

S.B. NO. 1212

JAN 24 2019

A BILL FOR AN ACT

RELATING TO REGULATORY AUTHORITY OF THE INSURANCE COMMISSIONER.

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 article to be appropriately designated
3 and to read as follows:

4 **"ARTICLE**

5 **THIRD PARTY ADMINISTRATORS**

6 **§431- Definitions.** For purposes of this article:

7 "Administrator" or "third party administrator" means a
8 person who collects charges or premiums from, or who adjusts or
9 settles claims on, residents of this State in connection with
10 self-insurance, stop-loss, or life insurance coverage, accident
11 and health or sickness insurance coverage, or article 1 of
12 chapter 432, except the following:

- 13 (1) An employer on behalf of its employees or the
14 employees of a subsidiary or an affiliated corporation
15 of the employer;
- 16 (2) A union on behalf of its members;
- 17 (3) An insurer authorized to transact insurance in this
18 State with respect to a policy lawfully issued and

S.B. NO. 1212

- 1 delivered in and pursuant to the laws of this State or
2 another state;
- 3 (4) A producer licensed to sell life insurance coverage or
4 accident and health or sickness insurance coverage in
5 this State, whose activities are limited exclusively
6 to the sale of insurance;
- 7 (5) A managing general agent licensed in this State whose
8 activities are limited exclusively to the scope of
9 activities conveyed under that license;
- 10 (6) An individual adjuster licensed in this State whose
11 activities are limited exclusively to the scope of
12 activities conveyed under that license;
- 13 (7) An individual who adjusts or settles claims in the
14 normal course of practice or employment as an attorney
15 at law and who does not collect charges or premiums in
16 connection with life insurance coverage or accident
17 and health or sickness insurance coverage;
- 18 (8) A creditor on behalf of its debtors with respect to
19 insurance covering a debt between the creditor and its
20 debtors;

S.B. NO. 1212

(9) A trust established in conformity with 29 U.S.C. section 186 and trustees, agents, and employees acting under that trust;

(10) A trust exempt from taxation under 26 U.S.C. section 501(a) and trustees and employees acting under that trust, or a custodian and the custodian's agents and employees acting under a custodian account that meets the requirements of 26 U.S.C. section 401(f);

(11) A financial institution subject to supervision or examination by federal or state banking authorities, or a mortgage lender that collects and remits premiums to licensed producers or authorized insurers in connection with loan payments;

(12) A credit card issuing company advancing for and collecting premiums or charges from its credit card holders who have authorized collection, provided the company does not adjust or settle claims; and

(13) A person who acts solely as an administrator of one or more employee benefit plans established by an employer or an employee organization.

"Commissioner" means the insurance commissioner.

S.B. NO. 1212

1 "Insurance producer" or "producer" has the same meaning as
2 in section 431:9A-102.

3 "Insurer" has the same meaning as in section 431:1-202.

4 "Person" has the same meaning as in section 431:1-212.

5 "Stop-loss insurance" means an insurance protecting an
6 employer or other person responsible for an otherwise self-
7 insured health or life benefit plan against obligations under
8 the plan, but does not include reinsurance written for an
9 insurance company.

10 **§431- License required; application.** (a) No person
11 shall act as or hold out to be an administrator in this State
12 without a license as an administrator issued by the
13 commissioner.

14 (b) An administrator shall apply to the commissioner on a
15 form prescribed by the commissioner and shall include the
16 following:

17 (1) A nonrefundable fee as set forth in section 431:7-101;

18 (2) All basic organizational documents of the
19 administrator, including any articles of
20 incorporation, articles of association, partnership
21 agreement, trade name certificate, trust agreement,

S.B. NO. 1212

shareholder agreement, and other applicable documents
and all amendments to the documents;

(3) The bylaws, rules, regulations, or similar documents
regulating the internal affairs of the administrator;

(4) The names, addresses, official positions, and
professional qualifications of the individuals
responsible for the conduct of affairs of the
administrator, including, but not limited to, all
members of the board of directors, board of trustees,
executive committee, or other governing board or
committee, the principal officers in the case of a
corporation, or the partners in the case of a
partnership;

(5) Annual audited financial statements for the two most
recent years that prove the applicant is solvent and
information the commissioner may require to review the
current financial condition of the applicant; and

(6) Any other pertinent information the commissioner may
require.

