

JAN 28 2015

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Chapter 431K, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§431K- Registration fees and service fees of purchasing
5 groups. (a) A purchasing group that intends to do business in
6 this State shall pay an initial registration fee of \$300 to the
7 commissioner and shall thereafter pay annually a service fee of
8 \$150 on or before August 16 of each year in which the purchasing
9 group intends to do business in this State.

10 (b) If the service fee is not paid on or before August 16
11 of the year in which payment is due, a penalty shall be imposed
12 in the amount of fifty percent of the service fee. The
13 commissioner shall provide written notice of the delinquency of
14 payment and the imposition of the authorized penalty. If the
15 service fee and the penalty are not paid within thirty days
16 immediately following the date of the notice of delinquency, the
17 commissioner may revoke the registration of the purchasing group

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1 and may not reinstate the registration until the service fee and
2 the penalty have been paid.

3 (c) All fees and penalties collected pursuant to this
4 section and penalties collected pursuant to section 431K-9 shall
5 be deposited to the credit of the compliance resolution fund."

6 SECTION 2. Chapter 431K, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§431K- Registration fees and service fees of risk
10 retention groups not chartered in this State. (a) A risk
11 retention group chartered in states other than this State and
12 seeking to do business as a risk retention group in this State
13 shall pay an initial registration fee of \$300 to the
14 commissioner and shall thereafter pay annually a service fee of
15 \$150 on or before August 16 of each year in which the risk
16 retention group intends to do business in this State.

17 (b) If the service fee is not paid on or before August 16
18 of the year in which payment is due, a penalty shall be imposed
19 in the amount of fifty percent of the service fee. The
20 commissioner shall provide written notice of the delinquency of
21 payment and the imposition of the authorized penalty. If the
22 service fee and the penalty are not paid within thirty days

1 immediately following the date of the notice of delinquency, the
2 commissioner may revoke the registration of the risk retention
3 group and may not reinstate the registration until the service
4 fee and the penalty have been paid.

5 (c) All fees and penalties collected pursuant to this
6 section and penalties collected pursuant to sections 431K-9 and
7 431K-10 shall be deposited to the credit of the compliance
8 resolution fund."

9 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
10 amended by adding to article 2, part I, a new section to be
11 appropriately designated and to read as follows:

12 "§432:2- Fees. (a) The commissioner shall collect, in
13 advance, the following fees:

14 (1) Certificate of authority:

15 (A) Application for a certificate of authority:

16 \$900;

17 (B) Issuance of certificate of authority: \$600;

18 (2) Organization of domestic fraternal benefit societies:

19 (A) Application for a preliminary certificate of

20 authority: \$1,500;

21 (B) Issuance of preliminary certificate of authority:

22 \$150; and

1 (3) For all services subsequent to the issuance of a
2 certificate of authority, including extension of the
3 certificate of authority: \$600 per year.

4 (b) No certificate of authority shall contain an
5 expiration date, but all certificates of authority must be
6 extended from time to time in order to continue to be valid.

7 When the commissioner issues or extends a certificate of
8 authority, the commissioner shall determine the date prior to
9 which the certificate of authority must be extended and shall so
10 notify the insurer in writing. This date is called the
11 extension date. The extension date shall be any date not less
12 than one year and not more than three years after date of issue
13 or extension of the certificate of authority. If the insurer
14 qualifies, its certificate of authority shall be extended. The
15 commissioner shall provide each holder of a certificate of
16 authority at least thirty days' advance written notice of the
17 applicable extension date. If the fee for the extension of the
18 certificate of authority is not paid before or on the extension
19 date, a penalty shall be imposed in the amount of fifty per cent
20 of the fee. The commissioner shall provide notice in writing of
21 the delinquency of extension and the imposition of the
22 authorized penalty. If the fee and the penalty are not paid

1 within thirty days immediately following the date of the notice
2 of delinquency, the commissioner may revoke the certificate of
3 authority and may not reinstate the certificate of authority
4 until the fee and penalty have been paid.

5 (c) All fees and penalties collected pursuant to this
6 section and penalties collected pursuant to section 432:2-703
7 shall be deposited to the credit of the compliance resolution
8 fund."

9 SECTION 4. Section 431:2D-102, Hawaii Revised Statutes, is
10 amended by amending the definition of "market conduct
11 examination" to read as follows:

12 "Market conduct examination" means the examination of the
13 insurance operations of an insurer licensed to do business in
14 this State to evaluate compliance with the applicable laws and
15 rules of this State. A market conduct examination may be either
16 a comprehensive examination or a targeted examination. A market
17 conduct examination is separate and distinct from a financial
18 examination of an insurer performed pursuant to article [5~~7~~] 2,
19 but may be conducted at the same time."

20 SECTION 5. Section 431:5-307, Hawaii Revised Statutes, is
21 amended as follows:

22 (1) By amending subsection (e) to read as follows:

1 "(e) Except as otherwise provided in subsections (f),
2 (g), and (n), the minimum standard for the valuation of policies
3 and contracts issued prior to January 1, 1956, shall be that
4 provided by the laws in effect immediately prior to January 1,
5 1956.

6 Except as otherwise provided in subsections (f), (g), and
7 (n), the minimum standard for the valuation of all policies and
8 contracts issued on or after January 1, 1956, shall be the
9 commissioner's reserve valuation methods defined in subsections
10 (h), (i), (l), and (n), three and one-half per cent interest, or
11 in the case of life insurance policies and contracts, other than
12 annuity and pure endowment contracts, issued on or after June 1,
13 1976, four per cent interest for policies issued prior to June
14 1, 1979, five and one-half per cent interest for single premium
15 life insurance policies, and four and one-half per cent interest
16 for all other policies issued on or after June 1, 1979, and the
17 following tables:

18 (1) For ordinary policies of life insurance issued on the
19 standard basis, excluding any [~~accident and health~~]
20 disability income and accidental death benefits in the
21 policies: the Commissioners 1941 Standard Ordinary
22 Mortality Table for the policies issued prior to the

