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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 PART I

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

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

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



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

3 **§431K-B Registration fees and service fees of risk**  
4 **retention groups not chartered in this State.** (a) A risk  
5 retention group chartered in states other than this State and  
6 seeking to do business as a risk retention group in this State  
7 shall pay an initial registration fee of \$300 to the  
8 commissioner and shall thereafter pay annually a service fee of  
9 \$150 on or before August 16 of each year in which the risk  
10 retention group intends to do business in this State.

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



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

4 "§432:2- Fees. (a) The commissioner shall collect, in  
5 advance, the following fees:

6 (1) Certificate of authority:

7 (A) Application for a certificate of authority:

8 \$900;

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

10 (2) Organization of domestic fraternal benefit societies:

11 (A) Application for a preliminary certificate of

12 authority: \$1,500;

13 (B) Issuance of preliminary certificate of authority:

14 \$150; and

15 (3) For all services subsequent to the issuance of a

16 certificate of authority, including extension of the

17 certificate of authority: \$600 per year.

18 (b) No certificate of authority shall contain an

19 expiration date, but all certificates of authority shall be

20 extended by the commissioner from time to time in order to

21 continue to be valid. When the commissioner issues or extends a



1 certificate of authority, the commissioner shall determine the  
2 date prior to which the certificate of authority shall be  
3 extended and shall so notify the insurer in writing. This date  
4 is called the extension date. The extension date shall be any  
5 date not less than one year and not more than three years after  
6 date of issue or extension of the certificate of authority. If  
7 the insurer qualifies, its certificate of authority shall be  
8 extended. The commissioner shall provide each holder of a  
9 certificate of authority at least thirty days' advance written  
10 notice of the applicable extension date. If the fee for the  
11 extension of the certificate of authority is not paid before or  
12 on the extension date, a penalty shall be imposed in the amount  
13 of fifty per cent of the fee. The commissioner shall provide  
14 notice in writing of the delinquency of extension and the  
15 imposition of the authorized penalty. If the fee and the  
16 penalty are not paid within thirty days immediately following  
17 the date of the notice of delinquency, the commissioner may  
18 revoke the certificate of authority and may not reinstate the  
19 certificate of authority until the fee and penalty have been  
20 paid.



1        (c) All fees and penalties collected pursuant to this  
2 section shall be deposited to the credit of the compliance  
3 resolution fund."

4        SECTION 3. Section 431:2D-102, Hawaii Revised Statutes, is  
5 amended by amending the definition of "market conduct  
6 examination" to read as follows:

7        "Market conduct examination" means the examination of the  
8 insurance operations of an insurer licensed to do business in  
9 this State to evaluate compliance with the applicable laws and  
10 rules of this State. A market conduct examination may be either  
11 a comprehensive examination or a targeted examination. A market  
12 conduct examination is separate and distinct from a financial  
13 examination of an insurer performed pursuant to article [57] 2,  
14 but may be conducted at the same time."

15        SECTION 4. Section 431:3-214, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17        "(a) No certificate of authority shall contain an  
18 expiration date, but all certificates of authority [~~must~~] shall  
19 be extended by the commissioner from time to time in order to  
20 continue to be valid. When the commissioner issues or extends a  
21 certificate of authority, the commissioner shall determine the



1 date prior to which the certificate of authority must be  
 2 extended and shall so notify the insurer in writing. This date  
 3 is called the extension date. The extension date shall be any  
 4 date not less than one year and not more than three years after  
 5 date of issue or extension of the certificate of authority. If  
 6 the insurer qualifies, its certificate of authority shall be  
 7 extended. The commissioner shall provide each holder of a  
 8 certificate of authority at least thirty days' advance written  
 9 notice of the applicable extension date."

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

12 1. By amending subsections (e) and (f) to read:  
 13 "(e) Except as otherwise provided in subsections (f), (g),  
 14 and (n), the minimum standard for the valuation of policies and  
 15 contracts issued prior to January 1, 1956, shall be that  
 16 provided by the laws in effect immediately prior to January 1,  
 17 1956.

18 Except as otherwise provided in subsections (f), (g), and  
 19 (n), the minimum standard for the valuation of all policies and  
 20 contracts issued on or after January 1, 1956, shall be the  
 21 commissioner's reserve valuation methods defined in subsections



1 (h), (i), (l), and (n), three and one-half per cent interest, or  
2 in the case of life insurance policies and contracts, other than  
3 annuity and pure endowment contracts, issued on or after June 1,  
4 1976, four per cent interest for policies issued prior to  
5 June 1, 1979, five and one-half per cent interest for single  
6 premium life insurance policies, and four and one-half per cent  
7 interest for all other policies issued on or after June 1, 1979,  
8 and the following tables:

9 (1) For ordinary policies of life insurance issued on the  
10 standard basis, excluding any [~~accident and health~~]  
11 disability income and accidental death benefits in the  
12 policies: the Commissioners 1941 Standard Ordinary  
13 Mortality Table for the policies issued prior to the  
14 operative date of section 431:10D-104(e)(6), the  
15 Commissioners 1958 Standard Ordinary Mortality Table  
16 for the policies issued on or after the operative date  
17 of section 431:10D-104(e)(6) and prior to the  
18 operative date of section [†]431:10D-104(e)(8)[†];  
19 provided that for any category of the policies issued  
20 on female risks, all modified net premiums and present  
21 values referred to in this section may be calculated



1 according to an age not more than six years younger  
2 than the actual age of the insured; and for the  
3 policies issued on or after the operative date of  
4 section 431:10D-104(e)(8):

5 (A) The Commissioners 1980 Standard Ordinary  
6 Mortality Table;

7 (B) At the election of the company for any one or  
8 more specified plans of life insurance, the  
9 Commissioners 1980 Standard Ordinary Mortality  
10 Table with Ten-Year Select Mortality Factors;

11 (C) Any ordinary mortality table, adopted after 1980  
12 by the National Association of Insurance  
13 Commissioners, that is approved by rules adopted  
14 by the commissioner for use in determining the  
15 minimum standard of valuation for the policies;

16 (2) For industrial life insurance policies issued on the  
17 standard basis, excluding any [~~accident and health~~]  
18 disability income and accidental death benefits in the  
19 policies: the 1941 Standard Industrial Mortality  
20 Table for the policies issued prior to the operative  
21 date of section 431:10D-104(e)(7), and for policies





1 issued on or after the operative date of section  
2 431:10D-104(e)(7), the Commissioners 1961 Standard  
3 Industrial Mortality Table or any industrial mortality  
4 table adopted after 1980 by the National Association  
5 of Insurance Commissioners that is approved by rules  
6 adopted by the commissioner for use in determining the  
7 minimum standard valuation for the policies;

8 (3) For individual annuity and pure endowment contracts,  
9 excluding any [~~accident and health~~] disability income  
10 and accidental death benefits in the policies: the  
11 1937 Standard Annuity Mortality Table, or at the  
12 option of the company, the Annuity Mortality Table for  
13 1949, ultimate, or any modification of either of these  
14 tables approved by the commissioner;

15 (4) For group annuity and pure endowment contracts,  
16 excluding any [~~accident and health~~] disability income  
17 and accidental death benefits in the policies: the  
18 Group Annuity Mortality Table for 1951, a modification  
19 of the table approved by the commissioner, or at the  
20 option of the company, any of the tables or



1 modifications of tables specified for individual  
2 annuity and pure endowment contracts;  
3 (5) For total and permanent disability income benefits in  
4 or supplementary to ordinary policies or contracts:  
5 for policies or contracts issued after December 31,  
6 1965, the tables of period 2 disablement rates and the  
7 1930 to 1950 termination rates of the 1952 disability  
8 study of the Society of Actuaries, with due regard to  
9 the type of benefit or any tables of disablement rates  
10 and termination rates adopted after 1980 by the  
11 National Association of Insurance Commissioners, that  
12 are approved by rules adopted by the commissioner for  
13 use in determining the minimum standard of valuation  
14 for those policies; for policies or contracts issued  
15 after December 31, 1960, and prior to January 1, 1966,  
16 either the tables or, at the option of the company,  
17 the Class (3) Disability Table (1926); and for  
18 policies issued prior to January 1, 1961, the Class  
19 (3) Disability Table (1926). Any table, for active  
20 lives, shall be combined with a mortality table



1 permitted for calculating the reserves for life  
2 insurance policies;

3 (6) For accidental death benefits in or supplementary to  
4 policies issued after December 31, 1965: the 1959  
5 Accidental Death Benefits Table or any accidental  
6 death benefits 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 of valuation  
10 for those policies, for policies issued after  
11 December 31, 1960, and prior to January 1, 1966,  
12 either that table or, at the option of the company,  
13 the Inter-company Double Indemnity Mortality Table.  
14 Either table shall be combined with a mortality table  
15 for calculating the reserves for life insurance  
16 policies; and

17 (7) For group life insurance, life insurance issued on the  
18 substandard basis, and other special benefits: tables  
19 approved by the commissioner.