(c) An administrator licensee or applicant for licensure
shall notify the commissioner within thirty days of any material
change in its ownership, control, contact person for the

S.B. NO. 1212

1 administrator, or any other fact or circumstance affecting the
2 licensee's or applicant's qualification for licensure.

3 (d) If an administrator employs or has contracted
4 individuals to adjust claims for the administrator, the
5 employees or contracted individuals shall first be licensed as
6 individual adjusters.

7 (e) If an administrator employs or has contracted
8 individuals to sell, solicit, or negotiate insurance business,
9 the employees or contracted individuals shall first be licensed
10 as producers. An administrator who intends to directly solicit
11 insurance contracts or otherwise act as a producer shall first
12 be licensed as an insurance producer.

13 (f) The commissioner may refuse to issue a license if the
14 commissioner determines, after notice and hearing pursuant to
15 section 431:2-308 and chapter 91, that the administrator is not
16 competent, trustworthy, financially responsible, or of good
17 personal and business reputation, or has had an application for
18 an insurance license denied or revoked for cause within the past
19 five years.

20 (g) The license shall be renewable or extendable
21 biennially. The renewal or extension date for a license issued
22 to a natural person shall be the sixteenth day of the licensee's

S.B. NO. 1212

1 birth month. The renewal or extension date for a license issued
2 to an artificial person shall be the sixteenth day of April for
3 a nonresident licensee, and the sixteenth day of July for a
4 resident licensee. The license shall remain in effect so long
5 as the fees set forth in section 431:7-101 are paid.

6 (h) The commissioner may contract with nongovernmental
7 entities, including the National Association of Insurance
8 Commissioners or any affiliations or subsidiaries that the
9 National Association of Insurance Commissioners oversees, to
10 perform any ministerial functions relating to the licensure of
11 administrators.

12 **§431- Surety bond required.** Prior to the issuance of
13 the administrator license, the administrator shall file with the
14 commissioner, and maintain in force while so licensed, a surety
15 bond of at least \$300,000, in the form and penal sum acceptable
16 to the commissioner, and shall provide that the bond may not be
17 canceled or otherwise terminated until two years have elapsed
18 from the last day the applicant was an administrator, unless the
19 commissioner has given prior written consent. The surety bond
20 shall be undertaken and may be enforced in the name of
21 "Commissioner of Insurance, State of Hawaii."

S.B. NO. 1212

1 **§431- Written agreement required.** (a) An administrator
2 shall have a written agreement between the administrator and
3 insurer that contains all requirements of this article, except
4 those that do not apply to administrator functions.

5 (b) The written agreement shall include a provision with
6 respect to underwriting or other standards pertaining to the
7 business underwritten by the insurer.

8 (c) The written agreement shall be retained as part of the
9 official records of the administrator and the insurer for the
10 duration of their agreement and five years thereafter.

11 (d) When an insurance policy is issued to a trustee, the
12 administrator shall furnish the insurer a copy of the trust
13 agreement and any amendments to it. The trust agreement shall
14 be retained as part of the official records of the administrator
15 and the insurer for the duration of the insurance policy and
16 five years thereafter.

17 **§431- Effect of payments to administrator.** (a) Payment
18 to the administrator of any insurance premiums or charges by or
19 on behalf of the insured shall be deemed received by the
20 insurer.

S.B. NO. 1212

1 (b) Payment of return premiums or claims by the insurer to
2 the administrator shall not be deemed payment to the insured
3 until the insured receives the payment.

4 (c) This section does not limit any right of the insurer
5 against the administrator resulting from failure of the
6 administrator to make payments to the insurer or insured.

7 **§431- Recordkeeping required; commissioner's access to**
8 **records.** (a) An administrator shall maintain and make
9 available to the insurer complete books and records of all
10 transactions between the administrator, insurers, and insureds.
11 The books and records shall be maintained in accordance with
12 prudent standards of insurance recordkeeping and for the
13 duration of the written agreement and five years thereafter.

