

ACT 74

H.B. NO. 2475

A Bill for an Act Relating to Insurance.

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

SECTION 1. Chapter 432, Hawaii Revised Statutes, is amended by adding to article 1 a new section to be appropriately designated and to read as follows:

“**§432:1- Reserve credit for reinsurance.** Any society that takes credit for reserves on risks ceded to a reinsurer shall be subject to provisions of chapter 431 related to credit for reinsurance.”

SECTION 2. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§432D- Reserve credit for reinsurance.** Any health maintenance organization that takes credit for reserves on risks ceded to a reinsurer shall be subject to provisions of chapter 431 related to credit for reinsurance.”

SECTION 3. Section 432:1-404, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each society shall file with the commissioner annually, on or before April 30 in each year, a statement under oath, and in such form and detail as the commissioner shall [prescribe. Those societies promising or offering to pay death, sick, disability, or other benefits shall set forth in the statement the following:

- (1) The total business transacted and the amount of gross receipts received by the society during the year ending December 31 last preceding;
- (2) The resources and liabilities of the society at the close of business on December 31;

- (3) The receipts and expenditures; and
- (4) The computation of the loss or gain of the society during the calendar year.]

prescribe; provided that any association or society organized and operating as a nonprofit medical indemnity or hospital service association shall file a report with the commissioner covering the preceding calendar year and verified by at least two principal officers. The report shall comply with sections 431:3-301 and 431:3-302. The commissioner may prescribe the forms on which the report is to be filed.

In addition, any association or society organized and operating as a nonprofit medical indemnity or hospital service association annually shall file with the commissioner the following by the dates specified:

- (1) An audit, by an independent, certified public accountant or an accounting firm designated by the association or society, of the financial statements, reporting the financial condition and results of operations of the association or society on or before June 1, or a later date as the commissioner upon request or for cause may specify. The association or society, on an annual basis and prior to the commencement of the audit, shall notify the commissioner in writing of the name and address of the person or firm retained to conduct the annual audit. The commissioner may disapprove the association's or society's designation within fifteen days of receipt of the association's or society's notice, and the association or society shall be required to designate another independent certified public accountant or accounting firm. The audit required in this paragraph shall be prepared in accordance with the National Association of Insurance Commissioners' annual statement instructions, following the practices and procedures prescribed by the National Association of Insurance Commissioners' accounting practices and procedures manuals; and
- (2) A description of the available grievance procedures, the total number of grievances handled through those procedures, a compilation of the causes underlying those grievances, and a summary of the final disposition of those grievances on or before April 30."

SECTION 4. Section 432D-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every health maintenance organization shall file annually, on or before [March 1,] April 30, [file] a report verified by at least two principal officers [with the commissioner] covering the preceding calendar year. Each health maintenance organization shall file quarterly[,] with the commissioner, on or before the forty-fifth day after each quarter, a copy of its quarterly report verified by at least two principal officers [with the commissioner]. These reports shall comply with sections 431:3-301 and 431:3-302. The commissioner may prescribe [on which] the forms on which the reports are to be filed. In addition, the health maintenance organization annually shall file with the commissioner the following by the dates specified:

- (1) An audit, by [a designated] an independent certified public accountant or an accounting firm designated by the health maintenance organization of the financial statements, reporting the financial condition and results of operations of the health maintenance organization on or before June 1, or [such] a later date as the commissioner upon request or for cause may specify. The health maintenance organization, on an annual basis and prior to the commencement of the audit, shall notify the commissioner in writing of the name and address of the person or firm retained to conduct the annual audit. The commissioner may disapprove the health maintenance organization's designation within

fifteen days of receipt of the health maintenance organization's notice, and the health maintenance organization shall be required to designate another independent certified public accountant or accounting firm[;]. The audit required in this paragraph shall be prepared in accordance with the National Association of Insurance Commissioners' annual statement instructions, following the practices and procedures prescribed by the National Association of Insurance Commissioners' accounting practices and procedures manuals;

- (2) A list of the providers who have executed a contract that complies with section 432D-8(d) on or before [March 1;] April 30; and
- (3) A description of the available grievance procedures, the total number of grievances handled through those procedures, a compilation of the causes underlying those grievances, and a summary of the final disposition of those grievances on or before [March 1.] April 30."

SECTION 5. Section 432D-7, Hawaii Revised Statutes, is amended to read as follows:

**“[~~§~~432D-7[~~]~~] Investments.** All investments permitted under this section or section 432D-3(a)(1) can be considered as admitted assets in determination of net worth; provided that these investments are in compliance [with rules adopted by the commissioner. With the exception of investments made in accordance with section 432D-3(a)(1), the funds of a health maintenance organization shall be invested only as permitted by rules adopted by the commissioner pursuant to chapter 91.] with article 6 of chapter 431.”

SECTION 6. Section 432D-22, Hawaii Revised Statutes, is amended to read as follows:

**“[~~§~~432D-22[~~]~~] Acquisition of control of or merger of a health maintenance organization.** No person may make a tender for or a request or invitation for tenders of, enter into an agreement to exchange securities for, or acquire in the open market or otherwise, any voting security of a health maintenance organization or enter into any other agreement if, after the consummation thereof, that person [would], directly or indirectly, or by conversion or by exercise of any right to acquire, would be in control of the health maintenance organization, and no person may enter into an agreement to merge or consolidate with or otherwise to acquire control of a health maintenance organization, unless, at the time any offer, request, or invitation is made or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the health maintenance organization[,] information required by section [431:11-103(a)(1), (2), (3), (4), (5), and (12)] 431:11-104 and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner. Approval by the commissioner shall be governed by section 431:11-104(d)[.]; provided that if no action is taken by the commissioner within thirty days, the offer, request, invitation, agreement, or acquisition shall be deemed approved.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved April 27, 2000.)

**Note**

1. Edited pursuant to HRS §23G-16.5.