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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. Section 431:10C-304, Hawaii Revised Statutes,  
2 is amended to read as follows:

3           "§431:10C-304   Obligation to pay personal injury protection  
4 **benefits.** For purposes of this section, the term "personal  
5 injury protection insurer" includes personal injury protection  
6 self-insurers. Every personal injury protection insurer shall  
7 provide personal injury protection benefits for accidental harm  
8 as follows:

9           (1) Except as otherwise provided in section 431:10C-  
10           305(d), in the case of injury arising out of a motor  
11           vehicle accident, the insurer shall pay, without  
12           regard to fault, to the provider of services on behalf  
13           of the following persons who sustain accidental harm  
14           as a result of the operation, maintenance, or use of  
15           the vehicle, an amount equal to the personal injury  
16           protection benefits as defined in section 431:10C-



1           103.5(a) payable for expenses to that person as a  
2           result of the injury:  
3           (A) Any person, including the owner, operator,  
4           occupant, or user of the insured motor vehicle;  
5           (B) Any pedestrian (including a bicyclist); or  
6           (C) Any user or operator of a moped as defined in  
7           section 249-1;  
8           provided that this paragraph shall not apply in the  
9           case of injury to or death of any operator or  
10          passenger of a motorcycle or motor scooter as defined  
11          in section 286-2 arising out of a motor vehicle  
12          accident, unless expressly provided for in the motor  
13          vehicle policy;  
14          (2) Payment of personal injury protection benefits shall  
15          be made as the benefits accrue, except that in the  
16          case of death, payment of benefits under section  
17          431:10C-302(a)(5) may be made immediately in a lump  
18          sum payment, at the option of the beneficiary;  
19          (3) (A) Payment of personal injury protection benefits  
20          shall be made within thirty days after the  
21          insurer has received reasonable proof of the fact



1 and amount of benefits accrued, and demand for  
2 payment thereof. All providers must produce  
3 descriptions of the service provided in  
4 conformity with applicable fee schedule codes;

5 (B) If the insurer elects to deny a claim for  
6 benefits in whole or in part, the insurer shall,  
7 within thirty days, notify the claimant in  
8 writing of the denial and the reasons for the  
9 denial. The denial notice shall be prepared and  
10 mailed by the insurer in triplicate copies and be  
11 in a format approved by the commissioner. In the  
12 case of benefits for services specified in  
13 section 431:10C-103.5(a) the insurer shall also  
14 mail a copy of the denial to the provider; and

15 (C) If the insurer cannot pay or deny the claim for  
16 benefits because additional information or loss  
17 documentation is needed, the insurer shall,  
18 within the thirty days, forward to the claimant  
19 an itemized list of all the required documents.  
20 In the case of benefits for services specified in



- 1 section 431:10C-103.5(a) the insurer shall also  
2 forward the list to the service provider;
- 3 (4) Amounts of benefits [~~which~~] that are unpaid thirty  
4 days after the insurer has received reasonable medical  
5 proof of the fact and the amount of benefits accrued,  
6 and demand for payment thereof, after the expiration  
7 of the thirty days, shall bear interest at the rate of  
8 [~~one and one-half~~] \_\_\_\_ per cent per month; provided  
9 that the insurer shall be assessed an additional fine  
10 of \$ \_\_\_\_\_ per month until the unpaid amount of  
11 benefits has been paid;
- 12 (5) No part of personal injury protection benefits paid  
13 shall be applied in any manner as attorney's fees in  
14 the case of injury or death for which the benefits are  
15 paid. The insurer shall pay, subject to section  
16 431:10C-211, in addition to the personal injury  
17 protection benefits due, all attorney's fees and costs  
18 of settlement or suit necessary to effect the payment  
19 of any or all personal injury protection benefits  
20 found due under the contract. Any contract in  
21 violation of this provision shall be illegal and



1 unenforceable. It shall constitute an unlawful and  
2 unethical act for any attorney to solicit, enter into,  
3 or knowingly accept benefits under any contract;

4 (6) Disputes between the provider and the insurer over the  
5 amount of a charge or the correct fee or procedure  
6 code to be used under the workers' compensation  
7 supplemental medical fee schedule shall be governed by  
8 section 431:10C-308.5; and

9 (7) Any insurer who violates this section shall be subject  
10 to section 431:10C-117(b) and (c)."

11 SECTION 2. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect on July 1, 2020.

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INTRODUCED BY: ACM 13/R

JAN 23 2020



# H.B. NO. 2642

**Report Title:**

Motor Vehicle Insurance; Personal Injury Protection Benefits;  
Claims; Penalties

**Description:**

Clarifies what constitutes reasonable proof for a personal injury protection benefits claim under a motor vehicle insurance policy. Blanks out amount of interest charged on unpaid personal injury protection benefits claims. Establishes a monthly penalty for unpaid personal injury protection benefits claims.

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