20 (f) Except as provided in subsection (g), the minimum  
21 standard of valuation for individual annuity and pure endowment

1 contracts issued on or after the operative date of this  
2 subsection and for annuities and pure endowment contracts  
3 purchased on or after the operative date under group annuity and  
4 pure endowment contracts, shall be the commissioner's reserve  
5 valuation methods defined in subsections (h) and (i) and the  
6 following tables and interest rates:

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

16 (2) For individual single premium immediate annuity  
17 contracts issued on or after June 1, 1979, excluding  
18 any [~~accident and health~~] disability income and  
19 accidental death benefits in the contracts: the 1971  
20 Individual Annuity Mortality Table or any individual  
21 annuity mortality table adopted after 1980 by the



1 National Association of Insurance Commissioners, that  
2 is approved by rules adopted by the commissioner for  
3 use in determining the minimum standard valuation for  
4 these contracts, or any modification of these tables  
5 approved by the commissioner, and seven and one-half  
6 per cent interest;

7 (3) For individual annuity and pure endowment contracts  
8 issued on or after June 1, 1979, other than single  
9 premium immediate annuity contracts, excluding any  
10 [~~accident and health~~] disability income and accidental  
11 death benefits in those contracts: the 1971  
12 Individual Annuity Mortality Table or any individual  
13 annuity mortality table adopted after 1980 by the  
14 National Association of Insurance Commissioners, that  
15 is approved by rules adopted by the commissioner for  
16 use in determining the minimum standard of valuation  
17 for those contracts, or any modification of these  
18 tables approved by the commissioner, and five and one-  
19 half per cent interest for single premium deferred  
20 annuity and pure endowment contracts and four and one-



- 1 half per cent interest for all other individual  
2 annuity and pure endowment contracts;
- 3 (4) For annuities and pure endowment contracts purchased  
4 prior to June 1, 1979, under group annuity and pure  
5 endowment contracts, excluding any [~~accident and~~  
6 ~~health~~] disability income and accidental death  
7 benefits purchased under those contracts: the 1971  
8 Group Annuity Mortality Table or any modification of  
9 this table approved by the commissioner, and six per  
10 cent interest; and
- 11 (5) For annuities and pure endowment contracts purchased  
12 on or after June 1, 1979, under group annuity and pure  
13 endowment contracts, excluding any [~~accident and~~  
14 ~~health~~] disability income and accidental death  
15 benefits purchased under those contracts: the 1971  
16 Group Annuity Mortality Table[7] or any group annuity  
17 mortality table adopted after 1980 by the National  
18 Association of Insurance Commissioners, that is  
19 approved by rules adopted by the commissioner for use  
20 in determining the minimum standard of valuation for  
21 the annuities and pure endowment contracts, or any



1 modification of these tables approved by the  
2 commissioner, and seven and one-half per cent  
3 interest.

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

11 2. By amending subsections (h) through (j) to read:

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



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

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

20 (B) A net one-year term premium for the benefits  
21 provided for in the first policy year;





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



1 (B) All present values of benefits and premiums being  
2 determined without reference to premiums or  
3 benefits provided for by the policy after the  
4 assumed ending date;

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

7 (D) The cash surrender value provided on that date  
8 being considered as an endowment benefit.

9 In making the above comparison, the mortality and  
10 interest bases stated in subsections (e) and (g) shall  
11 be used; and

12 (3) Reserves according to the commissioner's reserve  
13 valuation method shall be calculated by a method  
14 consistent with the principles of paragraphs (1) and  
15 (2) for:

16 (A) Life insurance policies providing for a varying  
17 amount of insurance or requiring the payment of  
18 varying premiums;

19 (B) Group annuity and pure endowment contracts  
20 purchased under a retirement plan or plan of  
21 deferred compensation, established or maintained



1 by an employer (including a partnership or sole  
2 proprietorship) or by an employee organization,  
3 or by both, other than a plan providing  
4 individual retirement accounts or individual  
5 retirement annuities under section 408 of the  
6 Internal Revenue Code, as now or hereafter  
7 amended;

8 (C) [~~Accident and health or sickness~~] Disability  
9 income and accidental death benefits in all  
10 policies and contracts; and

11 (D) All other benefits, except life insurance and  
12 endowment benefits in life insurance policies and  
13 benefits provided by all other annuity and pure  
14 endowment contracts.

15 (i) This subsection shall apply to all annuity and pure  
16 endowment contracts other than group annuity and pure endowment  
17 contracts purchased under a retirement plan or plan of deferred  
18 compensation, established or maintained by an employer  
19 (including a partnership or sole proprietorship) or by an  
20 employee organization, or by both, other than a plan providing  
21 individual retirement accounts or individual retirement



1 annuities under section 408 of the Internal Revenue Code, as now  
2 or hereafter amended.

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



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

13 3. By amending subsection (n) to read:

14 "(n) For accident and health insurance contracts issued on  
15 or after the operative date of the valuation manual, the  
16 standard prescribed in the valuation manual is the minimum  
17 standard of valuation required under subsection (b)(2). For  
18 accident and health [~~or sickness~~] insurance contracts issued on  
19 or after January 1, 1956, and prior to the operative date of the  
20 valuation manual, the minimum standard of valuation is the  
21 standard adopted by the commissioner by rule."