1 operative date of section 431:10D-104(e) (6), the
2 Commissioners 1958 Standard Ordinary Mortality Table
3 for the policies issued on or after the operative date
4 of section 431:10D-104(e) (6) and prior to the
5 operative date of section 431:104(e) (8); provided that
6 for any category of the policies issued on female
7 risks, all modified net premiums and present values
8 referred to in this section may be calculated
9 according to an age not more than six years younger
10 than the actual age of the insured; and for the
11 policies issued on or after the operative date of
12 section 431:10D-104(e) (8) :

13 (A) The Commissioners 1980 Standard Ordinary
14 Mortality Table;

15 (B) At the election of the company for any one or
16 more specified plans of life insurance, the
17 Commissioners 1980 Standard Ordinary Mortality
18 Table with Ten-Year Select Mortality Factors;

19 (C) Any ordinary mortality table, adopted after 1980
20 by the National Association of Insurance
21 Commissioners, that is approved by rules adopted

1 by the commissioner for use in determining the
2 minimum standard of valuation for the policies;
3 (2) For industrial life insurance policies issued on the
4 standard basis, excluding any [~~accident and health~~]
5 disability income and accidental death benefits in the
6 policies: the 1941 Standard Industrial Mortality Table
7 for the policies issued prior to the operative date of
8 section 431:10D-104(e) (7), and for policies issued on
9 or after the operative date of section 431:10D-
10 104(e) (7), the Commissioners 1961 Standard Industrial
11 Mortality Table or any industrial mortality table
12 adopted after 1980 by the National Association of
13 Insurance Commissioners that is approved by rules
14 adopted by the commissioner for use in determining the
15 minimum standard valuation for the policies;
16 (3) For individual annuity and pure endowment contracts,
17 excluding any [~~accident and health~~] disability income
18 and accidental death benefits in the policies: the
19 1937 Standard Annuity Mortality Table, or at the
20 option of the company, the Annuity Mortality Table for
21 1949, ultimate, or any modification of either of these
22 tables approved by the commissioner;

- 1 (4) For group annuity and pure endowment contracts,
2 excluding any [~~accident and health~~] disability income
3 and accidental death benefits in the policies: the
4 Group Annuity Mortality Table for 1951, a modification
5 of the table approved by the commissioner, or at the
6 option of the company, any of the tables or
7 modifications of tables specified for individual
8 annuity and pure endowment contracts;
- 9 (5) For total and permanent disability income benefits in
10 or supplementary to ordinary policies or contracts:
11 for policies or contracts issued after December 31,
12 1965, the tables of period 2 disablement rates and the
13 1930 to 1950 termination rates of the 1952 disability
14 study of the Society of Actuaries, with due regard to
15 the type of benefit or any tables of disablement rates
16 and termination rates adopted after 1980 by the
17 National Association of Insurance Commissioners, that
18 are approved by rules adopted by the commissioner for
19 use in determining the minimum standard of valuation
20 for those policies; for policies or contracts issued
21 after December 31, 1960, and prior to January 1, 1966,
22 either the tables or, at the option of the company,

1 the Class (3) Disability Table (1926); and for
2 policies issued prior to January 1, 1961, the Class
3 (3) Disability Table (1926). Any table, for active
4 lives, shall be combined with a mortality table
5 permitted for calculating the reserves for life
6 insurance policies;

- 7 (6) For accidental death benefits in or supplementary to
8 policies issued after December 31, 1965: the 1959
9 Accidental Death Benefits Table or any accidental
10 death benefits table adopted after 1980 by the
11 National Association of Insurance Commissioners, that
12 is approved by rules adopted by the commissioner for
13 use in determining the minimum standard of valuation
14 for those policies, for policies issued after December
15 31, 1960, and prior to January 1, 1966, either that
16 table or, at the option of the company, the Inter-
17 company Double Indemnity Mortality Table. Either
18 table shall be combined with a mortality table for
19 calculating the reserves for life insurance policies;
20 and

1 (7) For group life insurance, life insurance issued on the
2 substandard basis, and other special benefits: tables
3 approved by the commissioner."

4 (2) By amending subsection (f) to read as follows:

5 "(f) Except as provided in subsection (g), the minimum
6 standard of valuation for individual annuity and pure endowment
7 contracts issued on or after the operative date of this
8 subsection and for annuities and pure endowment contracts
9 purchased on or after the operative date under group annuity and
10 pure endowment contracts, shall be the commissioner's reserve
11 valuation methods defined in subsections (h) and (i) and the
12 following tables and interest rates:

13 (1) For individual annuity and pure endowment contracts
14 issued prior to June 1, 1979, excluding any [~~accident~~
15 ~~and health~~] disability income and accidental death
16 benefits in the contracts: the 1971 Individual Annuity
17 Mortality Table, or any modification of this table
18 approved by the commissioner, and six per cent
19 interest for single premium immediate annuity
20 contracts, and four per cent interest for all other
21 individual annuity and pure endowment contracts;

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1 (2) For individual single premium immediate annuity
2 contracts issued on or after June 1, 1979, excluding
3 any [~~accident and health~~] disability income and
4 accidental death benefits in the contracts: the 1971
5 Individual Annuity Mortality Table or any individual
6 annuity mortality table adopted after 1980 by the
7 National Association of Insurance Commissioners, that
8 is approved by rules adopted by the commissioner for
9 use in determining the minimum standard valuation for
10 these contracts, or any modification of these tables
11 approved by the commissioner, and seven and one-half
12 per cent interest;

13 (3) For individual annuity and pure endowment contracts
14 issued on or after June 1, 1979, other than single
15 premium immediate annuity contracts, excluding any
16 [~~accident and health~~] disability income and accidental
17 death benefits in those contracts: the 1971 Individual
18 Annuity Mortality Table or any individual annuity
19 mortality table adopted after 1980 by the National
20 Association of Insurance Commissioners, that is
21 approved by rules adopted by the commissioner for use
22 in determining the minimum standard of valuation for

1 those contracts, or any modification of these tables
2 approved by the commissioner, and five and one-half
3 per cent interest for single premium deferred annuity
4 and pure endowment contracts and four and one-half per
5 cent interest for all other individual annuity and
6 pure endowment contracts;

7 (4) For annuities and pure endowment contracts purchased
8 prior to June 1, 1979, under group annuity and pure
9 endowment contracts, excluding any [~~accident and~~
10 ~~health~~] disability income and accidental death
11 benefits purchased under those contracts: the 1971
12 Group Annuity Mortality Table or any modification of
13 this table approved by the commissioner, and six per
14 cent interest; and

15 (5) For annuities and pure endowment contracts purchased
16 on or after June 1, 1979, under group annuity and pure
17 endowment contracts, excluding any [~~accident and~~
18 ~~health~~] disability income and accidental death
19 benefits purchased under those contracts: the 1971
20 Group Annuity Mortality Table[7] or any group annuity
21 mortality table adopted after 1980 by the National
22 Association of Insurance Commissioners, that is

1 approved by rules adopted by the commissioner for use
2 in determining the minimum standard of valuation for
3 the annuities and pure endowment contracts, or any
4 modification of these tables approved by the
5 commissioner, and seven and one-half per cent
6 interest.

