shall inform the commissioner of the amount of funding
21 required to finance the operations and cash reserve of the
22 connector for each ensuing fiscal year beginning on July 1;



1 provided that the balance of the cash reserve does not exceed
2 the value of the cost of three months of administering and
3 operating the connector.

4 (c) Any other provision notwithstanding, beginning on July
5 1, 2015, and on each July 1 thereafter, the commissioner shall
6 assess a fee upon each insurer, on a pro rata basis, based upon
7 the number of individuals covered by each insurer on the
8 preceding December 31, excluding individuals covered under a
9 medicaid plan pursuant to Title XIX of the Social Security Act,
10 42 U.S.C. section 1396 et seq. At the discretion of the
11 commissioner, the fee assessed upon each dental insurer subject
12 to chapter 432G may be set at a level up to per cent of the
13 fee assessed upon all other insurers in this subsection. The
14 total of all revenues collected from the fee shall not exceed
15 the amount of funding required to finance the operations and
16 cash reserve of the connector as specified in subsection (b).
17 This fee shall be known as the Hawaii health connector universal
18 federally mandated sustainability fee."

19 SECTION 3. Section 26-9, Hawaii Revised Statutes, is
20 amended by amending subsection (o) to read as follows:

21 "(o) Every person licensed under any chapter within the
22 jurisdiction of the department of commerce and consumer affairs



1 and every person licensed subject to chapter 485A or registered
2 under chapter 467B shall pay upon issuance of a license, permit,
3 certificate, or registration a fee and a subsequent annual fee
4 to be determined by the director and adjusted from time to time
5 to ensure that the proceeds, together with all other fines,
6 income, and penalties collected under this section, do not
7 surpass the annual operating costs of conducting compliance
8 resolution activities required under this section. The fees may
9 be collected biennially or pursuant to rules adopted under
10 chapter 91, and shall be deposited into the special fund
11 established under this subsection. Every filing pursuant to
12 chapter 514E or section 485A-202(a)(26) shall be assessed, upon
13 initial filing and at each renewal period in which a renewal is
14 required, a fee that shall be prescribed by rules adopted under
15 chapter 91, and that shall be deposited into the special fund
16 established under this subsection. Any unpaid fee shall be paid
17 by the licensed person, upon application for renewal,
18 restoration, reactivation, or reinstatement of a license, and by
19 the person responsible for the renewal, restoration,
20 reactivation, or reinstatement of a license, upon the
21 application for renewal, restoration, reactivation, or
22 reinstatement of the license. If the fees are not paid, the



1 director may deny renewal, restoration, reactivation, or
2 reinstatement of the license. The director may establish,
3 increase, decrease, or repeal the fees when necessary pursuant
4 to rules adopted under chapter 91. The director may also
5 increase or decrease the fees pursuant to section 92-28.

6 There is created in the state treasury a special fund to be
7 known as the compliance resolution fund to be expended by the
8 director's designated representatives as provided by this
9 subsection. Notwithstanding any law to the contrary, all
10 revenues, fees, and fines collected by the department shall be
11 deposited into the compliance resolution fund. Unencumbered
12 balances existing on June 30, 1999, in the cable television fund
13 under chapter 440G, the division of consumer advocacy fund under
14 chapter 269, the financial institution examiners' revolving
15 fund, section 412:2-109, the special handling fund, section
16 414-13, and unencumbered balances existing on June 30, 2002, in
17 the insurance regulation fund, section 431:2-215, shall be
18 deposited into the compliance resolution fund. This provision
19 shall not apply to the drivers education fund underwriters fee,
20 sections 431:10C-115 and 431:10G-107, insurance premium taxes
21 and revenues, revenues of the workers' compensation special
22 compensation fund, section 386-151, the captive insurance



1 administrative fund, section 431:19-101.8, the insurance
2 commissioner's education and training fund, section 431:2-214,
3 the medical malpractice patients' compensation fund as
4 administered under section 5 of Act 232, Session Laws of Hawaii
5 1984, and fees collected for deposit in the office of consumer
6 protection restitution fund, section 487-14, the real estate
7 appraisers fund, section 466K-1, the real estate recovery fund,
8 section 467-16, the real estate education fund, section 467-19,
9 the contractors recovery fund, section 444-26, the contractors
10 education fund, section 444-29, the condominium education trust
11 fund, section 514B-71, and the mortgage foreclosure dispute
12 resolution special fund, section 667-86. Any law to the
13 contrary notwithstanding, the director may use the moneys in the
14 fund to employ, without regard to chapter 76, hearings officers
15 and attorneys. All other employees may be employed in
16 accordance with chapter 76. Any law to the contrary
17 notwithstanding, the moneys in the fund shall be used to fund
18 the operations of the department. The moneys in the fund may be
19 used to train personnel as the director deems necessary and for
20 any other activity related to compliance resolution.

21 A separate special subaccount of the compliance resolution
22 fund, to be known as the post-secondary education authorization



1 special subaccount, shall be established for fees collected by
2 the department of commerce and consumer affairs pursuant to
3 chapter 305J. The special subaccount shall be governed by
4 section 305J-19.

5 A separate special subaccount of the compliance resolution
6 fund, to be known as the Hawaii health connector sustainability
7 special subaccount, shall be established for fees collected by
8 the department of commerce and consumer affairs pursuant to
9 section 435H- . The special subaccount shall be governed by
10 section 435H- .

11 As used in this subsection, unless otherwise required by
12 the context, "compliance resolution" means a determination of
13 whether:

- 14 (1) Any licensee or applicant under any chapter subject to
15 the jurisdiction of the department of commerce and
16 consumer affairs has complied with that chapter;
- 17 (2) Any person subject to chapter 485A has complied with
18 that chapter;
- 19 (3) Any person submitting any filing required by chapter
20 514E or section 485A-202(a)(26) has complied with
21 chapter 514E or section 485A-202(a)(26);
- 22 (4) Any person has complied with the prohibitions against



1 unfair and deceptive acts or practices in trade or
2 commerce; or

3 (5) Any person subject to chapter 467B has complied with
4 that chapter;

5 and includes work involved in or supporting the above functions,
6 licensing, or registration of individuals or companies regulated
7 by the department, consumer protection, and other activities of
8 the department.

9 The director shall prepare and submit an annual report to
10 the governor and the legislature on the use of the compliance
11 resolution fund. The report shall describe expenditures made
12 from the fund including non-payroll operating expenses."

13 SECTION 4. Section 435H-1, Hawaii Revised Statutes, is
14 amended by amending the definition of "insurer" to read as
15 follows:

16 ""Insurer" means any person or entity that issues a policy
17 of accident and health or sickness insurance subject to article
18 10A of chapter 431, or chapters 432 or 432D[-], or any dental
19 insurer subject to chapter 432G."

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Insurers; Hawaii Health Connector; Sustainability Fee

Description:

Establishes a sustainability fee for the Hawaii health connector. Deposits the fee into a special subaccount of the compliance resolution fund. Effective 07/01/2050. (HD1)

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