14 (b) The commissioner shall have access to the books and
15 records for examination, audit, and inspection. Trade secrets
16 in the books and records, including the identity and addresses
17 of insureds, shall be confidential and privileged. However, the
18 commissioner may use the information in proceedings brought
19 against the administrator.

20 (c) An administrator shall retain the right to continuing
21 access to the books and records to fulfill its contractual

S.B. NO. 1212

obligations to the insurer and insureds, subject to any restrictions in the written agreement.

§431- Advertising by administrator. An administrator shall use only the advertising pertaining to the business an insurer has underwritten and approved in advance of its use.

§431- Fiduciary duties of administrator; payment of claims by administrator. (a) The administrator shall hold in a fiduciary capacity all charges, claim payments, or premiums that the administrator collects for or on behalf of an insurer and all return premiums that the administrator receives from the insurer. These funds shall be immediately remitted to the person entitled to them or shall be deposited promptly in a fiduciary account established and maintained by the administrator in a federally insured financial institution.

(b) If charges, claim payments, or premiums deposited in a fiduciary account have been collected for or on behalf of more than one insurer, the administrator shall keep records clearly recording the deposits in and withdrawals from the account for or on behalf of each insurer. The administrator shall keep copies of the records and, upon request of an insurer, shall furnish the insurer with copies of records pertaining to the deposits and withdrawals.

S.B. NO. 1212

1 (c) An administrator shall not pay claims by withdrawals
2 from the fiduciary account in which premiums or charges are
3 deposited.

4 (d) The written agreement shall provide that withdrawals
5 from the fiduciary account shall be made only for:

6 (1) Remittance to an insurer entitled to remittance;

7 (2) Deposit in an account maintained in the name of the
8 insurer;

9 (3) Transfer to and deposit in a claims-paying account,
10 with claims to be paid as provided in subsection (e);

11 (4) Payment to a group policyholder for remittance to the
12 insurer entitled to remittance;

13 (5) Payment to the administrator of its commission, fees,
14 or charges; and

15 (6) Remittance of return premiums to the person entitled
16 to return premiums.

17 (e) All claims the administrator pays from funds collected
18 for or on behalf of an insurer shall be paid only as authorized
19 by the insurer.

20 **§431- Compensation of administrator.** Compensation to an
21 administrator for adjusting or settling claims shall not be
22 contingent on claim experience. This section shall not prevent

S.B. NO. 1212

1 the compensation of an administrator from being based on
2 premiums or charges collected or number of claims paid or
3 processed.

4 **§431- Written notice to insureds required.** (a) When the
5 services of an administrator are used, the administrator shall
6 provide written notice approved by the insurer to insureds,
7 advising the insureds of the identity of and relationship
8 between the administrator, insurer, and insured.

9 (b) When an administrator collects funds, the
10 administrator shall identify the reason for collecting each item
11 and show each item separately from the premium. Additional
12 charges shall not be made for services to the extent the insurer
13 has already paid for those services.

14 (c) The administrator shall disclose to the insurer all
15 charges, fees, and commissions the administrator receives from
16 services the administrator provides the insurer, including any
17 fees or commissions paid by insurers providing reinsurance.

18 **§431- Delivery of written information to insured.** Any
19 policies, certificates, booklets, termination notices, or other
20 written communications delivered by the insurer to the
21 administrator for delivery to the insured, shall be delivered by

S.B. NO. 1212

1 the administrator promptly after receipt of instructions from
2 the insured to deliver them.

3 **§431- Annual report required.** (a) An administrator
4 shall file an annual report for the preceding calendar year with
5 the commissioner on or before March 1 of each year, in a form
6 and manner prescribed by the commissioner.

7 (b) The annual report shall include the names and
8 addresses of all insurers with which the administrator had an
9 agreement during the preceding calendar year.