7 After June 1, 1976, any company may file with the
8 commissioner a written notice of its election to comply
9 with this subsection after a specified date before January
10 1, 1979, which shall be the operative date of this
11 subsection for that company. If a company makes no
12 election, the operative date of this subsection for that
13 company shall be January 1, 1979."

14 (3) By amending subsection (h) to read as follows:

15 "(h) (1) Except as otherwise provided in subsections (i),
16 (l), and (n), reserves, according to the
17 commissioner's reserve valuation method, for the life
18 insurance and endowment benefits of policies providing
19 for a uniform amount of insurance and requiring the
20 payment of uniform premiums shall be the excess, if
21 any, of the present value, at the date of valuation,
22 of the future guaranteed benefits provided for by the

1 policies, over the then present value of any future
2 modified net premiums therefor. The modified net
3 premiums for a policy shall be the uniform percentage
4 of the respective contract premiums for the benefits
5 such that the present value, at the date of issue of
6 the policy, of all the modified net premiums shall be
7 equal to the sum of the then present value of the
8 benefits provided for by the policy and the excess of
9 subparagraph (A) over subparagraph (B) as follows:

10 (A) A net level annual premium equal to the present
11 value, at the date of issue, of the benefits
12 provided for after the first policy year, divided
13 by the present value, at the date of issue, of an
14 annuity of one per annum payable on the first and
15 each subsequent anniversary of the policy on
16 which a premium falls due; provided that the net
17 level annual premium shall not exceed the net
18 level annual premium on the nineteen-year premium
19 whole life plan for insurance of the same amount
20 at an age one year higher than the age of issue
21 of the policy; and

1 (B) A net one-year term premium for the benefits
2 provided for in the first policy year;
3 (2) For a life insurance policy issued on or after
4 January 1, 1986, for which the contract premium
5 in the first policy year exceeds that of the
6 second year, and for which no comparable
7 additional benefit is provided in the first year
8 for the excess, and that provides an endowment
9 benefit, a cash surrender value, or a combination
10 thereof, in an amount greater than the excess
11 premium, the reserve, according to the
12 commissioner's reserve valuation method as of any
13 policy anniversary occurring on or before the
14 assumed ending date, defined herein as the first
15 policy anniversary on which the sum of any
16 endowment benefit and any cash surrender value
17 then available is greater than the excess
18 premium, except as otherwise provided in
19 subsection (1), shall be the greater of the
20 reserve as of the policy anniversary calculated
21 pursuant to this paragraph and the reserve as of

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1 the policy anniversary calculated as described,
2 but with:

3 (A) The value defined in paragraph (1) being
4 reduced by fifteen per cent of the amount of
5 the excess first year premium;

6 (B) All present values of benefits and premiums
7 being determined without reference to
8 premiums or benefits provided for by the
9 policy after the assumed ending date;

10 (C) The policy being assumed to mature on that
11 date as an endowment; and

12 (D) The cash surrender value provided on that
13 date being considered as an endowment
14 benefit.

15 In making the above comparison, the mortality and
16 interest bases stated in subsections (e) and (g)
17 shall be used; and

18 (3) Reserves according to the commissioner's reserve
19 valuation method shall be calculated by a method
20 consistent with the principles of paragraphs (1)
21 and (2) for:

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- 1 (A) Life insurance policies providing for a
- 2 varying amount of insurance or requiring the
- 3 payment of varying premiums;
- 4 (B) Group annuity and pure endowment contracts
- 5 purchased under a retirement plan or plan of
- 6 deferred compensation, established or
- 7 maintained by an employer (including a
- 8 partnership or sole proprietorship) or by an
- 9 employee organization, or by both, other
- 10 than a plan providing individual retirement
- 11 accounts or individual retirement annuities
- 12 under section 408 of the Internal Revenue
- 13 Code, as now or hereafter amended;
- 14 (C) [~~Accident and health or sickness~~] Disability
- 15 income and accidental death benefits in all
- 16 policies and contracts; and
- 17 (D) All other benefits, except life insurance
- 18 and endowment benefits in life insurance
- 19 policies and benefits provided by all other
- 20 annuity and pure endowment contracts."

21 (4) By amending subsection (i) to read as follows:

22 "(i) This subsection shall apply to all annuity and pure

1 endowment contracts other than group annuity and pure endowment
2 contracts purchased under a retirement plan or plan of deferred
3 compensation, established or maintained by an employer
4 (including a partnership or sole proprietorship) or by an
5 employee organization, or by both, other than a plan providing
6 individual retirement accounts or individual retirement
7 annuities under section 408 of the Internal Revenue Code, as now
8 or hereafter amended.

9 Reserves according to the commissioner's annuity reserve
10 method for benefits under annuity or pure endowment contracts,
11 excluding any [~~accident and health or sickness~~] disability
12 income and accidental death benefits in the contracts, shall be
13 the greatest of the respective excesses of the present values,
14 at the date of valuation, of the future guaranteed benefits,
15 including guaranteed nonforfeiture benefits, provided for by the
16 contracts at the end of each respective contract year, over the
17 present value, at the date of valuation, of any future valuation
18 considerations derived from future gross considerations,
19 required by the terms of the contract, that become payable prior
20 to the end of the respective contract year. The future
21 guaranteed benefits shall be determined by using the mortality
22 table, if any, and the interest rate, or rates, specified in the

1 contracts for determining guaranteed benefits. The valuation
2 considerations are the portions of the respective gross
3 considerations applied under the terms of the contracts to
4 determine nonforfeiture values."

