

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-397, Hawaii Revised Statutes, is amended to read:

“§431-397 Reporting and accounting for premiums. (a) Every [licensee under this chapter] licensed general agent, subagent, solicitor and adjuster shall have the [responsibility] responsibilities of a trustee for all premium and return premium funds received or collected [as such licensee and shall not, without the written consent of his principal, mingle any such funds with his own funds or with funds held by him in any other capacity.] under this chapter. The licensee shall, upon receipt of the funds, either (1) remit the premiums (less commissions) and return premiums received or held by the licensee to the insurers or the persons entitled thereto, or (2) maintain the funds at all times in a federally-insured account with a bank or savings and loan association situated in Hawaii, separate from the licensee’s own funds or funds held by the licensee in any other capacity, in an amount at least equal to the premiums (net of commissions) and return premiums received by such licensee and unpaid to the insurers or persons entitled thereto. The licensee shall not be required to maintain a separate bank account for the funds of each [principal,] insurer or person entitled to such funds, if and [as] so long as the funds [so] held for the [principal] insurer or person entitled thereto are reasonably ascertainable from the books of account and records of the licensee. Only such additional funds as may be reasonably necessary to pay bank or savings and loan association charges may be commingled with the premium funds. In the event the bank or savings and loan association account is an interest earning account, such licensee may not retain the interest earned on such funds to the licensee’s own use or benefit without the prior written consent of the insurers or persons entitled to such funds. A premium trustee account shall be designated on the records of the bank or savings and loan association as a “trustee account established pursuant to section 431-397, Hawaii Revised Statutes” or words of similar import.

(b) Any such licensee who, not being lawfully entitled thereto, diverts or appropriates such funds or any portion thereof to his own use, shall be guilty of embezzlement, and shall be punished as provided in the criminal statutes of this State.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1983.)