10 **§431- License denial, nonrenewal, suspension, or**
11 **revocation; fines.** (a) After notice and hearing, the
12 commissioner shall impose a fine pursuant to section 431:2-203
13 and issue a cease and desist order against any person who acts
14 or holds out as an administrator without a license.

15 (b) After notice and hearing, the commissioner shall deny,
16 refuse to renew, suspend, or revoke the license of an
17 administrator if the commissioner finds that the administrator:

18 (1) Is in an unsound financial condition;

19 (2) Is using methods or practices in the conduct of
20 business that renders the administrator's further
21 transaction of business in this State hazardous or
22 injurious to insureds or the public; or

S.B. NO. 1212

(3) Has failed to pay a judgment rendered against the administrator in this State within sixty days after the judgment has become final.

(c) The commissioner may deny, refuse to renew, suspend, or revoke the license of an administrator if the commissioner finds the administrator:

(1) Has violated any lawful rule or order of the commissioner or this code;

(2) Has refused examination or production of the administrator's accounts, records, and files for examination, or if any individual responsible for or who exercises control or influence over the affairs of the administrator has refused to give information about the administrator's affairs, or has refused to perform any other legal obligation as to an examination, when required by the commissioner;

(3) Has, without just cause:

(i) Refused to pay proper claims or perform services arising under the administrator's contracts;

(ii) Caused insureds to accept less than the amount due to the insureds; or

S.B. NO. 1212

1 (iii) Caused insureds to employ attorneys or bring suit
2 against the administrator to secure full payment
3 or settlement of claims;

4 (4) Has failed at any time to meet any qualification for
5 which issuance of the license could have been refused,
6 had the failure then existed and been known to the
7 commissioner;

8 (5) Has been convicted of, or has entered a plea of guilty
9 or nolo contendere to, a felony without regard to
10 whether adjudication was withheld;

11 (6) Is under suspension or has a license revoked in
12 another state; or

13 (7) Has failed to timely file the annual report pursuant
14 to section 431- .

15 (d) The commissioner may immediately suspend the license
16 of an administrator, without advance notice or hearing, if the
17 commissioner finds the following:

18 (1) The administrator is insolvent or impaired;

19 (2) A proceeding for receivership, conservatorship,
20 rehabilitation, or other delinquency proceeding
21 regarding the administrator has been commenced in any
22 state; or

S.B. NO. 1212

1 (3) The financial condition or business practices of the
2 administrator otherwise are an imminent threat to the
3 public health, safety, or welfare of the residents of
4 this State.

5 (e) If the commissioner finds one or more grounds exist
6 for the denial, nonrenewal, suspension, or revocation of the
7 license, the commissioner may additionally impose a fine upon
8 the administrator pursuant to section 431:2-203.

9 **§431- Rules and regulations.** The commissioner may adopt
10 rules to implement and enforce this article."

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

14 "§431:2- Variances, waivers, or no-action letters.

15 (a) Subject to the limitations specified in subsection (b):

16 (1) The commissioner may issue a variance, waiver, or no-
17 action letter relating to a requirement of title 24 if
18 a person or entity subject to title 24 demonstrates
19 that the public policy goals of title 24 may be
20 achieved by other means and that the application of
21 the requirement may inhibit or discourage the

S.B. NO. 1212

1 introduction of new, innovative, or more efficient
2 insurance products, services, or technologies;

3 (2) "Innovative" means the use or incorporation of new or
4 emerging technology or the reimagination of uses for
5 existing technology to address a problem, provide a
6 benefit, or otherwise offer a product, service,
7 business model, or delivery mechanism that is not
8 known by the commissioner to have a comparable
9 widespread offering in this State;

10 (3) A variance, waiver, or no-action letter issued
11 pursuant to this section shall be of a duration deemed
12 appropriate by the commissioner; and

13 (3) The commissioner may issue variances, waivers, or no-
14 action letters of differing or limited durations and
15 scope.