5 (5) By amending subsection (j) to read as follows:

6 "(j) In no event shall a company's aggregate reserves for
7 all life insurance policies, excluding [~~accident and health~~]
8 disability income and accidental death benefits, issued on or
9 after January 1, 1956, be less than the aggregate reserves
10 calculated in accordance with the methods set forth in
11 subsections (h), (i), (l), and (m), and the mortality table or
12 tables and rate or rates of interest used in calculating
13 nonforfeiture benefits for those policies. In no event shall
14 the aggregate reserves for all policies, contracts, and benefits
15 be less than the aggregate reserves determined by the appointed
16 actuary to be necessary to render the opinion required by
17 subsections (c) and (d)."

18 (6) By amending subsection (n) to read as follows:

19 "(n) For accident and health insurance contracts issued on
20 or after the operative date of the valuation manual, the
21 standard prescribed in the valuation manual is the minimum
22 standard of valuation required under subsection (b)(2). For

1 accident and health [~~or sickness~~] insurance contracts issued on
2 or after January 1, 1956, and prior to the operative date of the
3 valuation manual, the minimum standard of valuation is the
4 standard adopted by the commissioner by rule."

5 SECTION 6. Section 431:7-101, Hawaii Revised Statutes, is
6 amended as follows:

7 (1) By amending subsection (a) to read as follows:

8 "(a) The commissioner shall collect, in advance, the
9 following fees:

- 10 (1) Certificate of authority: [~~Issuance..... \$900~~]
- 11 (A) Application for a certificate of authority . \$900
- 12 (B) Issuance of certificate of authority\$600
- 13 (2) Organization of domestic insurers and affiliated
- 14 corporations:
- 15 (A) Application [~~and all other papers required~~] for
- 16 [~~issuance of~~] a solicitation permit [~~7~~
- 17 filing] \$1,500
- 18 (B) Issuance of solicitation permit..... \$150
- 19 (3) Producer's license:
- 20 (A) Issuance, regular license..... \$50
- 21 (B) Issuance, temporary license..... \$50
- 22 (4) Nonresident producer's license: Issuance..... \$75

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- 1 (5) Independent adjuster's license: Issuance..... \$75
- 2 (6) Public adjuster's license: Issuance..... \$75
- 3 (7) Claims adjuster's limited license: Issuance... \$75
- 4 (8) Independent bill reviewer's license:
- 5 Issuance..... \$80
- 6 (9) Limited producer's license: Issuance..... \$60
- 7 (10) Managing general agent's license: Issuance.... \$75
- 8 (11) Reinsurance intermediary's license:
- 9 Issuance..... \$75
- 10 (12) Surplus lines broker's license: Issuance..... \$150
- 11 (13) Service contract provider's registration:
- 12 Issuance..... \$75
- 13 (14) Approved course provider certificate:
- 14 Issuance..... \$100
- 15 (15) Approved continuing education course certificate:
- 16 Issuance..... \$30
- 17 (16) Vehicle protection product warrantor's registration:
- 18 Issuance..... \$75
- 19 (17) Criminal history record check; fingerprinting: For
- 20 each criminal history record check and fingerprinting
- 21 check, a fee to be established by the commissioner.

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1 (18) Limited line motor vehicle rental company producer's
2 license: Issuance..... \$1,000

3 (19) Legal service plan certificate of authority:
4 Issuance before July 1, 2014..... \$1,000
5 Issuance on or after July 1, 2014..... \$500

6 (20) Life settlement provider's license:
7 Issuance before July 1, 2014..... \$150
8 Issuance on or after July 1, 2014..... \$75

9 (21) Life settlement broker's license:
10 Issuance before July 1, 2014..... \$150
11 Issuance on or after July 1, 2014..... \$75

12 (22) Examination for license: For each examination, a fee
13 to be established by the commissioner."

14 (2) By amending subsection (c) to read as follows:

15 "(c) The commissioner shall notify the holder of a
16 certificate of authority issued under article 3 by written
17 notice at least thirty days prior to the extension date of the
18 certificate of authority, license, or other certificate. If the
19 fee is not paid before or on the extension date, the fee shall
20 be increased by a penalty in the amount of fifty per cent of the
21 fee. [~~If the fee and the penalty are not paid within the thirty~~
22 ~~days immediately following the extension date,~~] The commissioner

1 shall provide notice in writing of the delinquency of extension
2 and the imposition of the authorized penalty. If the fee and
3 the penalty are not paid within thirty days immediately
4 following the date of notice of delinquency, the commissioner
5 may revoke, suspend, or inactivate the certificate of authority,
6 license, or other certificate, and [~~shall~~] may not reissue,
7 remove the suspension of, or reactivate the certificate of
8 authority, license, or other certificate until the fee and
9 penalty have been paid."

10 SECTION 7. Section 431:10-102, Hawaii Revised Statutes, is
11 amended to read as follows:

12 (1) By amending the definition of "contract" to read as
13 follows:

14 ""Contract" means any policy of life, [~~disability,~~]
15 accident and health or sickness, credit life, credit disability,
16 homeowners [~~insurance~~], and motor vehicle insurance covering
17 personally owned or personally leased private passenger motor
18 vehicles prepared for delivery by an insurer."

19 (2) By amending the definition of "insurer" to read as
20 follows:

21 ""Insurer" means any company, corporation, exchange,
22 society, or association organized on the stock, mutual,

1 assessment, or fraternal plan of insurance and authorized under
2 the insurance laws of this State to issue life, disability,
3 credit life, credit disability, homeowners, and motor vehicle
4 insurance, including but not limited to fraternal benefit
5 societies, nonprofit health service corporations, nonprofit
6 hospital service corporations, [~~and~~] health maintenance
7 organizations[-], and mutual benefit societies."

