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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I of article 10C to be  
3 appropriately designated and to read as follows:

4           "§431:10C-     Payment of general excise tax and certificate  
5 of ownership fee on third party claims. (a) When a motor  
6 vehicle insurer settles a total loss motor vehicle damage  
7 liability claim with a third-party claimant, the insurer shall  
8 pay the applicable general excise tax and certificate of  
9 ownership fee; provided that if the third-party claimant cannot  
10 substantiate the purchase and the payment of the general excise  
11 tax and certificate of ownership fee by submitting to the  
12 insurer appropriate documentation within thirty-three days after  
13 the receipt of settlement, the insurer shall not be required to  
14 reimburse the third-party claimant for the tax or fee.

15           (b) In lieu of the procedure in subsection (a), the  
16 insurer may directly pay the required general excise tax and  
17 certificate of ownership fee to the third-party claimant at the  
18 time of settlement.



1        (c) Written notice of the payment procedure outlined in  
2 this section shall be communicated to the third-party claimant  
3 at the time of settlement, together with any form required by  
4 the insurer for applying for the reimbursement.

5        (d) An insurer's obligation to reimburse a third-party  
6 claimant for the applicable general excise tax and certificate  
7 of ownership fee as set forth in this section shall be subject  
8 to the property damage liability limit of the policy."

9        SECTION 2. Section 431:2-403, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11        "(b) Violation of subsection (a) is a criminal offense and  
12 shall constitute:

13        (1) A class B felony if the value of the benefits,  
14 recovery, or compensation obtained or attempted to be  
15 obtained [~~is more than~~] exceeds \$20,000;

16        (2) A class C felony if the value of the benefits,  
17 recovery, or compensation obtained or attempted to be  
18 obtained [~~is more than \$300;~~] exceeds \$750; or

19        (3) A misdemeanor if the value of the benefits, recovery,  
20 or compensation obtained or attempted to be obtained  
21 is [~~\$300 or less.~~] not in excess of \$750."



1 SECTION 3. Section 431:3-212, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§431:3-212 **Application for authority.** To apply for an  
4 original certificate of authority, an insurer shall~~[+]~~ file with  
5 the commissioner a Uniform Certificate of Authority Application  
6 from the National Association of Insurance Commissioners that  
7 shall set forth or be accompanied by all of the following:

8 (1) [~~File with the commissioner its~~] The insurer's request  
9 showing:

10 (A) Its name, in compliance with sections 431:3-  
11 202(b) and 431:4-104(d)(1), home office location,  
12 type of insurer, organization date, [~~and~~] state  
13 or country of its domicile, and name and location  
14 of the principal office of its attorney-in-fact,  
15 if a reciprocal insurer;

16 (B) The classes of insurance it proposes to transact;  
17 and

18 (C) Additional information as the commissioner may  
19 reasonably require~~[+]~~.

20 (2) [~~File with the commissioner+]~~ Documents including the  
21 following:



- 1 (A) A copy of its charter as amended or [~~such copy~~]  
2 certified by the proper public officer of the  
3 state or country of domicile, if a foreign or  
4 alien insurer;
- 5 (B) A copy of its bylaws as amended, certified by its  
6 proper officer;
- 7 (C) A copy of its annual statement as of December 31  
8 last preceding;
- 9 (D) An appointment of the commissioner as its  
10 attorney to receive service of legal process, if  
11 a foreign or alien insurer[7] or a domestic  
12 reciprocal insurer;
- 13 (E) The name and business address of its authorized  
14 resident agent upon whom process may be served in  
15 all cases, if a foreign or alien insurer;
- 16 (F) A copy of the appointment and authority of its  
17 United States manager, certified by its proper  
18 officer, if an alien insurer;
- 19 (G) A certificate from the proper public official of  
20 its state or country of domicile showing that it  
21 is duly organized and [~~is~~] authorized to transact



- 1 the classes of insurance proposed to be
- 2 transacted, if a foreign or alien insurer;
- 3 (H) The declaration required by section 431:4-409, if
- 4 a domestic reciprocal insurer;
- 5 (I) [~~Certificate~~] A certificate of the proper public
- 6 official as to any deposit made or held in
- 7 compliance with this code;
- 8 (J) [~~Copy~~] A copy of the report of the last
- 9 examination made of the insurer certified by the
- 10 insurance supervisory official of its state of
- 11 domicile or entry into the United States, if a
- 12 foreign or alien insurer; and
- 13 (K) Other documents or stipulations as the
- 14 commissioner may reasonably require to evidence
- 15 compliance with this code [~~+~~and].

