



GOV. MSG. NO. 1242

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 29, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 29, 2016, the following bill was signed into law:

SB2853 SD2 HD1 CD1

RELATING TO INSURANCE
ACT 140 (16)

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 PART I

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

5 "ARTICLE

6 RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT

7 §431: -101 Scope and purpose. (a) This article shall
8 apply to all insurers domiciled in this State unless exempt
9 pursuant to section 431: -106.

10 (b) The purposes of this article shall be to:

- 11 (1) Provide the requirements for maintaining a risk
12 management framework and completing an own risk and
13 solvency assessment; and
14 (2) Provide guidance and instructions for filing an own
15 risk and solvency assessment summary report with the
16 commissioner.

17 §431: -102 Definitions. As used in this article:



1 "Insurance group" means those insurers and affiliates
2 included within an insurance holding company system as defined
3 in article 11.

4 "Insurer" shall have the same meaning as set forth in
5 article 1, except that it shall not include:

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

10 (2) Fraternal benefit societies;

11 (3) Nonprofit medical and hospital service associations
12 that are exempt from state and federal income taxes;
13 or

14 (4) Unauthorized insurers.

15 "Own risk and solvency assessment" means a confidential
16 internal assessment, appropriate to the nature, scale, and
17 complexity of an insurer or insurance group and conducted by
18 that insurer or insurance group, of the material and relevant
19 risks associated with the insurer or insurance group's current
20 business plan and the sufficiency of capital resources to
21 support those risks.



1 "Own Risk and Solvency Assessment Guidance Manual" means
2 the Own Risk and Solvency Assessment Guidance Manual as
3 developed and adopted by the National Association of Insurance
4 Commissioners and as amended from time to time. A change in the
5 Own Risk and Solvency Assessment Guidance Manual shall take
6 effect on the January 1 following the calendar year in which the
7 changes have been adopted by the National Association of
8 Insurance Commissioners.

9 "Own risk and solvency assessment summary report" means a
10 confidential, high-level summary of an insurer or insurance
11 group's own risk and solvency assessment.

12 §431: -103 Risk management framework. An insurer shall
13 maintain a risk management framework to assist the insurer with
14 identifying, assessing, monitoring, managing, and reporting its
15 material and relevant risks. This requirement may be satisfied
16 if the insurance group of which the insurer is a member
17 maintains a risk management framework applicable to the
18 operations of the insurer.

19 §431: -104 Own risk and solvency assessment requirement.
20 Subject to section 431: -106, an insurer or the insurance group
21 of which the insurer is a member shall regularly conduct an own



1 risk and solvency assessment consistent with a process
2 comparable to the Own Risk and Solvency Assessment Guidance
3 Manual. The own risk and solvency assessment shall be conducted
4 no less than annually but also at any time when there are
5 significant changes to the risk profile of the insurer or the
6 insurance group of which the insurer is a member.

7 §431: -105 Own risk and solvency assessment summary
8 report. (a) Upon the commissioner's request, and no more than
9 once each year beginning in 2018, an insurer shall submit to the
10 commissioner an own risk and solvency assessment summary report
11 or any combination of reports that together contain the
12 information described in the Own Risk and Solvency Assessment
13 Guidance Manual, which is applicable to the insurer, the
14 insurance group of which it is a member, or both.

15 (b) Notwithstanding any request from the commissioner, if
16 the insurer is a member of an insurance group, the insurer shall
17 submit any reports required by this section if the commissioner
18 is the lead state commissioner of the insurance group as
19 determined by the procedures in the Financial Analysis Handbook
20 adopted by the National Association of Insurance Commissioners.



1 (c) Any reports filed pursuant to this section shall
2 include a signature of the insurance group's chief risk officer
3 or another executive responsible for the oversight of the
4 insurer's enterprise risk management process attesting, to the
5 best of the person's belief and knowledge, that:

6 (1) The insurer applies the enterprise risk management
7 process described in the own risk and solvency
8 assessment summary report; and

9 (2) A copy of the report has been provided to the
10 insurer's board of directors or the appropriate
11 committee thereof.

