

ACT 288

S.B. NO. 2186

A Bill for an Act Relating to Insurance.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding three new sections to article 9 to be appropriately designated and to read as follows:

“§431:9- Independent bill reviewer. (a) “Independent bill reviewer” means any individual who:

- (1) Acts solely on behalf of either the insurer as an independent contractor or as an employee of an independent contractor; and
- (2) Reviews or audits billings for medical services.

(b) For the purposes of this section, an individual is not deemed an independent bill reviewer if the individual is:

- (1) A salaried employee of an insurer or salaried employee of an adjusting corporation owned or controlled by an insurer; or
- (2) A database provider for the insurer.

§431:9- Compensation by contingency fee prohibited. An independent bill reviewer shall not be compensated on a contingency fee basis.

§431:9- Qualification for independent bill reviewer's license. To qualify for an independent bill reviewer's license, an applicant shall comply with this article and shall:

- (1) Be domiciled in this State, or in a state that will permit residents of this State to act as independent bill reviewers in such other state;
- (2) Have experience, special education, or training with reference to the review or audit of billings for medical services under insurance contracts, of sufficient duration and extent to reasonably make the individual competent to fulfill the responsibilities of an independent bill reviewer;
- (3) Have successfully passed any examination required under section 431:9-206; and
- (4) Pay the license fee;

provided that in the alternative to paragraphs (1) to (3), the applicant shall hold the credential of a certified professional coder granted by the American Academy of Professional Coders."

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by amending the title of article 9 to read as follows:

**“ARTICLE 9
LICENSING OF AGENTS, BROKERS, SOLICITORS, [AND]
ADJUSTERS,
AND BILL REVIEWERS”**

SECTION 3. Section 431:2-303, Hawaii Revised Statutes, is amended to read as follows:

“§431:2-303 Examination of agents, [managers,] solicitors, adjusters, promoters[.], and independent bill reviewers. For the purpose of ascertaining its condition, or compliance with this code, the commissioner may as often as the commissioner deems advisable examine the insurance accounts, records, documents, and transactions of:

- (1) Any insurance general agent, subagent, solicitor, [or] adjuster, or independent bill reviewer, including insurance agencies and surplus lines agencies; or
- (2) Any person engaged in, proposing to be engaged in, or assisting in the promotion or formation of a domestic insurer, a stock corporation to finance a domestic mutual insurer or the production of its business, or a corporation to be attorney-in-fact for a domestic reciprocal insurer.”

SECTION 4. Section 431:2-305, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Orders shall be issued and hearings conducted as follows:

- (1) All orders entered pursuant to subsection (c)(1) shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. Any [such] order shall be considered a final administrative decision and may be appealed pursuant to chapter 91, and shall be served upon the insurer or person by certified mail, together with a copy of the adopted examination

report. Within thirty days of the issuance of the adopted report, the insurer or person shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders, except that for examinations of general agents, subagents, solicitors, adjusters, independent bill reviewers, or surplus lines brokers, serving the copy of the adopted report and related orders by certified-return receipt requested mail will satisfy the service requirement and no affidavits shall be required; and

- (2) Any hearing conducted under subsection (c)(3) by the commissioner or authorized representative shall be conducted as a nonadversarial confidential investigatory proceeding as may be necessary for the resolution of any inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or raised by the written submission or rebuttal of the insurer or person. Within twenty days of the conclusion of any [such] hearing, the commissioner shall enter an order pursuant to subsection (c)(1):
 - (A) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the insurer or person limited to the examiner's workpapers that tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation, whether under the control of the division, the insurer, or other persons. The documents produced shall be included in the record and testimony taken by the commissioner or the commissioner's representative shall be under oath and preserved for the record;
 - (B) The hearing shall proceed in accordance with departmental rules adopted under chapter 91; and
 - (C) Nothing contained in this section shall require the insurance division to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency."

SECTION 5. Section 431:7-101, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

- “(a) The commissioner shall collect in advance the following fees:
 - (1) Certificate of authority: Issuance \$900
 - (2) Organization of domestic insurers and affiliated corporations:
 - (A) Application and all other papers required for issuance of solicitation permit, filing \$1,500
 - (B) Issuance of solicitation permit \$150
 - (3) General agent's license:
 - (A) Issuance, regular license \$75
 - (B) Issuance, temporary license \$75
 - (4) Subagent's license:
 - (A) Issuance, regular license \$75
 - (B) Issuance, temporary license \$75
 - (5) Nonresident agent's or broker's license: Issuance \$60
 - (6) Solicitor's license: Issuance \$60
 - (7) Independent adjuster's license: Issuance \$60
 - (8) Public adjuster's license: Issuance \$60

- (9) Workers' compensation claims adjuster's limited license: Issuance \$60
- (10) Independent bill reviewer's license: Issuance \$80
- [(10)] (11) Limited license issued pursuant to section 431:9-214(c): Issuance . \$60
- [(11)] (12) Managing general agent's license: Issuance \$75
- [(12)] (13) Reinsurance intermediary's license: Issuance \$75
- [(13)] (14) Surplus line broker's license: Issuance \$150
- [(14)] (15) Examination for license: For each examination, a fee to be established by the commissioner.

