

JAN 24 2018

A BILL FOR AN ACT

RELATING TO INSURANCE REGULATORY VARIANCE.

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

1 SECTION 1. The legislature finds that technology and
2 consumer expectations are rapidly transforming the regulated
3 insurance industry. Substantial investments in innovative
4 insurance products, services, and technologies hold great
5 promise for improving the mitigation of risks, improving
6 efficiencies, reducing costs of insurance transactions, speeding
7 claims payments, and improving overall customer understanding
8 of, and satisfaction with, this essential form of financial
9 protection.

10 The legislature further finds that some innovations will
11 disrupt current insurance business models and introduce new and
12 more efficient ways of doing business. By actively engaging
13 with, and encouraging, the piloting and testing of new and
14 innovative ways of delivering insurance to businesses and
15 consumers, the State will be able to expand insurance markets,
16 particularly by making insurance transactions more accessible
17 for first-time insurance buyers.



1 The legislature believes that strict application of
2 uniformly applicable requirements can lead to unintended results
3 when new and innovative technologies, products, and services are
4 first tested in a closely regulated market place such as
5 insurance. It may be appropriate, in these cases, to adopt a
6 procedure for insurance regulators to promote expanded
7 competition and innovation for the benefit of businesses and
8 consumers by providing targeted relief to persons or entities
9 subject to regulation.

10 The legislature further believes that the granting of
11 targeted or limited variances, waivers, or no action letters for
12 the enforcement or application of certain requirements of the
13 insurance laws should be allowed, to the extent that:

14 (1) An applicant for relief is able to demonstrate that
15 the public policy purpose of the underlying statute or
16 rule is achieved by alternative means; and

17 (2) The application of the current law or rule would
18 inhibit or discourage the introduction of new,
19 innovative, or more efficient insurance products,
20 services, or technologies to the State's consumers.



1 The purpose of this Act is to promote innovative insurance
2 technologies, products, and services by permitting the insurance
3 commissioner to grant targeted variances, waivers, or no action
4 letters.

5 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
6 amended by adding a new section to part II of article 2 to be
7 appropriately designated and to read as follows:

8 "§431:2- Variances, waivers, or no action letters. (a)

9 Subject to the limitations specified in subsection (b):

10 (1) The commissioner may issue a variance, waiver, or no
11 action letter relating to a requirement of this
12 chapter if a person or entity subject to this chapter
13 demonstrates that the public policy goals of this
14 chapter may be achieved by other means and that the
15 application of the requirement may inhibit or
16 discourage the introduction of new, innovative, or
17 more efficient insurance products, services, or
18 technologies;

19 (2) A variance, waiver, or no action letter issued
20 pursuant to this section shall be of a duration deemed
21 appropriate by the commissioner; and



1 (3) The commissioner may issue variances, waivers, or no
2 action letters of differing or limited durations and
3 scope.

4 (b) The commissioner shall not issue a variance, waiver,
5 or no action letter related to any provision of this chapter
6 governing:

7 (1) Assets, deposits, investments, capital, surplus, or
8 other solvency requirements applicable to insurance
9 companies;

10 (2) Licensing and certificate of authority requirements
11 applicable to any person or entity required to hold a
12 license under this chapter;

13 (3) Required participation in any assigned risk plan,
14 residual market, or guaranty fund;

15 (4) Requirements that the insurance division maintain its
16 accreditation by the National Association of Insurance
17 Commissioners, unless the issuance of a permit,
18 variance, waiver, or no action letter is permitted;

19 (5) The application of any tax or fee; and



1 (6) Any other requirement that the commissioner deems
2 ineligible for the issuance of a variance, waiver, or
3 no action letter.

4 (c) When an application for a variance, waiver, or no
5 action letter is granted, the commissioner shall provide public
6 notice of the application for or grant of a variance, waiver, or
7 no action letter. The notice shall include:

8 (1) The specific statute or rule to which the variance,
9 waiver, or no action letter applies;

10 (2) The name of the applicant for the variance, waiver, or
11 no action letter; and

12 (3) The duration of the variance, waiver, or no action
13 letter.

14 The requirements of this subsection may be satisfied by the
15 publication of a notice on the insurance division's website.

16 (d) The commissioner shall adopt rules pursuant to chapter
17 91 that establish a procedure for the submission, granting, or
18 denying of an application petition for a variance, waiver, or
19 no action letter; provided that the rules shall:



1 (1) Include procedures for the granting or denial of a
2 variance, waiver, or no action letter within sixty
3 days of the receipt of the application;

4 (2) Prescribe conditions under which the commissioner may
5 revoke a variance, waiver, or no action letter issued
6 pursuant to this section; and

7 (3) Authorize the commissioner to require reasonable
8 terms, conditions, or limitations on the conduct or
9 activity permitted under a variance, waiver, or no
10 action letter; provided that the terms, conditions, or
11 limitations may include a requirement that the
12 recipient of a variance, waiver, or no action letter
13 shall take reasonable steps to protect consumers,
14 mitigate risks, or submit data or analysis to the
15 commissioner on the market impact of the variance,
16 waiver, or no action letter.

17 (e) Notwithstanding the provisions of subsection (c), the
18 following shall be considered a trade secret and confidential
19 information and shall not be subject to public disclosure:

20 (1) A petition for a variance, waiver, or no action
21 letter;



- 1 (2) Information contained in an application for a
- 2 variance, waiver, or no action letter;
- 3 (3) All information provided to the commissioner by an
- 4 applicant for or recipient of a variance, waiver, or
- 5 no action letter; and
- 6 (4) Any communication between the insurance division and
- 7 the recipient that is required pursuant to the terms
- 8 of the variance, waiver, or no action letter.
- 9 (f) The commissioner's authority to grant a variance,
- 10 waiver, and no action letter under this section shall not be
- 11 construed to limit or otherwise affect the authority of the
- 12 commissioner to exercise discretion to waive or enforce
- 13 requirements as permitted under any other law.
- 14 (g) No later than twenty days prior to the convening of
- 15 each regular session, the commissioner shall submit an annual
- 16 report to the legislature that includes the following
- 17 information for the previous year:
- 18 (1) The total number of applications for a variance,
- 19 waiver, or no action letter granted or denied by the
- 20 commissioner;



1 (2) For each variance, waiver, or no action letter granted
2 by the commissioner, the information required under
3 subsection (c);

4 (3) For each provision in this chapter to which a
5 variance, waiver, or no action letter applies, the
6 commissioner's recommendation as to whether the
7 provision should be continued, eliminated, or amended
8 in order to promote innovation and establish a uniform
9 regulatory system for all regulated entities; and

10 (4) A list of variances, waivers, or no action letters
11 that have lapsed or been revoked and, if revoked, a
12 description of other regulatory or disciplinary
13 actions, if any, that resulted in, accompanied, or
14 resulted from the revocation."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

17
INTRODUCED BY:

Randy H. Beh
By Request



S.B. NO. 2938

Report Title:

Insurance Regulatory Variance; Insurance Commissioner

Description:

Authorizes the Insurance Commissioner to grant variances, waivers, or no action letters with respect to specific requirements of the insurance code or its rules when certain conditions are met.

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