12 (d) An insurer may comply with subsection (a) by providing
13 the most recent and substantially similar report, which is
14 provided by the insurer or another member of an insurance group
15 of which the insurer is a member, or any combination of reports
16 that together contain the information described in the Own Risk
17 and Solvency Assessment Guidance Manual, to the commissioner of
18 another state or a supervisor or regulator of a foreign
19 jurisdiction if that report provides information comparable to
20 that described in the Own Risk and Solvency Assessment Guidance
21 Manual. Any such report in a language other than English must



1 be accompanied by a translation of that report into the English
2 language.

3 §431: -106 Exemption. (a) An insurer shall be exempt
4 from the requirements of this article if:

5 (1) The insurer's annual direct written and assumed
6 premium, excluding premiums reinsured with the Federal
7 Crop Insurance Corporation and National Flood
8 Insurance Program, is less than \$500,000,000; and

9 (2) The insurance group of which the insurer is a member
10 has an annual direct written and assumed premium,
11 excluding premiums reinsured with the Federal Crop
12 Insurance Corporation and National Flood Insurance
13 Program, less than \$1,000,000,000.

14 (b) If an insurer qualifies for exemption pursuant to
15 subsection (a) (1), but the insurance group of which the insurer
16 is a member does not qualify for exemption pursuant to
17 subsection (a) (2), then the own risk and solvency assessment
18 summary report required pursuant to section 431: -105 shall
19 include every insurer within the insurance group. This
20 requirement may be satisfied by the submission of more than one
21 own risk and solvency assessment summary report for any



1 combination of insurers; provided that any combination of
2 reports includes every insurer within the insurance group.

3 (c) If an insurer does not qualify for exemption pursuant
4 to subsection (a) (1), but the insurance group of which it is a
5 member qualifies for exemption pursuant to subsection (a) (2),
6 then the only own risk and solvency assessment summary report
7 required pursuant to section 431: -105 shall be the report
8 applicable to that insurer.

9 (d) An insurer that does not qualify for exemption
10 pursuant to subsection (a) may apply to the commissioner for a
11 waiver from the requirements of this article based upon unique
12 circumstances.

13 (1) In deciding whether to grant the insurer's request for
14 waiver, the commissioner may consider:

- 15 (A) The type and volume of business written;
- 16 (B) The ownership and organizational structure; and
- 17 (C) Any other factor the commissioner considers
18 relevant to the insurer or insurance group of
19 which the insurer is a member.

20 (2) If the insurer is part of an insurance group with
21 insurers domiciled in more than one state, the



1 commissioner shall coordinate with the lead state
2 commissioner and other domiciliary commissioners in
3 considering whether to grant the insurer's request for
4 a waiver.

5 (e) Notwithstanding the exemptions stated in this section:

6 (1) The commissioner may require that an insurer maintain
7 a risk management framework, conduct an own risk and
8 solvency assessment, and file an own risk and solvency
9 assessment summary report based upon unique
10 circumstances including but not limited to the type
11 and volume of business written, the ownership and
12 organizational structure, federal agency requests, and
13 international supervisor requests.

14 (2) The commissioner may require that an insurer maintain
15 a risk management framework, conduct an own risk and
16 solvency assessment, and file an own risk and solvency
17 assessment summary report if the insurer:

18 (A) Has risk-based capital for company action level
19 event as set forth in section 431:3-403;



1 (B) Meets one or more of the standards of an insurer
2 deemed to be in hazardous financial condition as
3 defined in section 431:15-103.5; or

4 (C) Otherwise exhibits qualities of a troubled
5 insurer as determined by the commissioner.

6 (f) If an insurer that qualifies for an exemption pursuant
7 to subsection (a) subsequently no longer qualifies for that
8 exemption due to changes in premium, as reflected in the
9 insurer's most recent annual statement or in the most recent
10 annual statements of the insurers within the insurance group of
11 which the insurer is a member, the insurer shall have one year
12 following the year the threshold is exceeded to comply with the
13 requirements of this article.

14 §431: -107 Contents of own risk and solvency assessment
15 summary report. (a) The own risk and solvency assessment
16 summary report shall be prepared consistent with the Own Risk
17 and Solvency Assessment Guidance Manual and subject to the
18 requirements of subsection (b). Documentation and supporting
19 information shall be maintained and made available upon
20 examination or upon request of the commissioner.



1 (b) The review of the own risk and solvency assessment
2 summary report and any additional requests for information shall
3 be made using similar procedures currently used in the analysis
4 and examination of multi-state or global insurers and insurance
5 groups.