16 (3) [~~Deposit~~] A deposit with the commissioner of the  
 17 appropriate fees required by this code."

18 SECTION 4. Section 431:3-212.5, Hawaii Revised Statutes,  
 19 is amended by amending subsection (b) to read as follows:

20 "(b) Each transferring insurer shall file new policy forms  
 21 on or before the effective date of the transfer, if such forms



1 are required to be approved by the commissioner. The insurer  
 2 may use existing policy forms with appropriate endorsements if  
 3 permitted by [~~and under such conditions as approved by,~~] the  
 4 commissioner. Every [~~such~~] transferring insurer shall notify  
 5 the commissioner of the details of the proposed transfer and  
 6 shall file promptly a Uniform Certificate of Authority  
 7 Application for any resulting amendments to corporate documents  
 8 filed or required to be filed with the commissioner."

9 SECTION 5. Section 431:7-101, Hawaii Revised Statutes, is  
 10 amended by amending subsection (a) to read as follows:

11 "(a) The commissioner shall collect, in advance, the  
 12 following fees:

13 (1) Certificate of authority:

- 14 (A) Application for [a] certificate of authority . \$900
- 15 (B) Issuance of certificate of authority ..... \$600
- 16 (C) Application for motor vehicle self-insurance . \$300

17 (2) Organization of domestic insurers and affiliated  
 18 corporations:

- 19 (A) Application for [a] solicitation permit .... \$1,500
- 20 (B) Issuance of solicitation permit ..... \$150

21 (3) Producer's license:



1	(A)	Issuance[7] <u>of</u> regular license .....	\$50
2	(B)	Issuance[7] <u>of</u> temporary license .....	\$50
3	(4)	Nonresident producer's license: Issuance .....	\$75
4	(5)	Independent adjuster's license: Issuance .....	\$75
5	(6)	Public adjuster's license: Issuance .....	\$75
6	(7)	Claims adjuster's limited license: Issuance .....	\$75
7	(8)	Independent bill reviewer's license:	
8		Issuance .....	\$80
9	(9)	Limited producer's license: Issuance .....	\$60
10	(10)	Managing general agent's license: Issuance .....	\$75
11	(11)	Reinsurance intermediary's license:	
12		Issuance .....	\$75
13	(12)	Surplus lines broker's license: Issuance .....	\$150
14	(13)	Service contract provider's registration:	
15		Issuance .....	\$75
16	(14)	Approved course provider certificate:	
17		Issuance .....	\$100
18	(15)	Approved continuing education course certificate:	
19		Issuance .....	\$30
20	(16)	Vehicle protection product warrantor's registration:	
21		Issuance .....	\$75



- 1 (17) Criminal history record check; fingerprinting: For
- 2 each criminal history record check and fingerprinting
- 3 check, a fee to be established by the commissioner.
- 4 (18) Limited line motor vehicle rental company producer's
- 5 license: Issuance ..... \$1,000
- 6 (19) Legal service plan certificate of authority:
- 7 Issuance before July 1, 2014 ..... \$1,000
- 8 Issuance on or after July 1, 2014 ..... \$500
- 9 (20) Life settlement provider's license:
- 10 Issuance before July 1, 2014 ..... \$150
- 11 Issuance on or after July 1, 2014 ..... \$75
- 12 (21) Life settlement broker's license:
- 13 Issuance before July 1, 2014 ..... \$150
- 14 Issuance on or after July 1, 2014 ..... \$75
- 15 (22) Examination for license: For each examination, a fee
- 16 to be established by the commissioner."