8 SECTION 8. Section 431K-3, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§431K-3 Risk retention groups not chartered in this**
11 **State.** Risk retention groups chartered in states other than
12 this State and seeking to do business as a risk retention group
13 in this State shall observe and abide by the laws of this State
14 as follows:

15 (1) Before offering insurance in this State, a risk
16 retention group shall submit to the commissioner:

17 (A) A statement identifying the state or states in
18 which the risk retention group is chartered and
19 licensed as a liability insurance company, date
20 of chartering, its principal place of business,
21 and other information, including information on
22 its membership, as the commissioner of this State

- 1 may require to verify that the risk retention
2 group is qualified as a risk retention group;
- 3 (B) A copy of its plan of operations or a feasibility
4 study and revisions of this plan or study
5 submitted to its state of domicile; provided that
6 the provision relating to the submission of a
7 plan of operation or a feasibility study shall
8 not apply with respect to any line or
9 classification of liability insurance which was:
- 10 (i) Defined in the Product Liability Risk
11 Retention Act of 1981, 15 U.S.C. §3901 et
12 seq., before October 27, 1986; and
- 13 (ii) Offered before that date by any risk
14 retention group which had been chartered and
15 operating for not less than three years
16 before that date; and
- 17 (C) A statement of registration which designates the
18 commissioner as its agent for the purpose of
19 receiving service of legal documents or process;
- 20 (2) Any risk retention group doing business in this State
21 shall submit to the commissioner:
- 22 ~~[(A) A copy of the group's financial statement~~

1 ~~submitted to the insurance commissioner of its~~
2 ~~state of domicile, which shall be certified by an~~
3 ~~independent public accountant and contain a~~
4 ~~statement of opinion on loss and loss adjustment~~
5 ~~expense reserves made by a member of the American~~
6 ~~Academy of Actuaries or a qualified loss reserve~~
7 ~~specialist under criteria established by the~~
8 ~~National Association of Insurance Commissioners;~~

9 ~~(B)]~~ (A) A copy of each examination of the risk
10 retention group as certified by the commissioner
11 or public official conducting the examination in
12 its state of domicile;

13 ~~[(C)]~~ (B) Upon request by the commissioner, a copy of
14 any audit performed with respect to the risk
15 retention group; and

16 ~~[(D)]~~ (C) Information as may be required to verify
17 its continuing qualification as a risk retention
18 group;

19 (3) Taxation of risk retention groups shall be as follows:

20 (A) All premiums paid for coverages within this State
21 to risk retention groups shall be subject to
22 taxation at the same rate and subject to the same

1 interest, fines, and penalties for nonpayment as
2 that applicable to risk retention group captives
3 chartered in this State pursuant to chapter 431,
4 article 19;

5 (B) To the extent producers are utilized, the
6 producers shall report and pay the taxes for the
7 premiums for risks which the producers have
8 placed with or on behalf of a risk retention
9 group not chartered in this State; or

10 (C) To the extent producers are not utilized or fail
11 to pay the tax, each risk retention group shall
12 pay the tax for risks insured within the State;
13 provided that each risk retention group shall
14 report all premiums paid to it for risks insured
15 within the State;

16 (4) Any risk retention group shall comply with chapter
17 431, article 13 regarding deceptive, false, or
18 fraudulent acts or practices, and unfair claims
19 settlement practices; provided that if the
20 commissioner seeks an injunction regarding such
21 conduct, the injunction shall be obtained from a court
22 of competent jurisdiction;

1 (5) Any risk retention group shall submit to an
2 examination by the commissioner to determine its
3 financial condition if the commissioner of the
4 jurisdiction in which the group is chartered has not
5 initiated an examination or does not initiate an
6 examination within sixty days after a request by the
7 commissioner of this State. Any examination shall be
8 coordinated to avoid unjustified repetition and
9 conducted in an expeditious manner and in accordance
10 with the National Association of Insurance
11 Commissioners' Examiner Handbook;

12 (6) The following notice shall be printed in ten point
13 type on the front page of every application for
14 insurance from a risk retention group, and on the
15 front page and the declaration page of every policy
16 issued by a risk retention group:

17 NOTICE

18 This policy is issued by your risk retention
19 group. Your risk retention group may not be subject
20 to all of the insurance laws and rules of your
21 state. State insurance insolvency guaranty funds are
22 not available for your risk retention group;

- 1 (7) The following acts by a risk retention group are
2 prohibited:
- 3 (A) The solicitation or sale of insurance by a risk
4 retention group to any person who is not eligible
5 for membership in the group; and
- 6 (B) The solicitation or sale of insurance by, or
7 operation of, a risk retention group that is in a
8 hazardous financial condition or is financially
9 impaired;
- 10 (8) No risk retention group shall be allowed to do
11 business in this State if an insurance company is
12 directly or indirectly a member or owner of the risk
13 retention group, other than in the case of a risk
14 retention group all of whose members are insurance
15 companies;
- 16 (9) No risk retention group may offer insurance policy
17 coverage prohibited by chapter 431 or declared
18 unlawful by the highest court of this State; and
- 19 (10) A risk retention group not chartered in this State and
20 doing business in this State shall comply with a
21 lawful order issued in a voluntary dissolution
22 proceeding or in a delinquency proceeding commenced by

1 any state insurance commissioner if there has been a
2 finding of financial impairment after an examination
3 under paragraph (5)."

4 SECTION 9. Section 432:1-108, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

6 "(a) The commissioner shall collect, in advance, the
7 following fees:

8 (1) Certificate of authority:

9 (A) Application for a certificate of authority:

10 \$900; and

11 (B) Issuance of certificate of authority: [~~\$150,~~

12 \$600;

13 (2) Organization of domestic mutual benefit societies:

14 (A) [~~Filing of application and documents required]~~

15 Application for [issuance of] a certificate of

16 registration: [~~\$150,~~ \$1,500; and

17 (B) Issuance of certificate of registration: \$150;

18 and

19 (3) For [~~renewal~~] all services subsequent to the issuance

20 of a certificate of authority, including extension of

21 the certificate of authority: [~~\$150~~] \$600 per year.