6 §431: -108 Confidentiality. (a) Documents, materials,
7 or other information, including the own risk and solvency
8 assessment summary report, in the possession or control of the
9 commissioner that are obtained by, created by, or disclosed to
10 the commissioner or any other person under this article are
11 recognized as proprietary and containing trade secrets.

12 All such documents, materials, or other information shall
13 be confidential by law and privileged, shall not be disclosable
14 under chapter 92F, shall not be subject to subpoena, and shall
15 not be subject to discovery or admissible in evidence in any
16 private civil action.

17 The commissioner is authorized to use the documents,
18 materials, or other information to further any regulatory or
19 legal action brought as a part of the commissioner's official
20 duties. The commissioner shall not otherwise make the



1 documents, materials, or other information public without prior
2 written consent of the insurer.

3 (b) Neither the commissioner nor any person who received
4 documents, materials, or other own risk and solvency assessment
5 information through examination or otherwise, while acting under
6 the authority of the commissioner or with whom such documents,
7 materials, or other information are shared pursuant to this
8 article, shall be permitted or required to testify in any
9 private civil action concerning any confidential documents,
10 materials, or information subject to subsection (a).

11 (c) To assist in performing the commissioner's regulatory
12 duties, the commissioner:

13 (1) May, upon request, share information subject to
14 subsection (a) and proprietary and trade secret
15 documents with:

16 (A) Other state, federal, and international financial
17 regulatory agencies; and .

18 (B) Members of any supervisory college referred to in
19 section 431:11-107.5, the National Association of
20 Insurance Commissioners, and any third-party
21 consultants designated by the commissioner;



1 provided that the recipient agrees in writing to
2 maintain the confidentiality and privileged status of
3 the own risk and solvency assessment documents,
4 materials, or other information and has verified in
5 writing the legal authority to maintain
6 confidentiality;

7 (2) May receive information subject to subsection (a) and
8 proprietary and trade secret documents from regulatory
9 officials of other foreign or domestic jurisdictions,
10 including members of any supervisory college referred
11 to in section 431:11-107.5, and the National
12 Association of Insurance Commissioners. The
13 commissioner shall maintain as confidential or
14 privileged any documents, materials, or information
15 received with notice or the understanding that it is
16 confidential or privileged under the laws of the
17 jurisdiction that is the source of the document,
18 material, or information; and

19 (3) Shall enter into a written agreement with the National
20 Association of Insurance Commissioners or a third-
21 party consultant governing sharing and use of



1 information provided pursuant to this article and
2 consistent with this subsection, which shall:

3 (A) Specify procedures and protocols regarding the
4 confidentiality and security of information
5 shared with the National Association of Insurance
6 Commissioners or a third-party consultant
7 pursuant to this article, including procedures
8 and protocols for sharing by the National
9 Association of Insurance Commissioners with other
10 state regulators from states in which the
11 insurance group has domiciled insurers. The
12 agreement shall provide that the recipient agrees
13 to maintain the confidentiality and privileged
14 status of the own risk and solvency assessment
15 documents, materials, or other information and
16 has verified in writing the legal authority to
17 maintain confidentiality;

18 (B) Specify that ownership of information shared with
19 the National Association of Insurance
20 Commissioners or a third-party consultant
21 pursuant to this article remains with the



1 commissioner and that use of the information by
2 the National Association of Insurance
3 Commissioners or a third-party consultant is
4 subject to the direction of the commissioner;

5 (C) Prohibit the National Association of Insurance
6 Commissioners or third-party consultant from
7 storing the information shared pursuant to this
8 article in a permanent database after the
9 underlying analysis is completed;

10 (D) Require prompt notice to be given to an insurer
11 whose confidential information in the possession
12 of the National Association of Insurance
13 Commissioners or a third-party consultant
14 pursuant to this article is subject to a request
15 or subpoena to the National Association of
16 Insurance Commissioners or a third-party
17 consultant for disclosure or production;

18 (E) Require the National Association of Insurance
19 Commissioners or a third-party consultant to
20 consent to intervention by an insurer in any
21 judicial or administrative action in which the



1 National Association of Insurance Commissioners
2 or a third-party consultant may be required to
3 disclose confidential information about the
4 insurer shared with the National Association of
5 Insurance Commissioners or a third-party
6 consultant pursuant to this article; and

7 (F) In the case of an agreement involving a third-
8 party consultant, provide for the insurer's
9 written consent.

