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# A BILL FOR AN ACT

RELATING TO ASSOCIATION HEALTH PLANS.

**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 10A to be  
3 appropriately designated and to read as follows:

4 "§431:10A- Association health plan policy; compliance  
5 with state law. (a) Every association health plan policy  
6 issued in this State shall comply with all laws of this State,  
7 regardless of the domicile of the association that has issued  
8 the policy.

9 (b) For the purposes of this section, "association health  
10 plan policy" means a policy issued by a voluntary association of  
11 employers formed in this State or another state that is  
12 authorized to issue association health plans under the  
13 regulations of the United States Department of Labor."

14 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
15 amended by adding a new section to part II of article 10A to be  
16 appropriately designated and to read as follows:

17 "§431:10A- Association health plan policy; compliance  
18 with state law. (a) Every association health plan policy



1 issued in this State shall comply with all laws of this State,  
2 regardless of the domicile of the association that has issued  
3 the policy.

4 (b) For the purposes of this section, "association health  
5 plan policy" means a policy issued by a voluntary association of  
6 employers formed in this State or another state that is  
7 authorized to issue association health plans under the  
8 regulations of the United States Department of Labor."

9 SECTION 3. Section 431:3-203, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§431:3-203 Qualifications for authority. (a) To qualify**  
12 **for and hold a certificate of authority, an insurer [~~must~~]**  
13 **shall:**

14 (1) Be [a] one of the following:

15 (A) A stock, mutual, or reciprocal insurer of the  
16 same general type as may be formed as a domestic  
17 insurer under article 4;

18 (B) A voluntary unincorporated association formed for  
19 the purpose of enabling cooperative action to  
20 provide accident and health or sickness  
21 insurance, as defined under section 431:1-205, in



- 1           accordance with this chapter or the laws of any  
2           other state that authorizes the issuance of  
3           accident and health or sickness insurance of the  
4           type authorized under this chapter; or  
5           (C) A voluntary association of employers formed in  
6           this State or another state that is authorized to  
7           issue association health plans under the  
8           regulations of the United States Department of  
9           Labor;
- 10           (2) Have capital funds as required by this code based upon  
11           the type and domicile of the insurer and the classes  
12           of insurance [~~which~~] that the insurer is authorized to  
13           transact in its domicile;
- 14           (3) Transact or propose to transact in this State  
15           insurances [~~which~~] that are among those authorized by  
16           its charter, and only such insurance as meets the  
17           standards and requirements of this code; and
- 18           (4) Fully comply with and qualify according to the  
19           provisions of this code.
- 20           (b) In addition to the requirements in subsection (a), to  
21           qualify for and hold a certificate of authority, foreign and



1 alien insurers must have continuously, actively, and  
2 successfully transacted the business of insurance for at least  
3 five years immediately prior thereto; provided that ~~[in]~~:

4       (1) In the case of a reorganization (including a merger,  
5               corporate acquisition, or formation of a subsidiary)  
6               of a capital stock or mutual insurer, the five-year  
7               period shall be computed from the date of the  
8               organization of the original or parent insurer or  
9               insurers if substantially the same management  
10              continues ~~[+]~~; and

11       (2) This subsection shall not apply to a voluntary  
12              association of employers authorized to issue  
13              association health plans under the regulations of the  
14              United States Department of Labor."

15       SECTION 4. Section 431:8-201, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       "**§431:8-201 Transacting insurance business without**  
18 **certificate of authority prohibited.** It shall be unlawful for  
19 any insurer to transact an insurance business in this State, as  
20 defined in section 431:1-215, without a certificate of  
21 authority; provided that this section shall not apply to:



- 1 (1) The lawful transaction of surplus lines insurance;
- 2 (2) The lawful transaction of reinsurance by insurers;
- 3 (3) Transactions in this State involving a policy lawfully
- 4 solicited, written, and delivered outside of this
- 5 State covering only subjects of insurance not
- 6 resident, located, or expressly to be performed in
- 7 this State at the time of issuance, and subsequent to
- 8 the issuance of the policy;
- 9 (4) Attorneys acting in the ordinary relation of attorney
- 10 and client in the adjustment of claims or losses;
- 11 (5) Transactions in this State involving group life and
- 12 group accident and health or sickness or blanket
- 13 accident and health or sickness insurance or group
- 14 annuities where the master policy of the groups was
- 15 lawfully issued in and delivered pursuant to the laws
- 16 of a state in which the insurer was authorized to do
- 17 an insurance business; provided that this paragraph
- 18 shall not apply to transactions of association health
- 19 plans;



1 (6) Transactions in this State involving any policy of  
2 insurance or annuity contract issued prior to July 1,  
3 1988;

4 (7) Transactions in this State involving ocean marine  
5 insurance; and

6 (8) Transactions of contracts of insurance for property  
7 and casualty multi-state risks; provided that the  
8 producer is licensed to sell, solicit, or negotiate  
9 that insurance in the home state of the insured."

10 SECTION 5. The insurance commissioner shall revise or  
11 adopt, as necessary, any forms that may be required for  
12 implementation of this Act no later than January 1, 2019.

13 SECTION 6. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16 SECTION 7. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2018;  
19 provided that sections 1 through 4 shall take effect on January  
20 1, 2019.



**Report Title:**

Association Health Plan Policies; Authorization

**Description:**

Requires association health plan policies to comply with the laws of this State regardless of the association's domicile. Enables certain voluntary associations, including employer associations that issue association health plans, to qualify for authorization to transact insurance in the State. (HB2208 CD1)

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