17 SECTION 6. Section 431:9-201, Hawaii Revised Statutes, is  
 18 amended by amending subsection (b) to read as follows:

19 "(b) Notwithstanding subsection (a), following a  
 20 [catastrophe in this State,] declaration by the commissioner  
 21 authorizing assistance of nonresident adjusters, a Hawaii





1 license shall not be required of a nonresident adjuster for the  
2 adjustment of losses; provided that:

3 (1) The common losses suffered that are to be adjusted are  
4 a direct result of [~~the catastrophe~~] an event and  
5 [~~shall be~~] are so severe that licensed adjusters and  
6 licensed independent adjusters who are residents of  
7 this State will be unable to adjust the losses within  
8 a reasonable time as determined by the commissioner;

9 (2) The nonresident adjuster provides [~~to~~] the  
10 commissioner a certified copy of the adjuster's  
11 current license in another state. The other state  
12 shall have substantially similar licensing  
13 requirements to section 431:9-222; and

14 (3) Within three working days of the commencement of work  
15 by the nonresident adjuster, the insurance company,  
16 independent adjusting company, or producer that is  
17 using the adjuster shall provide on its letterhead to  
18 the commissioner:

19 (A) The name of the nonresident adjuster;

20 (B) The nonresident adjuster's Hawaii mailing and  
21 business addresses and phone numbers; and



1 (C) The nonresident adjuster's permanent home and  
2 business addresses and phone numbers.

3 Upon satisfaction of all of these requirements, the  
4 nonresident adjuster may be registered with the commissioner and  
5 adjust ~~[catastrophe]~~ the event's losses in this State for up to  
6 one hundred twenty days from the date of registration or for a  
7 period of time determined by the commissioner, whichever is  
8 less.

9 As used in this subsection, ~~["catastrophe"]~~ "event" means  
10 insured property losses in Hawaii that result from a sudden,  
11 specific, and natural or manmade disaster or phenomenon, as  
12 determined by the commissioner."

13 SECTION 7. Section 431:9A-102, Hawaii Revised Statutes, is  
14 amended by amending the definition of "terminate" to read as  
15 follows:

16 ""Terminate" means:

17 (1) To cancel the relationship between an insurance  
18 producer and an insurer; or

19 ~~[(2) To cancel the relationship between an appointing  
20 producer and another producer; or~~



1       ~~(3)]~~ (2) To terminate a producer's authority to transact  
2               insurance."

3               SECTION 8. Section 431:9A-114, Hawaii Revised Statutes, is  
4 amended to read as follows:

5               "**§431:9A-114 Appointments.** (a) An insurance producer  
6 shall not act as an agent of an insurer unless the [insuree]  
7 producer becomes an appointed agent of that insurer [~~or is~~  
8 ~~contracted with and appointed by an insurance producer so~~  
9 appointed].

10              (b) To appoint a producer as its agent, the [appointing]  
11 insurer [~~or producer~~] shall file, in a format approved by the  
12 commissioner, a notice of appointment within fifteen days from  
13 the date the agency or business entity contract is executed or  
14 the first insurance application is submitted to the insurer [~~or~~  
15 ~~producer~~]. If the appointment form is not received by the  
16 commissioner within the fifteen-day period, the appointment  
17 shall become effective on the date on which the commissioner  
18 receives the appointment form. A producer shall disclose to a  
19 client if the conditions of subsection (a) have not been met.  
20 An insurer [~~or producer~~] may also elect to appoint a producer to  
21 all or some insurers within the insurer's [~~or producer's~~]



1 holding company system or group by filing with the commissioner  
2 a single appointment notice.

3 (c) Upon receipt of the notice of appointment and within a  
4 reasonable time not to exceed thirty days, the commissioner  
5 shall verify that the [insurantee] producer is eligible for  
6 appointment. If the [insurantee] producer is determined to be  
7 ineligible for appointment, the commissioner shall notify the  
8 appointing insurer [~~or producer~~] within five days of its  
9 determination.

10 (d) An appointing insurer [~~or producer~~] shall pay an  
11 appointment fee, in the amount and method of payment set forth  
12 in article 7, for each [insurantee] producer appointed by the  
13 appointing insurer [~~or producer~~].

14 (e) An appointing insurer [~~or producer~~] shall remit, in a  
15 manner prescribed by the commissioner, a renewal appointment fee  
16 in the amount set forth in article 7."

17 SECTION 9. Section 431:9A-115, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§431:9A-115 Notification to commissioner of termination.

