
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-A 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 §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 [5~~7~~] 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
2 January 1, 1986, for which the contract premium in the
3 first policy year exceeds that of the second year, and
4 for which no comparable additional benefit is provided
5 in 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[~~7~~
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[-]; 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 [-]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 [forthwith] 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."

13 SECTION 22. In codifying the new sections added by section
14 1 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

17 SECTION 23. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 24. 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. (SD2)

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