10 (d) The sharing of information and documents by the
11 commissioner pursuant to this article shall not constitute a
12 delegation of regulatory authority or rulemaking, and the
13 commissioner is solely responsible for the administration,
14 execution, and enforcement of the provisions of this article.

15 (e) No waiver of any applicable privilege or claim of
16 confidentiality in the documents, proprietary, and trade secret
17 materials or other own risk and solvency assessment information
18 shall occur as a result of disclosing any own risk and solvency
19 assessment information or documents to the commissioner pursuant
20 to this section or as a result of sharing as authorized in this
21 article.



1 (f) Documents, materials, or other information in the
2 possession or control of the National Association of Insurance
3 Commissioners or a third-party consultant pursuant to this
4 article shall be confidential by law and privileged, shall not
5 be subject to chapter 92F, shall not be subject to subpoena, and
6 shall not be subject to discovery or admissible in evidence in
7 any private civil action.

8 §431: -109 Sanctions. (a) Any insurer failing without
9 just cause to timely file the own risk and solvency assessment
10 summary report as required in this article shall be required
11 after notice and hearing to pay a penalty of not less than \$100
12 and not more than \$500 for each day's delay, which shall be
13 recovered by the commissioner. Any penalty recovered pursuant
14 to this section shall be paid into the compliance resolution
15 fund.

16 (b) The maximum penalty under this section is \$50,000.
17 The commissioner may reduce the penalty if the insurer
18 demonstrates to the commissioner that imposing the penalty would
19 constitute a financial hardship to the insurer.

20 §431: -110 Severability. If any provision of this
21 article or its application to any person or circumstance is held



1 invalid, that determination shall not affect the provisions or
2 applications of this article that can be given effect without
3 the invalid provision or application, and to that end, the
4 provisions of this article are severable."

5 PART II

6 SECTION 2. Section 431:19-115, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Sections 431:3-302 to 431:3-304.5, 431:3-307, 431:3-
9 401 to [~~431:3-408,~~] 431:3-409, 431:3-411, 431:3-412, and 431:3-
10 414; articles 1, 2, 4A, 5, 6, 9A, 9B, 9C, 11, 11A, and 15; and
11 chapter 431K shall apply to risk retention captive insurance
12 companies."

13 PART III

14 SECTION 3. Section 431K-1, Hawaii Revised Statutes, is
15 amended by adding two new definitions to be appropriately
16 inserted and to read as follows:

17 ""Board of directors" or "board" means the governing body
18 of the risk retention group elected by the shareholders or
19 members to establish policy, elect or appoint officers and
20 committees, and make other governing decisions.



1 "Director" means a natural person designated in the
2 articles of the risk retention group or designated, elected, or
3 appointed by any other manner, name, or title to act as a
4 director."

5 SECTION 4. Section 431K-2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[~~4~~]431K-2[~~7~~] Risk retention groups chartered in this
8 State. (a) A risk retention group seeking to be chartered in
9 this State shall be chartered and licensed as a liability
10 insurance company authorized by the insurance laws of this State
11 and, except as provided elsewhere in this chapter, shall comply
12 with all of the laws, rules, and requirements applicable to
13 these insurers chartered and licensed in this State and with
14 section 431K-3, to the extent these requirements are not a
15 limitation on the laws, rules, or requirements of this State.
16 Prior to offering insurance in any state, each risk retention
17 group shall also submit for approval to the commissioner [~~of~~
18 ~~this State~~] a plan of operation or [a] feasibility study and
19 revisions of such plan or study if the group intends to offer
20 any additional lines of liability insurance. Immediately upon
21 receipt of an application for charter, the commissioner shall



1 provide summary information concerning the filing to the
2 National Association of Insurance Commissioners, including:

- 3 (1) The name of the risk retention group;
- 4 (2) The identity of the initial members of the group;
- 5 (3) The identity of those individuals who organized the
6 group or who will provide administrative services or
7 otherwise influence or control the activities of the
8 group;
- 9 (4) The amount and nature of initial capitalization;
- 10 (5) The coverages to be afforded; and
- 11 (6) The states in which the group intends to operate.

12 Providing notification to the National Association of Insurance
13 Commissioners is in addition to and shall not be sufficient to
14 satisfy the requirements of section 431K-3 or any other sections
15 of this chapter.