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

3 1. By amending subsection (a) to read:

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

6 (1) Certificate of authority: [~~Issuance.....~~ \$900]

7 (A) Application for a certificate of authority...\$900

8 (B) Issuance of certificate of authority .....\$600

9 (2) Organization of domestic insurers and affiliated  
10 corporations:

11 (A) Application [~~and all other papers required~~] for  
12 [~~issuance of~~] a solicitation permit[~~r~~  
13 ~~filing~~]..... \$1,500

14 (B) Issuance of solicitation permit..... \$150

15 (3) Producer's license:

16 (A) Issuance, regular license..... \$50

17 (B) Issuance, temporary license..... \$50

18 (4) Nonresident producer's license: Issuance..... \$75

19 (5) Independent adjuster's license: Issuance..... \$75

20 (6) Public adjuster's license: Issuance..... \$75

21 (7) Claims adjuster's limited license: Issuance.... \$75



- 1 (8) Independent bill reviewer's license:
- 2 Issuance..... \$80
- 3 (9) Limited producer's license: Issuance..... \$60
- 4 (10) Managing general agent's license: Issuance.... \$75
- 5 (11) Reinsurance intermediary's license:
- 6 Issuance..... \$75
- 7 (12) Surplus lines broker's license: Issuance..... \$150
- 8 (13) Service contract provider's registration:
- 9 Issuance..... \$75
- 10 (14) Approved course provider certificate:
- 11 Issuance..... \$100
- 12 (15) Approved continuing education course certificate:
- 13 Issuance..... \$30
- 14 (16) Vehicle protection product warrantor's registration:
- 15 Issuance..... \$75
- 16 (17) Criminal history record check; fingerprinting: For
- 17 each criminal history record check and fingerprinting
- 18 check, a fee to be established by the commissioner.
- 19 (18) Limited line motor vehicle rental company producer's
- 20 license: Issuance..... \$1,000
- 21 (19) Legal service plan certificate of authority:



1 Issuance before July 1, 2014..... \$1,000

2 Issuance on or after July 1, 2014..... \$500

3 (20) Life settlement provider's license:

4 Issuance before July 1, 2014..... \$150

5 Issuance on or after July 1, 2014..... \$75

6 (21) Life settlement broker's license:

7 Issuance before July 1, 2014..... \$150

8 Issuance on or after July 1, 2014..... \$75

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

11 2. By amending subsection (c) to read:

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





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

8 SECTION 7. Section 431:10-102, Hawaii Revised Statutes, is  
9 amended by amending the definitions of "contract" and "insurer"  
10 to read as follows:

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

16 "Insurer" means any company, corporation, exchange,  
17 society, or association organized on the stock, mutual,  
18 assessment, or fraternal plan of insurance and authorized under  
19 the insurance laws of this State to issue life, disability,  
20 credit life, credit disability, homeowners, and motor vehicle  
21 insurance, including but not limited to fraternal benefit



1 societies, nonprofit health service corporations, nonprofit  
2 hospital service corporations, [~~and~~] health maintenance  
3 organizations[~~-~~], and mutual benefit societies."

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

6 **"§431K-3 Risk retention groups not chartered in this**  
7 **State.** Risk retention groups chartered in states other than  
8 this State and seeking to do business as a risk retention group  
9 in this State shall observe and abide by the laws of this State  
10 as follows:

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

13 (A) A statement identifying the state or states in  
14 which the risk retention group is chartered and  
15 licensed as a liability insurance company, date  
16 of chartering, its principal place of business,  
17 and other information, including information on  
18 its membership, as the commissioner of this State  
19 may require to verify that the risk retention  
20 group is qualified as a risk retention group;



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



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

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

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

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

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

19 (A) All premiums paid for coverages within this State  
 20 to risk retention groups shall be subject to  
 21 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



1           conduct, the injunction shall be obtained from a court  
2           of competent jurisdiction;

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

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

19                                   NOTICE

20           This policy is issued by your risk retention group.  
21           Your risk retention group may not be subject to all of



1 the insurance laws and rules of your state. State  
2 insurance insolvency guaranty funds are not available  
3 for your risk retention group;

4 (7) The following acts by a risk retention group are  
5 prohibited:

6 (A) The solicitation or sale of insurance by a risk  
7 retention group to any person who is not eligible  
8 for membership in the group; and

9 (B) The solicitation or sale of insurance by, or  
10 operation of, a risk retention group that is in a  
11 hazardous financial condition or is financially  
12 impaired;

13 (8) No risk retention group shall be allowed to do  
14 business in this State if an insurance company is  
15 directly or indirectly a member or owner of the risk  
16 retention group, other than in the case of a risk  
17 retention group all of whose members are insurance  
18 companies;

19 (9) No risk retention group may offer insurance policy  
20 coverage prohibited by chapter 431 or declared  
21 unlawful by the highest court of this State; and



1 (10) A risk retention group not chartered in this State and  
 2 doing business in this State shall comply with a  
 3 lawful order issued in a voluntary dissolution  
 4 proceeding or in a delinquency proceeding commenced by  
 5 any state insurance commissioner if there has been a  
 6 finding of financial impairment after an examination  
 7 under paragraph (5)."