20 (a) A producer who terminates the appointment, employment,  
21 contract, or other insurance business relationship with an



1 insurer shall notify the commissioner within thirty days  
2 following the effective date of the termination, using the  
3 applicable format prescribed by the commissioner. An insurer[~~7~~]  
4 or its authorized representative [~~of the insurer, or a producer~~]  
5 that terminates the appointment, employment, contract, or other  
6 insurance business relationship with a producer shall notify the  
7 commissioner within thirty days following the effective date of  
8 the termination, using the applicable format prescribed by the  
9 commissioner. An insurer[~~7~~~~an~~] or its authorized representative  
10 [~~of the insurer, or a producer who~~] that terminates a producer  
11 for one of the reasons set forth in section 431:9A-112, or [~~who~~]  
12 that has knowledge the producer was found by a court,  
13 governmental body, or self-regulatory organization to have  
14 engaged in any of the activities in section 431:9A-112, shall  
15 use the particular format for that situation as prescribed by  
16 the commissioner. Upon the written request of the commissioner,  
17 the insurer shall provide additional information, documents,  
18 records, or other data pertaining to the termination or activity  
19 of the producer.

20 (b) The insurer[~~7~~~~an~~] or its authorized representative [~~of~~  
21 ~~the insurer, or a producer~~] shall promptly notify the



1 commissioner in a format acceptable to the commissioner if, upon  
2 further review or investigation, the insurer~~[, an]~~ or its  
3 authorized representative ~~[of the insurer, or a producer]~~  
4 discovers additional information that would have been reportable  
5 to the commissioner in accordance with subsection (a), had the  
6 insurer~~[,]~~ or its authorized representative ~~[of the insurer, or~~  
7 ~~producer then]~~ known of its existence.

8 (c) The insurer~~[,]~~ and its authorized representative ~~[of~~  
9 ~~the insurer, and the producer]~~ are subject to the following:

10 (1) Within fifteen days after making the notification  
11 required by subsections (a) and (b), the insurer~~[,]~~ or  
12 its authorized representative ~~[of the insurer, or the~~  
13 ~~producer]~~ shall mail a copy of the notification to the  
14 producer at the producer's last known address. If the  
15 producer is terminated for any of the causes listed in  
16 section 431:9A-112, the insurer~~[,]~~ or its authorized  
17 representative ~~[of the insurer, or the producer]~~ shall  
18 provide a copy of the notification to the producer at  
19 the producer's last known address by certified mail,  
20 return receipt requested, postage prepaid or by



1 overnight delivery using a nationally recognized  
2 carrier.

3 (2) Within thirty days after the producer has received the  
4 original or additional notification, the producer may  
5 file written comments concerning the substance of the  
6 notification with the commissioner. The producer, by  
7 the same means, shall simultaneously send a copy of  
8 the comments to the reporting insurer~~[7]~~ or its  
9 authorized representative [~~of the insurer, or the~~  
10 ~~producer~~], and the comments shall become [a] part of  
11 the commissioner's file and shall accompany every copy  
12 of a report distributed or disclosed for any reason  
13 about the producer as permitted under subsection  
14 [~~(e)~~] (f).

15 (d) The producer initiating the termination is subject to  
16 the following:

17 (1) Within fifteen days after making the notification  
18 required by subsection (a), the producer shall mail a  
19 copy of the notification to the insurer at the  
20 insurer's last known address.



1       (2) Within thirty days after the insurer has received the  
2       original or additional notification, the insurer may  
3       file written comments concerning the substance of the  
4       notification with the commissioner. The insurer, by  
5       the same means, shall simultaneously send a copy of  
6       the comments to the producer, and the comments shall  
7       become part of the commissioner's file and shall  
8       accompany every copy of a report distributed or  
9       disclosed for any reason about the insurer as  
10       permitted under subsection (f).

11       ~~[(d)]~~ (e) Immunity from civil liability for notification  
12 applies as follows:

13       (1) In the absence of actual malice, an insurer, the  
14 insurer's authorized representative, a producer, the  
15 commissioner, or an organization of which the  
16 commissioner is a member and that compiles the  
17 information and makes it available to other  
18 commissioners or regulatory or law enforcement  
19 agencies shall not be subject to civil liability~~[, and~~  
20 a]. A civil cause of action of any nature shall not





1 arise against these entities or their respective  
2 agents or employees[7] as a result of [any]:

3 (A) Any statement or information required by or  
4 provided pursuant to this section [~~or any~~];

5 (B) Any information relating to any statement that  
6 may be requested in writing by the  
7 commissioner[7] from an insurer or producer; or  
8 [a]

9 (C) A statement by a terminating insurer or producer  
10 to an insurer or producer limited solely [~~and~~  
11 ~~exclusively~~] to whether a termination under  
12 subsection (a) was reported to the commissioner,  
13 provided that the propriety of any termination  
14 under subsection (a) is certified in writing by  
15 an officer or authorized representative of the  
16 insurer or producer terminating the relationship.

