
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 two new sections to be appropriately
3 designated 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 per cent 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



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

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



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

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

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

10 "§432:2- Fees. (a) The commissioner shall collect, in
11 advance, the following fees:

12 (1) Certificate of authority:

13 (A) Application for a certificate of authority:
14 \$900;

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

16 (2) Organization of domestic fraternal benefit societies:

17 (A) Application for a preliminary certificate of
18 authority: \$1,500;

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



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

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

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

14 "Market conduct examination" means the examination of the
15 insurance operations of an insurer licensed to do business in
16 this State to evaluate compliance with the applicable laws and
17 rules of this State. A market conduct examination may be either
18 a comprehensive examination or a targeted examination. A market
19 conduct examination is separate and distinct from a financial
20 examination of an insurer performed pursuant to article [57] 2,
21 but may be conducted at the same time."



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

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

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

19 1. By amending subsections (e) and (f) to read:

20 "(e) Except as otherwise provided in subsections (f), (g),
21 and (n), the minimum standard for the valuation of policies and



1 contracts issued prior to January 1, 1956, shall be that
2 provided by the laws in effect immediately prior to January 1,
3 1956.

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

16 (1) For ordinary policies of life insurance issued on the
17 standard basis, excluding any [~~accident and health~~]
18 disability income and accidental death benefits in the
19 policies: the Commissioners 1941 Standard Ordinary
20 Mortality Table for the policies issued prior to the
21 operative date of section 431:10D-104(e)(6), the



1 Commissioners 1958 Standard Ordinary Mortality Table
2 for the policies issued on or after the operative date
3 of section 431:10D-104(e) (6) and prior to the
4 operative date of section [†]431:104(e) (8) [†];
5 provided that for any category of the policies issued
6 on female risks, all modified net premiums and present
7 values referred to in this section may be calculated
8 according to an age not more than six years younger
9 than the actual age of the insured; and for the
10 policies issued on or after the operative date of
11 section 431:10D-104(e) (8):
12 (A) The Commissioners 1980 Standard Ordinary
13 Mortality Table;
14 (B) At the election of the company for any one or
15 more specified plans of life insurance, the
16 Commissioners 1980 Standard Ordinary Mortality
17 Table with Ten-Year Select Mortality Factors;
18 (C) Any ordinary mortality table, adopted after 1980
19 by the National Association of Insurance
20 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
7 Table for the policies issued prior to the operative
8 date of section 431:10D-104(e)(7), and for policies
9 issued on or after the operative date of section
10 431:10D-104(e)(7), the Commissioners 1961 Standard
11 Industrial Mortality Table or any industrial mortality
12 table adopted after 1980 by the National Association
13 of 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



- 1 1949, ultimate, or any modification of either of these
2 tables approved by the commissioner;
- 3 (4) For group annuity and pure endowment contracts,
4 excluding any [~~accident and health~~] disability income
5 and accidental death benefits in the policies: the
6 Group Annuity Mortality Table for 1951, a modification
7 of the table approved by the commissioner, or at the
8 option of the company, any of the tables or
9 modifications of tables specified for individual
10 annuity and pure endowment contracts;
- 11 (5) For total and permanent disability income benefits in
12 or supplementary to ordinary policies or contracts:
13 for policies or contracts issued after December 31,
14 1965, the tables of period 2 disablement rates and the
15 1930 to 1950 termination rates of the 1952 disability
16 study of the Society of Actuaries, with due regard to
17 the type of benefit or any tables of disablement rates
18 and termination rates adopted after 1980 by the
19 National Association of Insurance Commissioners, that
20 are approved by rules adopted by the commissioner for
21 use in determining the minimum standard of valuation



1 for those policies; for policies or contracts issued
2 after December 31, 1960, and prior to January 1, 1966,
3 either the tables or, at the option of the company,
4 the Class (3) Disability Table (1926); and for
5 policies issued prior to January 1, 1961, the Class
6 (3) Disability Table (1926). Any table, for active
7 lives, shall be combined with a mortality table
8 permitted for calculating the reserves for life
9 insurance policies;

- 10 (6) For accidental death benefits in or supplementary to
11 policies issued after December 31, 1965: the 1959
12 Accidental Death Benefits Table or any accidental
13 death benefits 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 policies, for policies issued after
18 December 31, 1960, and prior to January 1, 1966,
19 either that table or, at the option of the company,
20 the Inter-company Double Indemnity Mortality Table.
21 Either table shall be combined with a mortality table



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

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

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

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



1 contracts, and four per cent interest for all other
2 individual annuity and pure endowment contracts;