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

10 "~~§~~431K-9~~§~~ **Administrative and procedural authority**  
 11 **regarding risk retention groups and purchasing groups.** The  
 12 commissioner is authorized to make use of any of the powers  
 13 established under chapter 431 to enforce the laws of this State  
 14 as long as those powers are not specifically preempted by the  
 15 Product Liability Risk Retention Act of 1981, 15 U.S.C. §3901 et  
 16 seq., as amended by the Risk Retention Amendments of 1986, P.L.  
 17 99-563. This includes, but is not limited to, the  
 18 commissioner's administrative authority to investigate, issue  
 19 subpoenas, conduct depositions and hearings, issue orders, and  
 20 impose penalties. With regard to any investigation,  
 21 administrative proceedings, or litigation, the commissioner may





1 rely on the procedural law and rules of this State. The  
2 injunctive authority of the commissioner in regard to risk  
3 retention groups shall be restricted by the requirement that any  
4 injunction be issued by a court of competent jurisdiction. All  
5 penalties collected under this section and section 431K-A shall  
6 be deposited to the credit of the compliance resolution fund."

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

9 "~~§~~**431K-10**~~§~~ **Penalties.** A risk retention group which  
10 violates any provision of this chapter shall be subject to fines  
11 and penalties applicable to licensed insurers generally,  
12 including revocation of its license, the right to do business in  
13 this State, or both. All penalties collected pursuant to this  
14 section and section 431K-B shall be deposited to the credit of  
15 the compliance resolution fund."

16 SECTION 11. Section 432:1-102, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) Article 2, article 2D, parts II and IV of article 3,  
19 article 6, part III of article 7, article 9A, article 13,  
20 article 14G, and article 15 of chapter 431, sections 431:3-301,  
21 431:3-302, 431:3-303, 431:3-304, ~~and~~ 431:3-305, and 431:10-



1 102, and the powers granted by those provisions to the  
2 commissioner, shall apply to managed care plans, health  
3 maintenance organizations, or medical indemnity or hospital  
4 service associations that are owned or controlled by mutual  
5 benefit societies so long as the application in any particular  
6 case is in compliance with and is not preempted by applicable  
7 federal statutes and regulations."

8 SECTION 12. Section 432:1-108, Hawaii Revised Statutes, is  
9 amended by amending subsections (a) and (b) to read as follows:

10 "(a) The commissioner shall collect, in advance, the  
11 following fees:

12 (1) Certificate of authority:

13 (A) Application for a certificate of authority:

14 \$900; and

15 (B) Issuance of certificate of authority: [~~\$150~~]

16 \$600;

17 (2) Organization of domestic mutual benefit societies:

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

19 Application for [~~issuance of~~] a certificate of  
20 registration: [~~\$150~~] \$1,500; and



1 (B) Issuance of certificate of registration: \$150;  
2 and

3 (3) For [~~renewal~~] all services subsequent to the issuance  
4 of a certificate of authority, including extension of  
5 the certificate of authority: [~~\$150~~] \$600 per year.

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



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

9 SECTION 13. Section 432:1-301, Hawaii Revised Statutes, is  
10 amended by amending subsection (d) to read as follows:

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

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



1 SECTION 14. Section 432:2-602, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§432:2-602 Reports.** (a) Every society transacting  
4 business in this State shall annually, on or before March 1,  
5 unless for cause shown such time has been extended by the  
6 commissioner, file with the commissioner a true statement of its  
7 financial condition, transactions and affairs for the preceding  
8 calendar year [~~and pay a fee of \$7.50 for filing same~~]. The  
9 statement shall be in general form and context as approved by  
10 the National Association of Insurance Commissioners for  
11 fraternal benefit societies and as supplemented by additional  
12 information required by the commissioner.

13 (b) As part of the annual statement required, each society  
14 shall, on or before March 1, file with the commissioner a  
15 valuation of its certificates in force on December 31 last  
16 preceding[7]; provided that the commissioner may, in the  
17 commissioner's discretion for cause shown, extend the time for  
18 filing the valuation for not more than two calendar months. The  
19 valuation shall be done in accordance with the standards  
20 specified in section 432:2-601. The valuation and underlying  
21 data shall be certified by a qualified actuary or, at the



1 expense of the society, verified by the actuary of the  
2 department of insurance of the state of domicile of the society.