17 (2) In any action brought against a person that may have  
18 immunity under paragraph (1) for making any statement  
19 required by this section or for providing any  
20 information relating to any statement that may be  
21 requested by the commissioner, the party bringing the



1 action shall plead specifically in any allegation that  
2 paragraph (1) does not apply because the person making  
3 the statement or providing the information did so with  
4 actual malice.

5 (3) [~~Paragraphs~~] Paragraph (1) or (2) shall not abrogate  
6 or modify any existing statutory or common law  
7 privileges or immunities.

8 [~~(e)~~] (f) Confidentiality and privilege from disclosure  
9 [~~is~~] are established as follows:

10 (1) Any documents, materials, or other information in the  
11 control or possession of the commissioner or [~~any~~] the  
12 commissioner's agent [~~of the commissioner~~] that is  
13 furnished by an insurer, a producer, or an employee or  
14 agent [~~thereof who is~~] acting on behalf of the insurer  
15 or producer, or is obtained by the commissioner, [~~any~~]  
16 the commissioner's agent [~~of the commissioner~~], the  
17 insurance division, or any employee of the insurance  
18 division, in an investigation pursuant to this section  
19 shall be confidential and privileged, shall not be  
20 subject to chapter 92F, [~~shall not be subject to~~]  
21 subpoena, [~~shall not be subject to~~] or discovery, and



1 shall not be admissible in evidence in any civil  
2 action; provided that the commissioner or the  
3 commissioner's designee is authorized to use the  
4 documents, materials, or other information in the  
5 furtherance of any regulatory or legal action brought  
6 as a part of the commissioner's duties.

7 (2) Neither the commissioner nor any person who received  
8 documents, materials, or other information while  
9 acting under the authority of the commissioner shall  
10 be required to testify in any civil action concerning  
11 any confidential documents, materials, or information  
12 subject to paragraph (1).

13 (3) Any provision to the contrary notwithstanding, the  
14 commissioner may:

15 (A) Share documents, materials, or other information,  
16 including the confidential and privileged  
17 documents, materials, or information subject to  
18 paragraph (1), with other state, federal, and  
19 international regulatory and law enforcement  
20 agencies and authorities, the National  
21 Association of Insurance Commissioners, and their



1 affiliates or subsidiaries; provided that the  
2 recipient agrees to maintain the confidentiality  
3 and privileged status of the document, material,  
4 or other information;

5 (B) Receive documents, materials, or information,  
6 including otherwise confidential and privileged  
7 documents, materials, or information, from the  
8 National Association of Insurance Commissioners,  
9 its affiliates or subsidiaries, and [~~from~~] state,  
10 federal, and international regulatory and law  
11 enforcement agencies and authorities and shall  
12 maintain as confidential or privileged any  
13 document, material, or information received with  
14 the notice or [~~the~~] understanding that it is  
15 confidential or privileged under the laws of the  
16 jurisdiction that is the source of the document,  
17 material, or information; and

18 (C) Enter into agreements governing sharing and use  
19 of information consistent with this subsection.

20 (4) No waiver of any applicable privilege or claim of  
21 confidentiality in the documents, materials, or



1 information shall occur as a result of disclosure to  
2 the commissioner under this section or ~~[as a result~~  
3 ~~of]~~ sharing, receiving, or using the information as  
4 authorized in paragraph (3).

5 (5) Nothing in this article shall prohibit the  
6 commissioner from releasing final~~[7]~~ adjudicated  
7 actions, including terminations that are open to  
8 public inspection pursuant to section 431:2-209 to a  
9 database or other clearinghouse service maintained by  
10 the National Association of Insurance Commissioners or  
11 its affiliates or subsidiaries.

12 ~~[(f)]~~ (g) An insurer, ~~[the]~~ its authorized representative  
13 ~~[of the insurer]~~, or a producer who fails to report as required  
14 ~~[under the provisions of]~~ by this section or who is found to  
15 have reported with actual malice by a court of competent  
16 jurisdiction may, after notice and hearing, have its license or  
17 certificate of authority suspended or revoked and may be fined  
18 in accordance with article 2."