16 (b) New risk retention groups established on or after
17 July 1, 2016, shall be in compliance with the governance
18 standards set forth in subsection (c).

19 (c) By July 1, 2017, existing risk retention groups shall
20 be in compliance with the following:



- 1 (1) The board shall have a majority of independent
2 directors. The board of directors shall: determine
3 whether a director is independent and has no material
4 relationship with the risk retention group; review
5 such determination annually; and maintain a record of
6 the determinations, which shall be provided to the
7 commissioner annually. If the risk retention group is
8 reciprocal, then the attorney-in-fact shall be
9 required to adhere to the same standards regarding
10 independence of operation and governance as imposed on
11 the risk retention group's board of directors and
12 subscribers advisory committee.
- 13 (2) The term of any material service provider contract
14 entered into with a risk retention group shall not
15 exceed five years. The contract or its renewal
16 requires approval of a majority of the risk retention
17 group's independent directors. The board of directors
18 has the right to terminate a contract at any time for
19 cause after providing adequate notice as defined in
20 the terms of the contract. Service providers of a



- 1 reciprocal risk retention group shall contract with
2 the risk retention group.
- 3 (3) A risk retention group shall not enter into a material
4 service provider contract without the prior written
5 approval of the commissioner.
- 6 (4) A risk retention group's plan of operation shall
7 include written policies approved by its board of
8 directors requiring the board to:
- 9 (A) Provide evidence of ownership interest to each
10 risk retention group member;
- 11 (B) Develop governance standards applicable to the
12 risk retention group;
- 13 (C) Oversee the evaluation of the risk retention
14 group's management, including the performance of
15 its captive manager, managing general
16 underwriter, or any other person responsible for
17 underwriting, rate determination, premium
18 collection, claims adjustment and settlement, or
19 preparation of financial statements;
- 20 (D) Review and approve the amount to be paid under a
21 material service provider contract; and



- 1 (E) Review and approve at least annually:
- 2 (i) The risk retention group's goals and
- 3 objectives relevant to the compensation of
- 4 officers and service providers;
- 5 (ii) The performance of officers and service
- 6 providers as measured against the risk
- 7 retention group's goals and objectives; and
- 8 (iii) The continued engagement of officers and
- 9 material service providers.
- 10 (5) A risk retention group shall have an audit committee
- 11 composed of at least three independent board members.
- 12 A nonindependent board member may participate in the
- 13 committee's activities if invited to do so by the
- 14 audit committee, but a nonindependent board member
- 15 shall not serve as a committee member. The
- 16 commissioner may waive the requirement of an audit
- 17 committee if the risk retention group demonstrates to
- 18 the commissioner's satisfaction that having such
- 19 committee is impracticable and that the board of
- 20 directors itself is able to sufficiently perform the
- 21 committee's responsibilities. The audit committee



1 shall have a written charter defining its

2 responsibilities, which shall include:

3 (A) Assisting board oversight of the integrity of
4 financial statements, compliance with legal and
5 regulatory requirements, and qualifications,
6 independence, and performance of the independent
7 auditor or actuary;

8 (B) Reviewing annual audited financial statements and
9 quarterly financial statements with management;

10 (C) Reviewing annual audited financial statements
11 with its independent auditor and, if deemed
12 advisable, the risk retention group's quarterly
13 financial statements;

14 (D) Reviewing risk assessment and risk management
15 policies;

16 (E) Meeting with management, either directly or
17 through a designated representative of the
18 committee;

19 (F) Meeting with independent auditors, either
20 directly or through a designated representative
21 of the committee;



- 1 (G) Reviewing with the independent auditor any audit
- 2 problems and management's response;
- 3 (H) Establishing clear hiring policies applicable to
- 4 the hiring of employees or former employees of
- 5 the independent auditor by the risk retention
- 6 group;
- 7 (I) Requiring the independent auditor to rotate the
- 8 lead audit partner having primary responsibility
- 9 for the risk retention group's audit, as well as
- 10 the audit partner responsible for reviewing that
- 11 audit, so that neither individual performs audit
- 12 services for the risk retention group for more
- 13 than five consecutive fiscal years; and
- 14 (J) Reporting regularly to the board of directors.
- 15 (6) The board of directors shall adopt governance
- 16 standards, which shall be available to risk retention
- 17 group members through electronic or other means and,
- 18 upon request, provided to risk retention group
- 19 members. The governance standards shall include:
- 20 (A) A process by which risk retention group members
- 21 elect directors;

- 1 (B) Director qualifications, responsibilities, and
- 2 compensation;
- 3 (C) Director orientation and continuing education
- 4 requirements;
- 5 (D) A process allowing the board access to management
- 6 and, as necessary and appropriate, independent
- 7 advisors;
- 8 (E) Policies and procedures for management
- 9 succession; and
- 10 (F) Policies and procedures providing for an annual
- 11 performance evaluation of the board.