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

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

13 SECTION 15. Section 432:2-603, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§432:2-603 Annual license.** ~~[(a)]~~ Societies that are now  
16 authorized to transact business in this State may continue to  
17 transact business until ~~[May 1 next succeeding July 1, 1988.~~  
18 ~~The authority of societies and all societies hereafter licensed,~~  
19 ~~may thereafter be renewed annually, but in all cases to~~  
20 ~~terminate on the succeeding May 1. However, a license so issued~~  
21 ~~shall continue in full force and effect until the new license is~~



1 ~~issued or specifically refused. For each license or renewal~~  
2 ~~subject to this section, the society shall pay the commissioner~~  
3 ~~\$7.50. A duly certified copy or duplicate of the license shall~~  
4 ~~be prima facie evidence that the licensee is a fraternal benefit~~  
5 ~~society within the meaning of this article.~~

6 ~~(b) If the license fee is not paid by May 1, the fee shall~~  
7 ~~be increased by a penalty in the amount of fifty per cent of the~~  
8 ~~fee. If the fee and the penalty are not paid within the thirty~~  
9 ~~days immediately following the extension date, the commissioner~~  
10 ~~may revoke the license until the fee and penalty have been~~  
11 ~~paid.] August 16, 2016. The authority of societies and all~~  
12 ~~societies hereafter issued a certificate of authority, may~~  
13 ~~thereafter be extended in accordance with section 432:2- ."~~

14 SECTION 16. Section 432:2-701, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16 "(b) Service shall only be made upon the commissioner,  
17 [f]or[+] if absent, upon the person in charge of the  
18 commissioner's office. It shall be made in duplicate and shall  
19 constitute sufficient service upon the society. When legal  
20 process against a society is served upon the commissioner, the  
21 commissioner shall [f]or[+] immediately forward one of the



1 duplicate copies by [~~registered~~] certified mail, prepaid,  
 2 directed to the secretary or corresponding officer. No such  
 3 service shall require a society to file its answer, pleading or  
 4 defense in less than thirty days from the date of mailing the  
 5 copy of the service to a society. Legal process shall not be  
 6 served upon a society except in the manner herein provided. At  
 7 the time of serving any process upon the commissioner, the  
 8 plaintiff or complainant in the action shall pay to the  
 9 commissioner a fee of [~~\$7.50-~~] \$25."

10 SECTION 17. Section 432:2-703, Hawaii Revised Statutes, is  
 11 amended to read as follows:

12 **"§432:2-703 Penalties.** (a) Any person who wilfully makes  
 13 a false or fraudulent statement in or relating to an application  
 14 for membership or for the purpose of obtaining money from or a  
 15 benefit in any society, shall upon conviction be fined not less  
 16 than \$100 nor more than \$500 or imprisoned for not less than  
 17 thirty days nor more than one year, or both.

18 (b) Any person who wilfully makes a false or fraudulent  
 19 statement in any verified report or declaration under oath  
 20 required or authorized by this article, or of any material fact  
 21 or thing contained in a sworn statement concerning the death or





1 disability of an insured for the purpose of procuring payment of  
2 a benefit named in the certificate, shall be guilty of perjury  
3 and shall be subject to the penalties therefor prescribed by  
4 law.

5 (c) Any person who solicits membership for, or in any  
6 manner assists in procuring membership in, any society not  
7 licensed to do business in this State shall upon conviction be  
8 fined not less than \$50 nor more than \$200.

9 (d) Any person guilty of a wilful violation of, or neglect  
10 or refusal to comply with, the provisions of this article for  
11 which a penalty is not otherwise prescribed, shall upon  
12 conviction, be subject to a fine not exceeding \$200.

13 (e) All penalties collected pursuant to this section and  
14 section 432:2- shall be deposited to the credit of the  
15 compliance resolution fund."

16 SECTION 18. Section 432D-17, Hawaii Revised Statutes, is  
17 amended by amending subsections (a) and (b) to read as follows:

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

20 (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 [~~renewal~~] all services subsequent to the issuance  
5                     of certificate of authority, including extension of  
6                     the certificate of authority[~~, \$400~~]: \$600 per year.

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

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

10 SECTION 19. Section 432E-36, Hawaii Revised Statutes, is  
11 amended by amending subsection (g) to read as follows:

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

19 (1) The individual is or was an enrollee in the health  
20 benefit plan at the time the health care service or  
21 treatment was recommended or requested or, in the case



- 1 of a retrospective review, was an enrollee in the  
2 health benefit plan at the time the health care  
3 service or treatment was provided;
- 4 (2) The recommended or requested health care service or  
5 treatment that is the subject of the adverse action:
- 6 (A) Would be a covered benefit under the enrollee's  
7 health benefit plan but for the health carrier's  
8 determination that the service or treatment is  
9 experimental or investigational for the  
10 enrollee's particular medical condition; and
- 11 (B) Is not explicitly listed as an excluded benefit  
12 under the enrollee's health benefit plan;
- 13 (3) The enrollee's treating physician or treating advanced  
14 practice registered nurse has certified in writing  
15 that:
- 16 (A) Standard health care services or treatments have  
17 not been effective in improving the condition of  
18 the enrollee;
- 19 (B) Standard health care services or treatments are  
20 not medically appropriate for the enrollee; or



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

6 (4) The enrollee's treating physician or treating advanced  
7 practice registered nurse:

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

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



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

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

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

16 SECTION 20. Section 432G-12, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

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

20 (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 21. 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 be  
11           extended by the commissioner from time to time in order to  
12           continue to be valid. When the commissioner issues or extends a  
13           certificate of authority, the commissioner shall determine the  
14           date prior to which the certificate of authority [~~is next~~  
15           ~~required to~~] shall be extended[~~, the extension date,~~] and shall  
16           so notify the insurer [~~holding the certificate of authority~~] in  
17           writing. This date is called the extension date. The extension  
18           date shall be any date not less than one year and not more than  
19           three years after date of issue or extension of the certificate  
20           of authority. If the insurer qualifies, its certificate of  
21           authority shall be extended. The commissioner shall provide



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

PART II

14 SECTION 22. Chapter 431, Hawaii Revised Statutes, is  
 15 amended by adding a new section to article 14G to be  
 16 appropriately designated and to read as follows:

17 "§431:14G- Rerating. No person, business, or entity may  
 18 change or rerate any rate approved by the commissioner in any  
 19 subsequent transfer, sale, resale, or pass through of health  
 20 insurance issued by a managed care plan."





1 SECTION 23. Chapter 432, Hawaii Revised Statutes, is  
2 amended by adding a new section to article 1 to be appropriately  
3 designated and to read as follows:

4 "§432:1- Suspension, revocation, or denial of  
5 certificate of authority. (a) Any certificate of authority  
6 issued under this chapter may be suspended or revoked and any  
7 application for a certificate of authority may be denied if the  
8 commissioner finds that any of the conditions listed below  
9 exists:

10 (1) The mutual benefit society is operating significantly  
11 in contravention of its basic organizational document  
12 or in a manner contrary to that described in any other  
13 information submitted under section 432:1-301, unless  
14 amendments to the submissions have been filed with and  
15 approved by the commissioner;

16 (2) The mutual benefit society is no longer financially  
17 responsible and may reasonably be expected to be  
18 unable to meet its obligations to its members and  
19 beneficiaries or prospective members;

20 (3) The mutual benefit society has failed to correct,  
21 within the time prescribed by subsection (c), any



1           deficiency occurring due to the mutual benefit  
2           society's prescribed minimum net worth being impaired;  
3       (4) The mutual benefit society, or any person on its  
4           behalf, has advertised or merchandised its services in  
5           an untrue, misrepresentative, misleading, deceptive,  
6           or unfair manner;  
7       (5) The continued operation of the mutual benefit society  
8           would be hazardous to its members; or  
9       (6) The mutual benefit society has otherwise failed to  
10           substantially comply with this chapter.  
11       (b) In addition to, or in lieu of, suspension or  
12           revocation of a certificate of authority pursuant to this  
13           section, the commissioner may levy an administrative fine upon  
14           the mutual benefit society in an amount not less than \$500 and  
15           not more than \$50,000 pursuant to section 431:3-221.  
16       (c) The following shall pertain when insufficient net  
17           worth is maintained:  
18       (1) Whenever the commissioner finds that the net worth  
19           maintained by any mutual benefit society subject to  
20           this chapter is less than the minimum net worth  
21           required, the commissioner shall give written notice



1 to the mutual benefit society of the amount of the  
2 deficiency and require the mutual benefit society to:

3 (A) File with the commissioner a plan for correction  
4 of the deficiency acceptable to the commissioner;  
5 and

6 (B) Correct the deficiency within a reasonable time,  
7 not to exceed sixty days, unless an extension of  
8 time, not to exceed sixty additional days, is  
9 granted by the commissioner. The deficiency  
10 shall be deemed an impairment, and failure to  
11 correct the impairment in the prescribed time  
12 shall be grounds for suspension or revocation of  
13 the certificate of authority or for placing the  
14 mutual benefit society in conservation,  
15 rehabilitation, or liquidation; and

16 (2) Unless allowed by the commissioner, no mutual benefit  
17 society or person acting on its behalf, directly or  
18 indirectly, may renew, issue, or deliver any  
19 certificate, agreement, or contract of coverage in  
20 this State for which a premium is charged or  
21 collected, when the mutual benefit society writing the



1 coverage is impaired and the fact of the impairment is  
2 known to the mutual benefit society or to the person;  
3 provided that the existence of an impairment shall not  
4 prevent the issuance or renewal of a certificate,  
5 agreement, or contract when the member exercises an  
6 option granted under the plan to obtain a new,  
7 renewed, or converted coverage.