19 SECTION 10. Section 431:10C-312, Hawaii Revised Statutes,  
20 is amended to read as follows:



1           "§431:10C-312   Payment of general excise tax and  
2   **certificate of ownership fee.** (a) When a replacement vehicle  
3   is provided under section 431:10C-310 or section 431:10C-311,  
4   the insurer shall pay the applicable general excise tax and  
5   ownership fee as follows:

6           (1) If a cash settlement is provided~~[,]~~ and [~~if~~] the  
7           insured or third-party claimant has purchased a  
8           vehicle within thirty days of the receipt of the  
9           settlement by the insured~~[, the insured has purchased~~  
10          ~~a vehicle,~~ or third-party claimant, the insurer shall  
11          reimburse the insured or third-party claimant for the  
12          applicable general excise tax and certificate of  
13          ownership fee incurred on account of the purchase of  
14          the vehicle, [~~but not exceeding~~] in an amount not to  
15          exceed the amount payable on account of the value of  
16          the total loss vehicle.

17          (2) If the insured or third-party claimant purchases a  
18          vehicle with a market value less than the amount of  
19          the settlement, [~~then~~] the insurer shall reimburse  
20          only the [~~amount of the~~] applicable general excise tax



1 and certificate of ownership fee incurred by the  
2 insured[-] or third-party claimant.

3 (b) If the insured or third-party claimant cannot  
4 substantiate the purchase and the payment of the [~~taxes~~] general  
5 excise tax and certificate of ownership fee[,-] by [~~submission~~]  
6 submitting to the insurer [~~of~~] appropriate documentation within  
7 thirty-three days after the receipt of settlement, the insurer  
8 shall not be required to reimburse the insured or third-party  
9 claimant for the [~~taxes~~] tax or fee.

10 (c) In lieu of the reimbursement procedure [~~set-out~~] in  
11 subsection (a), the insurer may directly pay the required  
12 [~~amounts-of~~] general excise [~~taxes~~] tax and certificate of  
13 ownership fee to the insured or third-party claimant at the time  
14 of settlement.

15 (d) Written notice of the payment procedure outlined in  
16 this section shall be communicated to the insured or third-party  
17 claimant at the time of settlement, together with any form  
18 required by the insurer for applying for the reimbursement."

19 SECTION 11. Section 431:15-201, Hawaii Revised Statutes,  
20 is amended to read as follows:



1           "§431:15-201 Commissioner's summary orders and supervision  
2 proceedings. (a) If, upon examination or at any other time,  
3 the commissioner finds that any domestic insurer requires  
4 supervision because it is in [~~such~~] a condition [~~as to~~] that  
5 would render the continuance of its business hazardous to the  
6 public or to holders of its policies or certificates of  
7 insurance, or if the domestic insurer gives its consent, then  
8 the commissioner shall issue a supervision order and shall:

9           (1) Notify the insurer of the commissioner's order; and  
10          (2) Furnish to the insurer a written list of the  
11           commissioner's requirements to abate the  
12           commissioner's order. The commissioner shall also  
13           proceed, if necessary, against the insurer pursuant to  
14           section 431:2-203.

15          (b) During the period of supervision, the commissioner may  
16          appoint a supervisor to supervise the insurer~~[-]~~ and may employ  
17          counsel, clerks, and assistants as necessary. The supervisor  
18          shall have all the powers and responsibilities granted under  
19          this section. Any persons appointed under this section shall  
20          serve at the pleasure of the commissioner.





1        (c) The compensation of the supervisor, counsel, clerks,  
2 and assistants and all expenses of the supervision shall be  
3 approved by the commissioner and paid out of the funds or assets  
4 of the insurer upon presentation of a detailed account of the  
5 expenses filed by the supervisor or other persons employed or  
6 appointed by the commissioner. The commissioner may in whole or  
7 in part defer payment of expenses due from the insurer pursuant  
8 to this section upon a showing that payment would adversely  
9 impact the financial condition of the insurer and jeopardize its  
10 recovery during supervision. Deferred payments shall be made by  
11 the insurer when payment no longer adversely impacts its  
12 financial condition.