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

15 (3) For individual annuity and pure endowment contracts
16 issued on or after June 1, 1979, other than single
17 premium immediate annuity contracts, excluding any
18 [~~accident and health~~] disability income and accidental
19 death benefits in those 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 of valuation
4 for those contracts, or any modification of these
5 tables approved by the commissioner, and five and one-
6 half per cent interest for single premium deferred
7 annuity and pure endowment contracts and four and one-
8 half per cent interest for all other individual
9 annuity and pure endowment contracts;

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

18 (5) For annuities and pure endowment contracts purchased
19 on or after June 1, 1979, under group annuity and pure
20 endowment contracts, excluding any [~~accident and~~
21 ~~health~~] disability income and accidental death



1 benefits purchased under those contracts: the 1971
2 Group Annuity Mortality Table[7] or any group annuity
3 mortality table adopted after 1980 by the National
4 Association of Insurance Commissioners, that is
5 approved by rules adopted by the commissioner for use
6 in determining the minimum standard of valuation for
7 the annuities and pure endowment contracts, or any
8 modification of these tables approved by the
9 commissioner, and seven and one-half per cent
10 interest.

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

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

19 "(h) (1) Except as otherwise provided in subsections (i),
20 (l), and (n), reserves, according to the
21 commissioner's reserve valuation method, for the life



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

15 (A) A net level annual premium equal to the present
16 value, at the date of issue, of the benefits
17 provided for after the first policy year, divided
18 by the present value, at the date of issue, of an
19 annuity of one per annum payable on the first and
20 each subsequent anniversary of the policy on
21 which a premium falls due; provided that the net



1 level annual premium shall not exceed the net
2 level annual premium on the nineteen-year premium
3 whole life plan for insurance of the same amount
4 at an age one year higher than the age of issue
5 of the policy; and

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

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



1 in subsection (1), shall be the greater of the reserve
2 as of the policy anniversary calculated pursuant to
3 this paragraph and the reserve as of the policy
4 anniversary calculated as described, but with:

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

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

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

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

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

19 (3) Reserves according to the commissioner's reserve
20 valuation method shall be calculated by a method



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



1 benefits provided by all other annuity and pure
2 endowment contracts.

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

12 Reserves according to the commissioner's annuity reserve
13 method for benefits under annuity or pure endowment contracts,
14 excluding any [~~accident and health or sickness~~] disability
15 income and accidental death benefits in the contracts, shall be
16 the greatest of the respective excesses of the present values,
17 at the date of valuation, of the future guaranteed benefits,
18 including guaranteed nonforfeiture benefits, provided for by the
19 contracts at the end of each respective contract year, over the
20 present value, at the date of valuation, of any future valuation
21 considerations derived from future gross considerations,



1 required by the terms of the contract, that become payable prior
2 to the end of the respective contract year. The future
3 guaranteed benefits shall be determined by using the mortality
4 table, if any, and the interest rate, or rates, specified in the
5 contracts for determining guaranteed benefits. The valuation
6 considerations are the portions of the respective gross
7 considerations applied under the terms of the contracts to
8 determine nonforfeiture values.

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

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



1 "(n) For accident and health insurance contracts issued on
 2 or after the operative date of the valuation manual, the
 3 standard prescribed in the valuation manual is the minimum
 4 standard of valuation required under subsection (b)(2). For
 5 accident and health [~~or sickness~~] insurance contracts issued on
 6 or after January 1, 1956, and prior to the operative date of the
 7 valuation manual, the minimum standard of valuation is the
 8 standard adopted by the commissioner by rule."

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

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

12 "(a) The commissioner shall collect, in advance, the
 13 following fees:

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

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

16 (B) Issuance of certificate of authority\$600

17 (2) Organization of domestic insurers and affiliated
 18 corporations:

19 (A) Application [~~and all other papers required~~] for

20 [~~issuance of~~] a solicitation permit[~~r~~

21 ~~filing~~]..... \$1,500



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

2 (3) Producer's license:

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

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

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

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

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

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

9 (8) Independent bill reviewer's license:

10 Issuance..... \$80

11 (9) Limited producer's license: Issuance..... \$60

12 (10) Managing general agent's license: Issuance.... \$75

13 (11) Reinsurance intermediary's license:

14 Issuance..... \$75

15 (12) Surplus lines broker's license: Issuance..... \$150

16 (13) Service contract provider's registration:

17 Issuance..... \$75

18 (14) Approved course provider certificate:

19 Issuance..... \$100

20 (15) Approved continuing education course certificate:

21 Issuance..... \$30



- 1 (16) Vehicle protection product warrantor's registration:
- 2 Issuance..... \$75
- 3 (17) Criminal history record check; fingerprinting: For
- 4 each criminal history record check and fingerprinting
- 5 check, a fee to be established by the commissioner.
- 6 (18) Limited line motor vehicle rental company producer's
- 7 license: Issuance..... \$1,000
- 8 (19) Legal service plan certificate of authority:
- 9 Issuance before July 1, 2014..... \$1,000
- 10 Issuance on or after July 1, 2014..... \$500
- 11 (20) Life settlement provider's license:
- 12 Issuance before July 1, 2014..... \$150
- 13 Issuance on or after July 1, 2014..... \$75
- 14 (21) Life settlement broker's license:
- 15 Issuance before July 1, 2014..... \$150
- 16 Issuance on or after July 1, 2014..... \$75
- 17 (22) Examination for license: For each examination, a fee
- 18 to be established by the commissioner."
- 19 2. By amending subsection (c) to read:
- 20 "(c) The commissioner shall notify the holder of a
- 21 certificate of authority issued under article 3 by written



1 notice at least thirty days prior to the extension date of the
2 certificate of authority, license, or other certificate. If the
3 fee is not paid before or on the extension date, the fee shall
4 be increased by a penalty in the amount of fifty per cent of the
5 fee. [~~If the fee and the penalty are not paid within the thirty~~
6 ~~days immediately following the extension date,~~] The commissioner
7 shall provide notice in writing of the delinquency of extension
8 and the imposition of the authorized penalty. If the fee and
9 the penalty are not paid within thirty days immediately
10 following the date of notice of delinquency, the commissioner
11 may revoke, suspend, or inactivate the certificate of authority,
12 license, or other certificate, and [~~shall~~] may not reissue,
13 remove the suspension of, or reactivate the certificate of
14 authority, license, or other certificate until the fee and
15 penalty have been paid."

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

19 "Contract" means any policy of life, [~~disability,~~
20 accident and health or sickness, credit life, credit disability,
21 homeowners [~~insurance~~], and motor vehicle insurance covering



1 personally owned or personally leased private passenger motor
2 vehicles prepared for delivery by an insurer.

3 "Insurer" means any company, corporation, exchange,
4 society, or association organized on the stock, mutual,
5 assessment, or fraternal plan of insurance and authorized under
6 the insurance laws of this State to issue life, disability,
7 credit life, credit disability, homeowners, and motor vehicle
8 insurance, including but not limited to fraternal benefit
9 societies, nonprofit health service corporations, nonprofit
10 hospital service corporations, [~~and~~] health maintenance
11 organizations[-], and mutual benefit societies."

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

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

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



- 1 (A) A statement identifying the state or states in
2 which the risk retention group is chartered and
3 licensed as a liability insurance company, date
4 of chartering, its principal place of business,
5 and other information, including information on
6 its membership, as the commissioner of this State
7 may require to verify that the risk retention
8 group is qualified as a risk retention group;
- 9 (B) A copy of its plan of operations or a feasibility
10 study and revisions of this plan or study
11 submitted to its state of domicile; provided that
12 the provision relating to the submission of a
13 plan of operation or a feasibility study shall
14 not apply with respect to any line or
15 classification of liability insurance which was:
- 16 (i) Defined in the Product Liability Risk
17 Retention Act of 1981, 15 U.S.C. §3901 et
18 seq., before October 27, 1986; and
- 19 (ii) Offered before that date by any risk
20 retention group which had been chartered and



1 operating for not less than three years

2 before that date; and

3 (C) A statement of registration which designates the
4 commissioner as its agent for the purpose of
5 receiving service of legal documents or process;

6 (2) Any risk retention group doing business in this State
7 shall submit to the commissioner:

8 ~~[(A) A copy of the group's financial statement
9 submitted to the insurance commissioner of its
10 state of domicile, which shall be certified by an
11 independent public accountant and contain a
12 statement of opinion on loss and loss adjustment
13 expense reserves made by a member of the American
14 Academy of Actuaries or a qualified loss reserve
15 specialist under criteria established by the
16 National Association of Insurance Commissioners;~~

17 ~~+(B)]~~ (A) A copy of each examination of the risk
18 retention group as certified by the commissioner
19 or public official conducting the examination in
20 its state of domicile;



1 pay the tax for risks insured within the State;
2 provided that each risk retention group shall
3 report all premiums paid to it for risks insured
4 within the State;