16 (b) The commissioner shall not issue a variance, waiver,
17 or no-action letter related to any provision of title 24
18 governing:

19 (1) Assets, deposits, investments, capital, surplus, or
20 other solvency requirements applicable to insurance
21 companies;

S.B. NO. 1212

- 1 (2) Licensing and certificate of authority requirements
2 applicable to any person or entity required to hold a
3 license under this chapter;
- 4 (3) Required participation in any assigned risk plan,
5 residual market, or guaranty fund;
- 6 (4) Requirements that the insurance division maintain its
7 accreditation by the National Association of Insurance
8 Commissioners, unless the issuance of a permit,
9 variance, waiver, or no-action letter is permitted;
- 10 (5) The application of any tax or fee;
- 11 (6) The privacy of consumer financial information,
12 including required consumer notices and the right of
13 consumers to opt out of disclosure as specified in
14 article 3A of chapter 431;
- 15 (7) The minimum required contents of motor vehicle
16 policies and any required offers of additional
17 coverage under those policies as specified in article
18 10C of chapter 431;
- 19 (8) Extended reporting period requirements for commercial
20 general liability coverage as specified in section
21 431:10-211.3;

S.B. NO. 1212

- 1 (9) The rights of insurance applicants or policyholders
2 who are victims of domestic abuse as specified in
3 section 431:10-217.5;
- 4 (10) Prohibited policy provisions as specified in section
5 431:10-221;
- 6 (11) Restrictions on retroactive annulments of policies as
7 specified in section 431:10-227;
- 8 (12) Restrictions on insurability of punitive damages as
9 specified in section 431:10-240;
- 10 (13) Restrictions on insurers with respect to the use of
11 insurance inquiries as specified in section 431:10E-
12 124;
- 13 (14) The right of a policyholder or person who has acquired
14 the rights of the policyholder or beneficiary under
15 the policy to be awarded reasonable attorney's fees
16 and the costs of suit, in addition to the benefits
17 under the policy, as specified in section 431:10-242;
18 and
- 19 (15) Any other requirement that the commissioner deems
20 ineligible for the issuance of a variance, waiver, or
21 no-action letter.

S.B. NO. 1212

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

5 (1) The specific statute to which the variance, waiver, or
6 no-action letter applies;

7 (2) The name of the applicant for the variance, waiver, or
8 no-action letter; and

9 (3) The duration of the variance, waiver, or no-action
10 letter.

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

13 (d) The commissioner shall adopt rules pursuant to chapter
14 91 that establish a procedure for the submission, granting, or
15 denying of an application petition for a variance, waiver, or
16 no-action letter; provided that the rules shall:

17 (1) Include procedures for granting or denying a variance,
18 waiver, or no-action letter within sixty days of the
19 receipt of the application;

20 (2) Authorize the commissioner to revoke a variance,
21 waiver, or no-action letter issued pursuant to this
22 section if the commissioner has reasonable cause to

S.B. NO. 1212

1 believe that a recipient of a variance, waiver, or no-
2 action letter has:

3 (A) Engaged in a violation of title 24 that was not
4 waived by the granting of the variance, waiver,
5 or no-action letter;

6 (B) Not produced and will not likely produce
7 identifiable benefits to consumers; or

8 (C) Failed to abide by the terms, conditions, or
9 limitations of any variance, waiver, or no-action
10 letter;

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

21 (4) Authorize the commissioner to collect an application
22 fee of \$500 per application. A separate application

S.B. NO. 1212

1 shall be submitted for each new, innovative, or more
2 efficient insurance product, service, or technology;

3 (5) Authorize the commissioner to require a recipient of a
4 waiver, variance, or no-action letter to provide each
5 consumer with a disclosure stating that:

6 (A) The innovative insurance product or service is
7 authorized pursuant to a waiver, variance, or no-
8 action letter;

9 (B) The State of Hawaii does not endorse or recommend
10 the innovative insurance product or service;

11 (C) The innovative insurance product or service is
12 temporary for a limited duration and may end
13 unless the waiver, variance, or no-action letter
14 is extended by the commissioner, including the
15 expected end date; and

16 (D) Consumers may contact the commissioner to file
17 complaints regarding the innovative insurance
18 product or service and provide the commissioner's
19 telephone number and website address where
20 complaints may be filed;