- 12 (7) The board of directors shall adopt a code of business
- 13 conduct and ethics applicable to directors, officers,
- 14 and employees of the risk retention group and disclose
- 15 criteria for waivers of code provisions to the board
- 16 of directors, which shall be available to risk
- 17 retention group members through electronic or other
- 18 means and, upon request, provided to risk retention
- 19 group members. Provisions of the code shall address:
- 20 (A) Conflicts of interest;



- 1 (B) Matters covered under the Hawaii corporate
- 2 opportunities doctrine;
- 3 (C) Confidentiality;
- 4 (D) Fair dealing;
- 5 (E) Protection and proper use of risk retention group
- 6 assets;
- 7 (F) Standards for complying with applicable laws,
- 8 rules, and regulations; and
- 9 (G) Mandatory reporting of illegal or unethical
- 10 behavior affecting the operation of the risk
- 11 retention group.

12 (8) The captive manager, president, or chief executive
 13 officer of a risk retention group shall promptly
 14 notify the commissioner in writing of any known
 15 noncompliance with the governance standards
 16 established in this subsection.

17 (d) For the purposes of this section:

18 "Independent director" means a director who does not have a
 19 material relationship with the risk retention group. A person
 20 who is a direct or an indirect owner of or subscriber in the
 21 risk retention group, as referenced in the definition of "risk



1 retention group" in section 431K-1, or who is an officer, a
2 director, or an employee of the owner and insured unless some
3 other position of the officer, director, or employee constitutes
4 a "material relationship", is considered independent. The
5 commissioner shall have the authority to determine whether or
6 not a director is independent.

7 A director has a "material relationship" with a risk
8 retention group if the director or a member of the director's
9 immediate family:

10 (1) Receives in any twelve-month period from the risk
11 retention group or a consultant or service provider to
12 the risk retention group compensation or other item of
13 value in an amount equal to or greater than five per
14 cent of the risk retention group's gross written
15 premium or two per cent of the risk retention group's
16 surplus as measured at the end of any fiscal quarter
17 falling in the twelve-month period, whichever is
18 greater. This provision also applies to compensation
19 or items of value received by any business with which
20 the director or a member of the director's immediate
21 family is affiliated. The material relationship shall



1 be deemed to exist for one year after the item of
2 value is received or the compensation ceases or falls
3 below the threshold established in this paragraph, as
4 applicable;

5 (2) Is affiliated with or employed in a professional
6 capacity by a current or former internal or external
7 auditor of the risk retention group. The material
8 relationship shall be deemed to exist for one year
9 after the affiliation, employment, or audit ends; or

10 (3) Is employed as an executive officer of another company
11 whose board of directors includes executive officers
12 of the risk retention group unless a majority of the
13 membership of the other company's board of directors
14 is the same as the membership of the board of
15 directors of the risk retention group. The material
16 relationship shall be deemed to exist for one year
17 after the employment or service ends.

18 "Material service provider" includes a captive manager,
19 auditor, accountant, actuary, investment advisor, attorney,
20 managing general underwriter, or other person responsible for
21 underwriting, determination of rates, premium collection, claims



1 adjustment or settlement, or preparation of financial
 2 statements, whose aggregate annual contract fees are equal to or
 3 greater than five per cent of the risk retention group's annual
 4 gross written premium or two per cent of its surplus, whichever
 5 is greater. "Material service provider" does not mean defense
 6 counsel retained by a risk retention group unless the counsel's
 7 annual fees are equal to or greater than five per cent of a risk
 8 retention group's annual gross written premium or two per cent
 9 of its surplus, whichever is greater."

PART IV

11 SECTION 5. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 29 day of JUN, 2016



GOVERNOR OF THE STATE OF HAWAII