5 (4) Any risk retention group shall comply with chapter
6 431, article 13 regarding deceptive, false, or
7 fraudulent acts or practices, and unfair claims
8 settlement practices; provided that if the
9 commissioner seeks an injunction regarding such
10 conduct, the injunction shall be obtained from a court
11 of competent jurisdiction;

12 (5) Any risk retention group shall submit to an
13 examination by the commissioner to determine its
14 financial condition if the commissioner of the
15 jurisdiction in which the group is chartered has not
16 initiated an examination or does not initiate an
17 examination within sixty days after a request by the
18 commissioner of this State. Any examination shall be
19 coordinated to avoid unjustified repetition and
20 conducted in an expeditious manner and in accordance



1 with the National Association of Insurance
2 Commissioners' Examiner Handbook;

3 (6) The following notice shall be printed in ten point
4 type on the front page of every application for
5 insurance from a risk retention group, and on the
6 front page and the declaration page of every policy
7 issued by a risk retention group:

8 NOTICE

9 This policy is issued by your risk retention group.
10 Your risk retention group may not be subject to all of
11 the insurance laws and rules of your state. State
12 insurance insolvency guaranty funds are not available
13 for your risk retention group;

14 (7) The following acts by a risk retention group are
15 prohibited:

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

19 (B) The solicitation or sale of insurance by, or
20 operation of, a risk retention group that is in a



1 hazardous financial condition or is financially
2 impaired;

3 (8) No risk retention group shall be allowed to do
4 business in this State if an insurance company is
5 directly or indirectly a member or owner of the risk
6 retention group, other than in the case of a risk
7 retention group all of whose members are insurance
8 companies;

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

12 (10) A risk retention group not chartered in this State and
13 doing business in this State shall comply with a
14 lawful order issued in a voluntary dissolution
15 proceeding or in a delinquency proceeding commenced by
16 any state insurance commissioner if there has been a
17 finding of financial impairment after an examination
18 under paragraph (5)."

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



1 "(a) The commissioner shall collect, in advance, the
2 following fees:

3 (1) Certificate of authority:

4 (A) Application for a certificate of authority:
5 \$900; and

6 (B) Issuance of certificate of authority: [~~\$150~~]
7 \$600;

8 (2) Organization of domestic mutual benefit societies:

9 (A) [~~Filing of application and documents required~~]
10 Application for [~~issuance of~~] a certificate of
11 registration: [~~\$150~~] \$1,500; and

12 (B) Issuance of certificate of registration: \$150;
13 and

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

17 (b) No certificate of authority shall contain an
18 expiration date, but all certificates of authority must be
19 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. If the fee for the
10 [renewal] extension of the certificate of authority is not paid
11 before or on the [renewal] extension date, a penalty shall be
12 imposed in the amount of fifty per cent of the fee. The
13 commissioner shall provide notice in writing of the delinquency
14 of [renewal] extension and the imposition of the authorized
15 penalty. If the fee and the penalty are not paid within thirty
16 days immediately following the date of the notice of
17 delinquency, the commissioner may revoke the certificate of
18 authority and may not reinstate the certificate of authority
19 until the fee and penalty have been paid."

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



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

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

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

14 "**§432:2-602 Reports.** (a) Every society transacting
15 business in this State shall annually, on or before March 1,
16 unless for cause shown such time has been extended by the
17 commissioner, file with the commissioner a true statement of its
18 financial condition, transactions and affairs for the preceding
19 calendar year [~~and pay a fee of \$7.50 for filing same~~]. The
20 statement shall be in general form and context as approved by
21 the National Association of Insurance Commissioners for



1 fraternal benefit societies and as supplemented by additional
2 information required by the commissioner.

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

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

20 ~~[(d) All fees and penalties collected pursuant to this~~
21 ~~section and section 432:2-603 and penalties collected pursuant~~



1 ~~to section 432:2-703 shall be deposited to the credit of the~~
2 ~~compliance resolution fund.]"~~

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

5 **"§432:2-603 Annual license.** ~~[(a)]~~ Societies that are now
6 authorized to transact business in this State may continue to
7 transact business until ~~[May 1 next succeeding July 1, 1988.~~
8 ~~The authority of societies and all societies hereafter licensed,~~
9 ~~may thereafter be renewed annually, but in all cases to~~
10 ~~terminate on the succeeding May 1. However, a license so issued~~
11 ~~shall continue in full force and effect until the new license is~~
12 ~~issued or specifically refused. For each license or renewal~~
13 ~~subject to this section, the society shall pay the commissioner~~
14 ~~\$7.50. A duly certified copy or duplicate of the license shall~~
15 ~~be prima facie evidence that the licensee is a fraternal benefit~~
16 ~~society within the meaning of this article.~~

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



1 ~~paid.]~~ August 16, 2016. The authority of societies and all
2 societies hereafter issued a certificate of authority, may
3 thereafter be extended in accordance with section 432:2- ."

