H.B. NO. 3095

A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that mutual benefit societies hold a unique position in the State's economy and business community. These societies are organized and operated for the primary benefit of their members and beneficiaries and are not for profit. They also are exempted from many laws that apply to insurance companies and, because of the limited application of the insurance code, the insurance commissioner has correspondingly limited supervisory authority over these societies.

Currently, some mutual benefit societies in Hawaii conduct the business of insurance by the extensive use of affiliates. Affiliate transactions raise special concerns because they are not always independent, competitive, market-based transactions.

The purpose of this Act is to ensure that mutual benefit societies maintain a proper relationship with and among their affiliates by applying the provisions of article 11 of Hawaii's insurance code to mutual benefit societies. This would benefit

the members of mutual benefit societies by authorizing regulatory monitoring of the relationship and transactions between mutual benefit societies and their affiliates and among the affiliates of mutual benefit societies, in the same manner as is presently authorized for other insurers.

SECTION 2. Section 431:11-102, Hawaii Revised Statutes, is amended by amending the definition of "insurer" to read as follows:

""Insurer" shall have the meaning as set forth in article 1, and shall include mutual benefit societies under article 1 of chapter 432 except that it shall not include:

(1) Agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(2) Fraternal benefit societies; or

[~~(3) Nonprofit medical and hospital service associations; or~~

~~(4)~~] (3) Unauthorized insurers."

SECTION 3. Section 432:1-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Article 2, article 2D, article 11, article 13, and article 14G of chapter 431, and the powers there granted to the commissioner, shall apply to managed care plans, health maintenance organizations, or medical indemnity or hospital service associations, which are owned or controlled by mutual benefit societies, so long as the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

BY REQUEST

JAN 22 2008

Report Title:
Mutual Benefit Societies

Description:
Improves the Insurance Commissioner's ability to protect consumers from improper transactions between health insurance companies and their affiliates by authorizing the Commissioner to monitor the relationships and transactions between these companies and their affiliates.

HB 3095

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.

PURPOSE: To allow the insurance commissioner to monitor relationships and transactions between mutual benefit societies and their affiliates and among affiliates of mutual benefit societies in the same manner as other insurers are monitored and to require filing of a registration statement with the insurance commissioner describing a mutual benefit society's network of affiliates.

MEANS: Amend sections 431:11-102 and 432:1-102(b), Hawaii Revised Statutes.

JUSTIFICATION: Currently some mutual benefit societies in Hawaii conduct the business of insurance by extensive use of affiliates. Affiliate transactions raise special concerns because they are not always independent, market-based transactions. One mutual benefit society until very recently actually had no employees; all of its operations were conducted by affiliated for-profit corporations owned by the officers of the mutual benefit society. The affiliated corporations (incorporated in California) have resisted scrutiny by the insurance commissioner. This bill will give the insurance commissioner oversight over affiliate transactions for mutual benefit societies to the same extent as authorized over other insurers under chapter 431:11, Hawaii Revised Statutes. Specifically, it will hold controlled affiliate transactions to the standards set forth in section 431:11-106, Hawaii Revised Statutes. This bill will also require each mutual benefit society to file a registration statement with the

HB 3095

insurance commissioner describing its affiliate network.

Impact on the public: Will improve the insurance commissioner's ability to protect the public from improper transactions between mutual benefit societies and their affiliates.

Impact on the department and other agencies: None anticipated.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-106.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.