1 (b) No certificate of authority shall contain an
2 expiration date, but all certificates of authority must be
3 extended from time to time in order to continue to be valid.
4 When the commissioner issues or extends a certificate of
5 authority, the commissioner shall determine the date prior to
6 which the certificate of authority must be extended and shall so
7 notify the insurer in writing. This date is called the
8 extension date. The extension date shall be any date not less
9 than one year and not more than three years after date of issue
10 or extension of the certificate of authority. If the insurer
11 qualifies, its certificate of authority shall be extended. The
12 commissioner shall provide each holder of a certificate of
13 authority at least thirty days' advance written notice of the
14 applicable extension date. If the fee for the [~~renewal~~]
15 extension of the certificate of authority is not paid before or
16 on the [~~renewal~~] extension date, a penalty shall be imposed in
17 the amount of fifty per cent of the fee. The commissioner shall
18 provide notice in writing of the delinquency of [~~renewal~~]
19 extension and the imposition of the authorized penalty. If the
20 fee and the penalty are not paid within thirty days immediately
21 following the date of the notice of delinquency, the
22 commissioner may revoke the certificate of authority and may not

1 reinstate the certificate of authority until the fee and penalty
2 have been paid."

3 SECTION 10. Section 432:1-301, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) The applicant society that satisfies the requirements
6 of this chapter shall be issued a certificate of authority in
7 accordance with part II of article 3 of chapter 431. Societies
8 that are currently authorized to transact business in this State
9 may continue to transact business until August 16, 2013. The
10 authority of societies and all societies hereafter issued a
11 certificate of authority, may thereafter be [~~renewed annually,~~
12 ~~but in all cases shall terminate on the succeeding August 16.~~]
13 extended in accordance with section 432:1-108.

14 The applicant society may appeal a denial of its
15 application pursuant to chapter 91."

16 SECTION 11. Section 432:2-602, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§432:2-602 Reports.** (a) Every society transacting
19 business in this State shall annually, on or before March 1,
20 unless for cause shown such time has been extended by the
21 commissioner, file with the commissioner a true statement of its
22 financial condition, transactions and affairs for the preceding

1 calendar year [~~and pay a fee of \$7.50 for filing same~~]. The
2 statement shall be in general form and context as approved by
3 the National Association of Insurance Commissioners for
4 fraternal benefit societies and as supplemented by additional
5 information required by the commissioner.

6 (b) As part of the annual statement required, each society
7 shall, on or before March 1, file with the commissioner a
8 valuation of its certificates in force on December 31 last
9 preceding, provided the commissioner may, in the commissioner's
10 discretion for cause shown, extend the time for filing the
11 valuation for not more than two calendar months. The valuation
12 shall be done in accordance with the standards specified in
13 section 432:2-601. The valuation and underlying data shall be
14 certified by a qualified actuary or, at the expense of the
15 society, verified by the actuary of the department of insurance
16 of the state of domicile of the society.

17 (c) A society neglecting to file the annual statement in
18 the form and within the time provided by this section shall be
19 liable for a penalty of \$100 for each day during which the
20 neglect continues, and, upon notice by the commissioner to that
21 effect, its authority to do business in this State shall cease
22 while the default continues.

1 ~~[(d) All fees and penalties collected pursuant to this~~
2 ~~section and section 432:2-603 and penalties collected pursuant~~
3 ~~to section 432:2-703 shall be deposited to the credit of the~~
4 ~~compliance resolution fund.] "~~

5 SECTION 12. Section 432:2-603, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§432:2-603 Annual license.** ~~[(a)]~~ Societies that are now
8 authorized to transact business in this State may continue to
9 transact business until ~~[May 1 next succeeding July 1, 1988.~~
10 ~~The authority of societies and all societies hereafter licensed,~~
11 ~~may thereafter be renewed annually, but in all cases to~~
12 ~~terminate on the succeeding May 1. However, a license so issued~~
13 ~~shall continue in full force and effect until the new license is~~
14 ~~issued or specifically refused. For each license or renewal~~
15 ~~subject to this section, the society shall pay the commissioner~~
16 ~~\$7.50. A duly certified copy or duplicate of the license shall~~
17 ~~be prima facie evidence that the licensee is a fraternal benefit~~
18 ~~society within the meaning of this article.~~

19 ~~(b) If the license fee is not paid by May 1, the fee shall~~
20 ~~be increased by a penalty in the amount of fifty per cent of the~~
21 ~~fee. If the fee and the penalty are not paid within the thirty~~
22 ~~days immediately following the extension date, the commissioner~~

1 ~~may revoke the license until the fee and penalty have been~~
2 ~~paid.]~~ August 16, 2016. The authority of societies and all
3 societies hereafter issued a certificate of authority, may
4 thereafter be extended in accordance with section 432:2- ."

5 SECTION 13. Section 432:2-701, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Service shall only be made upon the commissioner,
8 [H]or[H] if absent, upon the person in charge of the
9 commissioner's office. It shall be made in duplicate and shall
10 constitute sufficient service upon the society. When legal
11 process against a society is served upon the commissioner, the
12 commissioner shall forthwith forward one of the duplicate copies
13 by [~~registered~~] certified mail, prepaid, directed to the
14 secretary or corresponding officer. No such service shall
15 require a society to file its answer, pleading or defense in
16 less than thirty days from the date of mailing the copy of the
17 service to a society. Legal process shall not be served upon a
18 society except in the manner herein provided. At the time of
19 serving any process upon the commissioner, the plaintiff or
20 complainant in the action shall pay to the commissioner a fee of
21 [~~\$7.50.~~] \$25.00."

1 SECTION 14. Section 432D-17, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) The commissioner shall collect, in advance, the
4 following fees:

5 (1) [~~For filing an application~~] Certificate of authority:

6 (A) Application for a certificate of authority [~~or~~
7 amendment thereto, \$600,]: \$900; and

8 (B) Issuance of certificate of authority: \$600; and

9 (2) For [~~renewal~~] all services subsequent to the issuance
10 of certificate of authority, including extension of
11 the certificate of authority [~~, \$400~~]: \$600 per year.