(b) The fees for services of the department of commerce and consumer affairs subsequent to the issuance of a certificate of authority or a license are as follows:

- (1) \$600 per year for all services (including extension of the certificate of authority) for an authorized insurer;
- (2) \$75 per year for all services (including extension of the license) for a regularly licensed general agent;
- (3) \$75 per year for all services (including extension of the license) for a regularly licensed subagent;
- (4) \$45 per year for all services (including extension of the license) for a regularly licensed nonresident agent¹ broker;
- (5) \$30 per year for all services (including extension of the license) for a regularly licensed solicitor;
- (6) \$45 per year for all services (including extension of the license) for a regularly licensed independent adjuster;
- (7) \$45 per year for all services (including extension of the license) for a regularly licensed public adjuster;
- (8) \$45 per year for all services (including extension of the license) for a regularly limited licensed workers' compensation claims adjuster;
- (9) \$60 per year for all services (including extension of the license) for a regularly licensed independent bill reviewer;
- [(9)] (10) \$45 per year for all services (including extension of the license) for a limited license issued pursuant to section 431:9-214(c);
- [(10)] (11) \$75 per year for all services (including extension of the license) for a regularly licensed managing general agent;
- [(11)] (12) \$75 per year for all services (including extension of the license) for a regularly licensed reinsurance intermediary;
- [(12)] (13) \$45 per year for all services (including extension of the license) for a licensed surplus line broker; and
- [(13)] (14) The services referred to in paragraphs (1) to [(12)] (13) shall not include services in connection with examinations, investigations, hearings, appeals, and deposits with a depository other than the department of commerce and consumer affairs.²

SECTION 6. Section 431:9-101, Hawaii Revised Statutes, is amended to read as follows:

“**§431:9-101 Scope.** This article shall govern the qualifications and procedures for granting licenses to all insurance agents, brokers, surplus lines brokers, nonresident agents or brokers, subagents, solicitors, adjusters, independent bill reviewers, and limited service representatives.”

SECTION 7. Section 431:9-201, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person engaging in the business of insurance in this State shall act as, be appointed as, or hold oneself out to be a general agent, subagent, solicitor, [or] adjuster, or independent bill reviewer unless so licensed by this State.”

SECTION 8. Section 431:9-206, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each applicant for license as general agent, subagent, solicitor, [or] adjuster, or independent bill reviewer shall prior to the issuance of any such license, personally take and pass to the satisfaction of the commissioner an examination given by the commissioner as a test of the applicant’s qualifications and competence.”

SECTION 9. Section 431:9-228, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every licensed general agent, subagent, [and] adjuster, and independent bill reviewer shall have and maintain in this State, or, if a nonresident agent or broker, in the state of the agent’s or broker’s domicile, a place of business accessible to the public.”

SECTION 10. Section 431:9-229, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

“**§431:9-229 Records of general agent, subagent, adjuster[.], independent bill reviewer.** (a) Every general agent, subagent, [or] adjuster, or independent bill reviewer shall keep a record of all transactions consummated under [such] their license. This record shall be in organized form according to class of insurance and shall include:

- (1) If a general agent or subagent:
 - (A) A record of each insurance contract procured or issued, together with the names of the insurers and insureds, the amount of premium paid or to be paid, or the basis of the premium or consideration paid or to be paid, and a statement of the subject of the insurance; and
 - (B) The names of any other licensees from whom business is accepted, and of persons to whom commissions or allowances of any kind are promised or paid;
- (2) If an adjuster, a record of each investigation or adjustment undertaken or consummated, and a statement of any fee, commission, or other compensation received or to be received by the adjuster on account of [such] the investigation or adjustment; [and]
- (3) If an independent bill reviewer, a record of each bill reviewed and a statement of any fee, commission, or other compensation received or to be received by the independent bill reviewer on account of the bill reviewed; and
- [(3) Such other and] (4) Any additional information as shall be customary, or as may reasonably be required by the commissioner.”

SECTION 11. There is created one permanent full time position to carry out the purposes of this Act and to provide additional compliance and enforcement resources for the insurance division.

SECTION 12. There is appropriated out of the insurance regulation fund the sum of \$51,379 or so much thereof as may be necessary for fiscal year 2000-2001 to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of commerce and consumer affairs.

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.³

SECTION 14. This Act shall take effect upon its approval; provided that section 12 shall take effect July 1, 2000.

(Approved June 30, 2000.)

Notes

1. Prior to amendment “or” appeared here.
2. Prior to amendment “;” appeared here.
3. Edited pursuant to HRS §23G-16.5.