21 (6) Authorize the commissioner to have regularly scheduled
22 communications with the recipient of a variance,

S.B. NO. 1212

1 waiver, or no-action letter; provided that the
2 communication shall be, at a minimum, once per quarter
3 each calendar year;

4 (7) Authorize the commissioner to establish periodic
5 reporting requirements for the recipient of a
6 variance, waiver, or no-action letter; provided that
7 the periodic reporting requirements shall be, at a
8 minimum, once per quarter each calendar year; and

9 (8) Authorize the commissioner to seek records, documents,
10 and data as requested from the recipient of a
11 variance, waiver, or no-action letter.

12 (e) Notwithstanding the provisions of subsection (c), the
13 following shall be considered trade secrets and confidential
14 information and shall not be subject to public disclosure:

15 (1) A petition for a variance, waiver, or no-action
16 letter;

17 (2) Information contained in an application for a
18 variance, waiver, or no-action letter;

19 (3) All information provided to the commissioner by an
20 applicant for or recipient of a variance, waiver, or
21 no-action letter; and

S.B. NO. 1212

1 (4) Any communication between the insurance division and
2 the recipient that is required pursuant to the terms
3 of the variance, waiver, or no-action letter.

4 (f) The commissioner's authority to grant a variance,
5 waiver, and no-action letter under this section shall not be
6 construed to limit or otherwise affect the authority of the
7 commissioner to exercise discretion to waive or enforce
8 requirements as permitted under any other law.

9 (g) No later than twenty days prior to the convening of
10 each regular session, the commissioner shall submit an annual
11 report to the legislature that includes the following
12 information for the previous year:

13 (1) The total number of applications for a variance,
14 waiver, or no-action letter granted or denied by the
15 commissioner;

16 (2) For each variance, waiver, or no-action letter granted
17 by the commissioner, the information required under
18 subsection (c);

19 (3) For each provision in title 24 to which a variance,
20 waiver, or no-action letter applies, the
21 commissioner's recommendation as to whether the
22 provision should be continued, eliminated, or amended

S.B. NO. 1212

1 in order to promote innovation and establish a uniform
2 regulatory system for all regulated entities; and
3 (4) A list of variances, waivers, or no-action letters
4 that have lapsed or been revoked and, if revoked, a
5 description of other regulatory or disciplinary
6 actions, if any, that resulted in, accompanied, or
7 resulted from the revocation."

8 SECTION 3. Section 431:7-101, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

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

12 (1) Certificate of authority:

13 (A) Application for certificate of authority\$900

14 (B) Issuance of certificate of authority\$600

15 (C) Application for motor vehicle self-insurance . \$300

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

18 (A) Application for solicitation permit\$1,500

19 (B) Issuance of solicitation permit\$150

20 (3) Producer's license:

21 (A) Issuance of regular license\$50

22 (B) Issuance of temporary license\$50

S.B. NO. 1212

1	(4)	Nonresident producer's license: Issuance	\$75
2	(5)	Independent adjuster's license: Issuance	\$75
3	(6)	Public adjuster's license: Issuance	\$75
4	(7)	Claims adjuster's limited license: Issuance	\$75
5	(8)	<u>Administrator's license: Issuance</u>	<u>\$150</u>
6	[(8)] (9)	Independent bill reviewer's license: Issuance	\$80
7	[(9)] (10)	Limited producer's license: Issuance	\$60
8	[(10)] (11)	Managing general agent's license: Issuance ..	\$75
9	[(11)] (12)	Reinsurance intermediary's license: Issuance	\$75
10	[(12)] (13)	Surplus lines broker's license: Issuance ...	\$150
11	[(13)] (14)	Service contract provider's registration:	
12		Issuance.....	\$75
13	[(14)] (15)	Approved course provider certificate:	
14		Issuance	\$100
15	[(15)] (16)	Approved continuing education course	
16		certificate:	
17		Issuance	\$30
18	[(16)] (17)	Vehicle protection product warrantor's	
19		registration: Issuance	\$75
20	[(17)] (18)	Criminal history record check; fingerprinting:	
21		For each criminal history record check and	
22		fingerprinting check, a fee to be established by the	

S.B. NO. 1212

1 commissioner.