12 (b) No certificate of authority shall contain an
13 expiration date, but all certificates of authority must be
14 extended from time to time in order to continue to be valid.
15 When the commissioner issues or extends a certificate of
16 authority, the commissioner shall determine the date prior to
17 which the certificate of authority must be extended and shall so
18 notify the insurer in writing. This date is called the
19 extension date. The extension date shall be any date not less
20 than one year and not more than three years after date of issue
21 or extension of the certificate of authority. If the insurer
22 qualifies, its certificate of authority shall be extended. The

1 commissioner shall provide each holder of a certificate of
2 authority at least thirty days' advance written notice of the
3 applicable extension date. If the fee for the extension of the
4 certificate of authority is not paid before or on the extension
5 date, a penalty shall be imposed in the amount of fifty per cent
6 of the fee. The commissioner shall provide notice in writing of
7 the delinquency of extension and the imposition of the
8 authorized penalty. If the fee and the penalty are not paid
9 within thirty days immediately following the [~~extension~~] date[~~7~~]
10 of the notice of delinquency, the commissioner may revoke the
11 certificate of authority and [~~shall~~] may not reinstate the
12 certificate of authority until the fee and penalty have been
13 paid."

14 SECTION 15. Section 432E-36, Hawaii Revised Statutes, is
15 amended by amending subsection (g) to read as follows:

16 "(g) Except for a request for an expedited external review
17 made pursuant to subsection (b), within three business days
18 after the date of receipt of the request, the commissioner shall
19 notify the health carrier that the enrollee has requested an
20 expedited external review pursuant to this section. Within five
21 business days following the date of receipt of notice, the
22 health carrier shall determine whether:

1 (1) The individual is or was an enrollee in the health
2 benefit plan at the time the health care service or
3 treatment was recommended or requested or, in the case
4 of a retrospective review, was an enrollee in the
5 health benefit plan at the time the health care
6 service or treatment was provided;

7 (2) The recommended or requested health care service or
8 treatment that is the subject of the adverse action:

9 (A) Would be a covered benefit under the enrollee's
10 health benefit plan but for the health carrier's
11 determination that the service or treatment is
12 experimental or investigational for the
13 enrollee's particular medical condition; and

14 (B) Is not explicitly listed as an excluded benefit
15 under the enrollee's health benefit plan;

16 (3) The enrollee's treating physician or treating advanced
17 practice registered nurse has certified in writing
18 that:

19 (A) Standard health care services or treatments have
20 not been effective in improving the condition of
21 the enrollee;

1 (B) Standard health care services or treatments are
2 not medically appropriate for the enrollee; or

3 (C) There is no available standard health care
4 service or treatment covered by the health
5 carrier that is more beneficial than the health
6 care service or treatment that is the subject of
7 the adverse action;

8 (4) The enrollee's treating physician or treating advanced
9 practice registered nurse:

10 (A) Has recommended a health care service or
11 treatment that the physician or advanced practice
12 registered nurse certifies, in writing, is likely
13 to be more beneficial to the enrollee, in the
14 physician's or advanced practice registered
15 nurse's opinion, than any available standard
16 health care services or treatments; or

17 (B) Who is a licensed, board certified or board
18 eligible physician qualified to practice in the
19 area of medicine appropriate to treat the
20 enrollee's condition, or who is an advanced
21 practice registered nurse qualified to treat the
22 enrollee's condition, has certified in writing

1 that scientifically valid studies using accepted
2 protocols demonstrate that the health care
3 service or treatment that is the subject of the
4 adverse action is likely to be more beneficial to
5 the enrollee than any available standard health
6 care services or treatments;

7 (5) The enrollee has exhausted the health carrier's
8 internal appeals process or the enrollee is not
9 required to exhaust the health carrier's internal
10 appeals process pursuant to section 432E-33(b); and

11 (6) The enrollee has provided all the information and
12 forms required by the commissioner that are necessary
13 to process an external review, including the release
14 form and disclosure of conflict of interest
15 information as provided under section [~~432E-5.~~] 432E-
16 33(a)."

17 SECTION 16. Section 432G-12, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The commissioner shall collect, in advance, the
20 following fees:

21 (1) [~~For filing an application~~] Certificate of authority:

1 (A) Application for a certificate of authority [~~or~~
2 ~~amendment thereto, \$600,~~]: \$900; and

3 (B) Issuance of certificate of authority: \$600; and

4 (2) For all services subsequent to the issuance of a
5 certificate of authority, including extension of the
6 certificate of authority [~~, \$400,~~]: \$600 per year."

7 SECTION 17. Section 432G-12, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) No certificate of authority shall contain an
10 expiration date, but all certificates of authority [~~shall~~] must
11 be extended from time to time in order to continue to be valid.
12 When the commissioner issues or extends a certificate of
13 authority, the commissioner shall determine the date prior to
14 which the certificate of authority [~~is next required to~~] must be
15 extended [~~, the extension date,~~] and shall so notify the insurer
16 [~~holding the certificate of authority~~] in writing. This date is
17 called the extension date. The extension date shall be any date
18 not less than one year and not more than three years after date
19 of issue or extension of the certificate of authority. If the
20 insurer qualifies, its certificate of authority shall be
21 extended. The commissioner shall provide each holder of a
22 certificate of authority at least thirty days' advance written

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1 notice of the applicable extension date. If the fee for the
2 extension of the certificate of authority is not paid before or
3 on the extension date, a penalty shall be imposed in the amount
4 of fifty per cent of the fee. The commissioner shall provide
5 notice in writing of the delinquency of extension and the
6 imposition of the authorized penalty. If the fee and the
7 penalty are not paid within thirty days immediately following
8 the ~~[extension]~~ date~~[,]~~ of the notice of delinquency, the
9 commissioner may ~~[suspend]~~ revoke the certificate of authority
10 and ~~[shall]~~ may not reinstate the certificate of authority until
11 the fee and penalty have been paid."

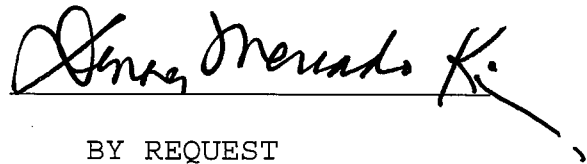
12 SECTION 18. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 19. This Act shall take effect upon its approval.

15

16

INTRODUCED BY:


BY REQUEST

17

Report Title:

Insurance

Description:

Updates title 24 of the Hawaii Revised Statutes relating to insurance.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.