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

6 "(b) Service shall only be made upon the commissioner,
7 [~~f~~]or[+] if absent, upon the person in charge of the
8 commissioner's office. It shall be made in duplicate and shall
9 constitute sufficient service upon the society. When legal
10 process against a society is served upon the commissioner, the
11 commissioner shall [~~forthwith~~] immediately forward one of the
12 duplicate copies by [~~registered~~] certified mail, prepaid,
13 directed to the secretary or corresponding officer. No such
14 service shall require a society to file its answer, pleading or
15 defense in less than thirty days from the date of mailing the
16 copy of the service to a society. Legal process shall not be
17 served upon a society except in the manner herein provided. At
18 the time of serving any process upon the commissioner, the
19 plaintiff or complainant in the action shall pay to the
20 commissioner a fee of [~~\$7.50-~~] \$25."



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 by the commissioner from time to time in order to
15 continue to be valid. When the commissioner issues or extends a
16 certificate of authority, the commissioner shall determine the
17 date prior to which the certificate of authority must be
18 extended and shall so notify the insurer in writing. This date
19 is called the extension date. The extension date shall be any
20 date not less than one year and not more than three years after
21 date of issue or extension of the certificate of authority. If



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

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

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



1 business days following the date of receipt of notice, the
2 health carrier shall determine whether:

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

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

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

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

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



- 1 (A) Standard health care services or treatments have
- 2 not been effective in improving the condition of
- 3 the enrollee;
- 4 (B) Standard health care services or treatments are
- 5 not medically appropriate for the enrollee; or
- 6 (C) There is no available standard health care
- 7 service or treatment covered by the health
- 8 carrier that is more beneficial than the health
- 9 care service or treatment that is the subject of
- 10 the adverse action;
- 11 (4) The enrollee's treating physician or treating advanced
- 12 practice registered nurse:
- 13 (A) Has recommended a health care service or
- 14 treatment that the physician or advanced practice
- 15 registered nurse certifies, in writing, is likely
- 16 to be more beneficial to the enrollee, in the
- 17 physician's or advanced practice registered
- 18 nurse's opinion, than any available standard
- 19 health care services or treatments; or
- 20 (B) Who is a licensed, board certified or board
- 21 eligible physician qualified to practice in the



1 area of medicine appropriate to treat the
2 enrollee's condition, or who is an advanced
3 practice registered nurse qualified to treat the
4 enrollee's condition, has certified in writing
5 that scientifically valid studies using accepted
6 protocols demonstrate that the health care
7 service or treatment that is the subject of the
8 adverse action is likely to be more beneficial to
9 the enrollee than any available standard health
10 care services or treatments;

11 (5) The enrollee has exhausted the health carrier's
12 internal appeals process or the enrollee is not
13 required to exhaust the health carrier's internal
14 appeals process pursuant to section 432E-33(b); and

15 (6) The enrollee has provided all the information and
16 forms required by the commissioner that are necessary
17 to process an external review, including the release
18 form and disclosure of conflict of interest
19 information as provided under section [~~432E-5-~~]
20 432E-33(a)."



1 SECTION 16. Section 432G-12, Hawaii Revised Statutes, is
2 amended by amending subsection (a) 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 all services subsequent to the issuance of a
10 certificate of authority, including extension of the
11 certificate of authority[~~, \$400.~~]: \$600 per year."

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

14 "(b) No certificate of authority shall contain an
15 expiration date, but all certificates of authority [~~shall~~] must
16 be extended by the commissioner from time to time in order to
17 continue to be valid. When the commissioner issues or extends a
18 certificate of authority, the commissioner shall determine the
19 date prior to which the certificate of authority [~~is next~~
20 ~~required to~~] must be extended[~~, the extension date,~~] and shall
21 so notify the insurer [~~holding the certificate of authority~~] in



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

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

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



Report Title:

Insurance; Risk Retention; Fraternal Benefit Societies;
Financial Condition; Fees; Insurance Contracts

Description:

Makes various updates to title 24 of the Hawaii Revised Statutes, relating to insurance, 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; and making housekeeping amendments. (SD1)

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