2 ~~[(18)]~~ (19) Limited line motor vehicle rental company

3 producer's license: Issuance \$1,000

4 ~~[(19)]~~ (20) Legal service plan certificate of authority:

5 Issuance before July 1, 2014 \$1,000

6 Issuance on or after July 1, 2014 \$500

7 ~~[(20)]~~ (21) Life settlement provider's license:

8 Issuance before July 1, 2014 \$150

9 Issuance on or after July 1, 2014 \$75

10 ~~[(21)]~~ (22) Life settlement broker's license:

11 Issuance before July 1, 2014 \$150

12 Issuance on or after July 1, 2014 \$75

13 ~~[(22)]~~ (23) Examination for license: For each examination, a

14 fee to be established by the commissioner.

15 (b) The fees for services of the department of commerce

16 and consumer affairs subsequent to the issuance of a certificate

17 of authority, license, or other certificate are as follows:

18 (1) \$600 per year for all services (including extension of

19 the certificate of authority) for an authorized

20 insurer;

21 (2) \$50 per year for all services (including extension of

22 the license) for a regularly licensed producer;

S.B. NO. 1212

- 1 (3) \$75 per year for all services (including extension of
2 the license) for a regularly licensed nonresident
3 producer;
4 (4) \$45 per year for all services (including extension of
5 the license) for a regularly licensed independent
6 adjuster;
7 (5) \$45 per year for all services (including extension of
8 the license) for a regularly licensed public adjuster;
9 (6) \$45 per year for all services (including extension of
10 the license) for a claims adjuster's limited license;
11 (7) \$150 per year for all services (including extension of
12 the license) for an administrator's license;
13 ~~[(7)]~~ (8) \$60 per year for all services (including
14 extension of the license) for a regularly licensed
15 independent bill reviewer;
16 ~~[(8)]~~ (9) \$45 per year for all services (including
17 extension of the license) for a producer's limited
18 license;
19 ~~[(9)]~~ (10) \$75 per year for all services (including
20 extension of the license) for a regularly licensed
21 managing general agent;

S.B. NO. 1212

1 ~~[(10)]~~ (11) \$75 per year for all services (including
2 extension of the license) for a regularly licensed
3 reinsurance intermediary;

4 ~~[(11)]~~ (12) \$45 per year for all services (including
5 extension of the license) for a licensed surplus lines
6 broker;

7 ~~[(12)]~~ (13) \$75 per year for all services (including
8 renewal of registration) for a service contract
9 provider;

10 ~~[(13)]~~ (14) \$65 per year for all services (including
11 extension of the certificate) for an approved course
12 provider;

13 ~~[(14)]~~ (15) \$20 per year for all services (including
14 extension of the certificate) for an approved
15 continuing education course;

16 ~~[(15)]~~ (16) \$75 per year for all services (including
17 renewal of registration) for a vehicle protection
18 product warrantor;

19 ~~[(16)]~~ (17) A fee to be established by the commissioner
20 for each criminal history record check and
21 fingerprinting;

S.B. NO. 1212

1 [~~17~~] (18) \$600 per year for all services (including
2 extension of the license) for a regularly licensed
3 limited line motor vehicle rental company producer;

4 [~~18~~] (19) \$1,000 per year for all services provided
5 before July 1, 2014, (including extension of the
6 certificate) for an authorized legal service plan;

7 [~~19~~] (20) \$500 per year for all services provided on or
8 after July 1, 2014, (including extension of the
9 certificate) for an authorized legal service plan;

10 [~~20~~] (21) \$1,200 per year for all services (including
11 extension of the license) for a regularly licensed
12 life settlement provider; and

13 [~~21~~] (22) \$150 per year for all services (including
14 extension of the license) for a regularly licensed
15 life settlement broker.

16 The services referred to in paragraphs (1) to [~~21~~] (22) shall
17 not include services in connection with examinations,
18 investigations, hearings, appeals, and deposits with a
19 depository other than the department of commerce and consumer
20 affairs."