PURPOSES: To update title 24 of the Hawaii Revised Statutes (HRS), relating to insurance, by:

- (1) Adding two new sections to chapter 431K to charge purchasing groups and risk retention groups an initial registration fee and annual service fee;
- (2) Adding a new section to chapter 432, article 2, part I to charge fraternal benefit societies (FBSs) fees for issuance and extensions of certificates of authority;
- (3) Amending section 431:2D-102 to amend the definition of "market conduct examination";
- (4) Amending section 431:5-307(e), (f), (h)-(j), and (n) to replace certain instances of "accident and health" and "accident and health or sickness" with "disability income" or "disability income benefits";
- (5) Amending section 431:7-101(a) and (c) to clarify: 1) insurers' fees for applications and issuance of certificates of authority; and 2) that written notice shall be provided to insurers and that action may be taken 30 days from the date of notice of delinquency;
- (6) Amending section 431:10-102 to amend the definitions of "contract" and "insurer";

- (7) Amending section 431K-3 to remove the requirement that foreign risk retention groups must file financial statements with the Insurance Division;
- (8) Amending section 432:1-108(a) and (b) to: 1) increase fees charged to mutual benefit societies (MBSs) for applications and issuance of certificates of authority, to maintain consistency with applicable fees for insurers in chapter 431; and 2) clarify that written notice of delinquency shall be provided to MBSs;
- (9) Amending section 432:1-301(d) to clarify MBS extensions of certificates of authority must comply with section 432:1-108;
- (10) Amending section 432:2-602 by deleting subsection (d), as the newly created fees section for FBSs addresses depositing fees and penalties collected into the compliance resolution fund;
- (11) Amending section 432:2-603 by referencing newly created section for FBS fees and that allows for extensions of certificates of authority;
- (12) Amending section 432:2-701(b) by conforming the service of process fee for FBSs to that of authorized insurers;
- (13) Amending section 432D:17(a) and (b) to: 1) increase fees charged for health maintenance organizations (HMOs) for applications and issuance of certificates of authority, to maintain consistency with applicable fees for insurers in chapter 431; and 2) clarify that written notice of delinquency shall be provided to HMOs and that action may be taken 30 days from the date of notice of delinquency;

- (14) Amending section 432E-36(g) to state that the release form and disclosure of conflict of interest information is provided under section 432E-33(a);
- (15) Amending section 432G-12(a) and (b) to:
 - 1) charge dental insurers fees for applications and issuance of certificates of authority, to maintain consistency with applicable fees for insurers in chapter 431; and 2) clarify that written notice of delinquency shall be provided to dental insurers and that action may be taken 30 days from the date of notice of delinquency; and
- (16) Making technical, nonsubstantive amendments for clarity and consistency.

MEANS:

Add two new sections to chapter 431K, HRS, and a new section to article 2, part I, chapter 432, HRS, and amend sections 431:2D-102; 431:5-307(e), (f), (h)-(j), and (n); 431:7-101(a) and (c); 431:10-102; 431K-3; 432:1-108(a) and (b); 432:1-301(d); 432:2-602; 432:2-603; 432:2-701(b); 432D:17(a) and (b); 432E-36(g); and 432G:12(a) and (b), HRS.

JUSTIFICATION:

- (1) This bill makes consistent fees charged on all applications and services the Insurance Division provides to purchasing groups, risk retention groups, insurers subject to chapter 431, FBSs, MBSSs, HMOs, and dental insurers and recovers certain administrative costs allocated to such processes and services.

The Insurance Division does not currently charge any fees for services provided to purchasing groups and risk retention groups. In contrast, other states impose fees on purchasing

groups, as shown in the non-inclusive list below:

State	Fees
CA	\$405 initial, \$200 annual renewal
UT	\$300 initial, \$250 annual renewal
OR	\$100 initial
NJ	\$100 initial
NY	\$100 initial
LA	\$100 initial

The fees proposed in this bill for purchasing groups and risk retention groups are reasonable in light of the fees other states charge purchasing groups, the services the Insurance Division provides to purchasing groups and risk retention groups, and the fact that work done for risk retention groups is comparable to that done for purchasing groups.

With respect to FBSs, MBSSs, HMOs, and dental insurers, this bill proposes fees consistent with those charged insurers subject to chapter 431. The Insurance Division does not currently charge any fees for services provided to FBSs. The fees of FBSs, MBSSs, HMOs, and dental insurers will also cover costs arising from the Insurance Division's review of the applications and extensions of certificates of authority of FBSs, MBSSs, HMOs, and dental insurers.

Notably, this bill uses the term "extension date" to conform to section 431:3-214, HRS, which states that "[n]o certificate of authority [of insurers] shall contain an expiration date, but all certificates of authority must be extended from time to time in order to continue to be valid." The statute further provides, "The extension date

shall be any date not less than one year and not more than three years after date of issue or extension of the certificate of authority. If the insurer qualifies, its certificate of authority shall be extended."

- (2) This bill amends section 431:5-307, HRS, to conform that section to the National Association of Insurance Commissioner's ("NAIC") Standard Valuation Model Law. The term "disability income" and "disability income benefits" are the correct terms to use and better reflect the meaning intended by the NAIC's Standard Valuation Model Law.
- (3) This bill amends the definitions of "contract" and "insurer" in section 431:10-102, HRS, to clarify that readability of insurance contracts in article 10, chapter 431, HRS, applies to accident and health or sickness contracts and mutual benefit society contracts. Although article 10, chapter 431, HRS, applies to these contracts, it does not clearly state its applicability to them.
- (4) This bill repeals the requirement in section 431K-3(2)(A), HRS, that foreign risk retention groups file financial statements with the Insurance Division. Since this information is filed with the NAIC and can be accessed electronically, this amendment would eliminate unnecessary paper filings and increase physical storage space.

Impact on the public: This bill will make HRS title 24 provisions more understandable, technically correct, and consistent, and it will decrease the cost and burden of regulatory compliance.

Impact on the department and other agencies:
These amendments streamline operations, improve administrative efficiency, and reduce confusion and inefficiency in implementing Hawaii's insurance laws.

GENERAL FUND: None.

OTHER FUNDS: Compliance resolution fund.

PPBS PROGRAM
DESIGNATION: CCA 106.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.