8 (d) A certificate of authority shall be suspended or  
9 revoked, an application for a certificate of authority denied,  
10 or an administrative fine imposed, only after compliance with  
11 the requirements of this section, including the following:

12 (1) Suspension or revocation of a certificate of  
13 authority, denial of an application, or imposition of  
14 an administrative fine pursuant to this section shall  
15 be by written order and shall be sent to the mutual  
16 benefit society or applicant by certified or  
17 registered mail. The written order shall state the  
18 grounds, charges, or conduct on which suspension,  
19 revocation, denial, or administrative penalty is  
20 based. The mutual benefit society or applicant, in



1           writing, may request a hearing pursuant to section  
2           431:2-308; and

3           (2) If the mutual benefit society or applicant requests a  
4           hearing pursuant to this section, the commissioner  
5           shall issue a written notice of hearing and send it to  
6           the mutual benefit society or applicant by certified  
7           or registered mail and to the director of labor and  
8           industrial relations stating:

9           (A) A specific time for the hearing, which may not be  
10           less than twenty nor more than thirty days after  
11           mailing of the notice of hearing; and

12           (B) A specific place for the hearing.

13           (e) When the certificate of authority of a mutual benefit  
14 society is suspended, the mutual benefit society shall not,  
15 during the period of the suspension, enroll any additional  
16 members except newborn children or other newly acquired  
17 dependents of existing members and shall not engage in any  
18 advertising or solicitation whatsoever.

19           (f) When the certificate of authority of a mutual benefit  
20 society is revoked, the society, immediately following the  
21 effective date of the order of revocation, shall proceed to wind



1 up its affairs and shall conduct no further business except as  
2 may be essential to the orderly conclusion of the affairs of the  
3 society. The mutual benefit society shall engage in no further  
4 advertising or solicitation whatsoever. The commissioner, by  
5 written order, may permit further operation of the society as  
6 the commissioner may find to be in the best interest of the  
7 members, to the end that members will be afforded the greatest  
8 practical opportunity to obtain continuing coverage and  
9 benefits."

10 SECTION 24. Chapter 431M, Hawaii Revised Statutes, is  
11 amended by amending its title to read as follows:

12 **"MENTAL HEALTH AND ALCOHOL AND ~~[DRUG ABUSE]~~ SUBSTANCE USE**  
13 **DISORDER TREATMENT INSURANCE BENEFITS"**

14 SECTION 25. Section 431M-1, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By amending the definition of "partial hospitalization  
17 services" to read:

18 "Partial hospitalization [~~services~~]" means treatment  
19 services, including in-hospital treatment services or benefits,  
20 provided by a hospital or mental health outpatient facility to  
21 patients who, because of their conditions, require more than



1 periodic hourly service. Partial hospitalization [~~services~~]  
2 shall be prescribed by a physician or psychologist, and may be  
3 prescribed by a licensed clinical social worker, marriage and  
4 family therapist, licensed mental health counselor, or advanced  
5 practice registered nurse in consultation with a physician or  
6 psychologist. Partial hospitalization [~~services require~~]  
7 requires less than twenty-four hours of care and a minimum of  
8 three hours in any one day."

9 2. By repealing the definition of "serious mental  
10 illness".

11 [~~"Serious mental illness" means a mental disorder~~  
12 ~~consisting of at least one of the following: schizophrenia,~~  
13 ~~schizo-affective disorder, bipolar types I and II, obsessive~~  
14 ~~compulsive disorder, dissociative disorder, delusional disorder,~~  
15 ~~and major depression, as defined in the most recent version of~~  
16 ~~the Diagnostic and Statistical Manual of the American~~  
17 ~~Psychiatric Association and which is of sufficient severity to~~  
18 ~~result in substantial interference with the activities of daily~~  
19 ~~living." ]~~



1 SECTION 26. Section 432E-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "emergency services" to  
3 read as follows:

4 "Emergency services" means services provided to an  
5 enrollee when the enrollee has symptoms of sufficient severity,  
6 including severe pain, such that a layperson could reasonably  
7 expect, in the absence of medical treatment, to result in  
8 placing the enrollee's health or condition in serious jeopardy,  
9 serious impairment of bodily functions, serious dysfunction of  
10 any bodily organ or part, or death."

11 PART III

12 SECTION 27. In codifying the new sections added by section  
13 1 of this Act, the revisor of statutes shall substitute  
14 appropriate section numbers for the letters used in designating  
15 the new sections in this Act.

16 SECTION 28. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 29. This Act shall take effect upon its approval.





**Report Title:**

Insurance; Risk Retention; Fraternal Benefit Societies;  
Financial Condition; Fees; Insurance Contracts; Health  
Insurance; Rate Regulation; Certificate of Authority

**Description:**

Makes various updates to title 24, HRS, including: making fees consistent for applications and services provided by the insurance division of the department of commerce and consumer affairs to purchasing groups, foreign risk retention groups, insurers subject to chapter 431, HRS, fraternal benefit societies, mutual benefit societies, health maintenance organizations, and dental insurers; enabling the insurance division to recover certain administrative costs associated with the applications process and services provided by the division; prohibiting rerating of rates approved by the insurance commissioner; permitting the suspension, revocation, or denial of a mutual benefit society's certificate of authority under certain conditions; and making other housekeeping and conforming amendments. (CD1)

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