21 SECTION 4. Section 432:1-102, Hawaii Revised Statutes, is
22 amended to read as follows:

S.B. NO. 1212

1 "§432:1-102 **Applicability of other laws.** (a) Part III of
2 article 10A, and article 10H of chapter 431 shall apply to
3 nonprofit medical indemnity or hospital service associations.
4 Such associations shall be exempt from the provisions of part I
5 of article 10A; provided that such exemption is in compliance
6 with applicable federal statutes and regulations.

7 (b) Article 2, article 2D, parts II and IV of article 3,
8 article 6, part III of article 7, article 9A, article 13,
9 article 14G, and article 15 of chapter 431, sections 431:3-301,
10 431:3-302, 431:3-303, 431:3-304, 431:3-305, 431:10-102, 431:10-
11 225, 431:10-226.5, and 431:10A-116(1) and (2), and the powers
12 granted by those provisions to the commissioner, shall apply to
13 managed care plans, health maintenance organizations, or medical
14 indemnity or hospital service associations that are owned or
15 controlled by mutual benefit societies so long as the
16 application in any particular case is in compliance with and is
17 not preempted by applicable federal statutes and regulations.

18 (c) Article of chapter 431 shall apply to mutual benefit
19 societies.

20 ~~[-e-]~~ (d) The commissioner may adopt rules pursuant to
21 chapter 91 for the implementation and administration of this
22 chapter."

S.B. NO. 1212

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act, upon its approval, shall take effect
4 on January 1, 2020.

5

6

INTRODUCED BY:



7

BY REQUEST

S.B. NO. 1212

Report Title:

Administrator; Third Party Administrator; License; Insurance Regulatory Variance; Insurance Commissioner; Insurance; Vehicle Protection Product Warrantor; Service Contract Provider.

Description:

Requires third party administrators to be licensed and regulated by the Insurance Commissioner. Authorizes the Insurance Commissioner to issue targeted variances, waivers, or no-action letters relating to the requirements of chapter 431, Hawaii Revised Statutes.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO REGULATORY AUTHORITY OF THE INSURANCE COMMISSIONER.

PURPOSE:

- (1) The purpose of sections 1, 3, and 4 of this bill is to require third party administrators (administrators) to be licensed and regulated by the Insurance Commissioner (Commissioner) in accordance with the National Association of Insurance Commissioners' Registration and Regulation of Third Party Administrators model guidelines.
- (2) The purpose of section 2 of this bill is to authorize the Commissioner to issue targeted variances, waivers, or no-action letters relating to the requirements of title 24, Hawaii Revised Statutes (HRS), to enable the introduction of new, innovative, and more efficient insurance products, services, and technologies.

MEANS: Add a new article to chapter 431 and a new section to part II of article 2, chapter 431, HRS, and amend sections 431:7-101(a) and (b) and 432:1-102, HRS.

JUSTIFICATION:

- (1) Administrators collect charges or premiums from, or adjust or settle claims on, life insurance coverage or accident and health or sickness insurance coverage. Hawaii is one of nine states that do not regulate administrators. Twenty-one states require an administrator license from the department of insurance. Fourteen states require a certificate of registration, and eight states require a certificate of authority.
- (2) Title 24 requirements can pose barriers to the introduction of new, innovative, and more efficient insurance products,

services, and technologies. Currently, the Commissioner is unable to issue targeted variances, waivers, or no-action letters relating to these requirements, and as a result, the introduction of these products, services, and technologies is inhibited and discouraged.

Impact on the public:

- (1) This bill will ensure adequate protection of Hawaii consumers and promote transparency of administrator practices in Hawaii by: licensing and regulating administrators; encouraging disclosure of contracts between insurers and administrators; and promoting administrators' financial responsibility.
- (2) This bill will broaden the range of insurance products, services, and technologies available to Hawaii consumers and businesses. It may also expand the State's insurance market through increased competition and innovation.

Impact on the department and other agencies:

None.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-106.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: January 1, 2020.