13        (d) The order appointing a supervisor shall direct the  
14 supervisor to enforce orders issued under subsection (a) and  
15 [also] may [require that] prohibit the insurer [shall not do]  
16 from doing any of the following [things] during the period of  
17 supervision without [the] prior written approval of the  
18 commissioner or [the] supervisor:

- 19            (1) Dispose of, convey, or encumber any of its assets or  
20                    [its] business in force;  
21            (2) Withdraw from any of its bank accounts;



- 1 (3) Lend any of its funds;  
2 (4) Invest any of its funds;  
3 (5) Transfer any of its property;  
4 (6) Incur any debt, obligation, or liability;  
5 (7) Merge or consolidate with another company;  
6 (8) Enter into any new reinsurance contract or treaty; or  
7 (9) Write any new or renewal business.

8 ~~[-e]~~ (e) Any insurer subject to an order under this  
9 section shall comply with the requirements of the commissioner  
10 within sixty days from the date the supervision order is served.  
11 If the insurer fails to comply within the time specified, the  
12 commissioner may institute proceedings under section 431:15-301  
13 or section 431:15-306 to have a rehabilitator or liquidator  
14 appointed~~[-]~~ or seek to enforce the order pursuant to section  
15 431:2-203.

16 ~~[-d]~~ (f) Any insurer subject to an order under this  
17 section may request a hearing to review the order. The hearing  
18 shall be held as provided in chapter 91, but the request for a  
19 hearing shall not stay the effect of the order. The insurer, at  
20 any time, may waive said hearing and apply for immediate



1 judicial relief by means of any remedy afforded by law without  
2 first exhausting administrative remedies.

3 ~~[(e)]~~ (g) During the period of supervision, the insurer  
4 may request that the commissioner ~~[tø]~~ review an action taken or  
5 proposed to be taken by the supervisor~~[, specifying where the~~  
6 ~~action complained of is believed not to be]~~ that the insurer  
7 believes is not in the best interest of the insurer.

8 ~~[(f)]~~ (h) If any person has violated any supervision order  
9 issued under this section ~~[which as to the person was then still~~  
10 ~~in effect]~~, the person shall pay a penalty imposed by the  
11 circuit court of the first judicial circuit of this State, which  
12 shall not ~~[tø]~~ exceed \$10,000 for each violation.

13 ~~[(g)]~~ (i) The commissioner may apply for, and the court  
14 may grant, ~~[such]~~ restraining orders, preliminary ~~[and]~~ or  
15 permanent injunctions, ~~[and]~~ or other orders ~~[as may be deemed~~  
16 ~~necessary and proper]~~ to enforce a supervision order.

17 ~~[(h)]~~ (j) If any person:

18 (1) With authority over or in charge of any segment of the  
19 insurer's affairs; or



1           (2) Who exercises control directly or indirectly over  
2           activities of the insurer through any holding company  
3           or other affiliate of the insurer;  
4 knowingly violates any valid order of the commissioner issued  
5 under this section and, as a result of the violation, the net  
6 worth of the insurer is reduced or the insurer suffers loss it  
7 would not otherwise have suffered, the person shall become  
8 personally liable to the insurer for the amount of the reduction  
9 or loss. The commissioner or supervisor may bring an action on  
10 behalf of the insurer in the circuit court of the first judicial  
11 circuit of this State to recover the amount of the reduction or  
12 loss together with any costs."

13           SECTION 12. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 13. This Act shall take effect on July 1, 2050;  
16 provided that sections 7, 8, and 9 shall take effect on  
17 January 1, 2019.

18



**Report Title:**

Insurance Fraud; Certificate of Authority; Fees; Motor Vehicle Self-insurance; Declaration by the Commissioner; Nonresident Adjusters; Producer Licensing Model Act; Appointments; Notification of Termination; Motor Vehicle Insurance; Third-party Claimant; General Excise Tax; Certificate of Ownership Fee; Supervision

**Description:**

Conforms monetary penalties for insurance fraud with penal code monetary penalties for a class C felony and misdemeanor. Clarifies process for insurers applying for an original certificate of authority and transferring insurers amending corporate documents after a transfer. Specifies fee for a certificate of authority for an application for motor vehicle self-insurance. Permits insurance commissioner to issue a declaration before an event that may require the use of nonresident adjusters. Beginning 1/1/2019, conforms producer licensing requirements to the National Association of Insurance Commissioners' Producer Licensing Model Act. Allows third-party claimants to claim general excise tax and certificate of ownership fee in total loss claims. Requires certain costs and expenses incurred by the commissioner during supervisory procedures to be paid or reimbursed by insurer assets. Makes housekeeping amendments. Effective 7/1/2050. (SD1)

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

