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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. Chapter 431, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I of article 10C to be  
3 appropriately designated and to read as follows:

4           "§431:10C-       Payment of general excise tax and certificate  
5 of ownership fee on third party claims. (a) When a motor  
6 vehicle insurer settles a total loss motor vehicle damage  
7 liability claim with a third-party claimant, the insurer shall  
8 pay the applicable general excise tax and certificate of  
9 ownership fee; provided that if the third-party claimant cannot  
10 substantiate the purchase and the payment of the general excise  
11 tax and certificate of ownership fee by submitting to the  
12 insurer appropriate documentation within thirty-three days after  
13 the receipt of settlement, the insurer shall not be required to  
14 reimburse the third-party claimant for the tax or fee.

15           (b) In lieu of the procedure in subsection (a), the  
16 insurer may directly pay the required general excise tax and



1 certificate of ownership fee to the third-party claimant at the  
2 time of settlement.

3 (c) Written notice of the payment procedure outlined in  
4 this section shall be communicated to the third-party claimant  
5 at the time of settlement, together with any form required by  
6 the insurer for applying for the reimbursement.

7 (d) An insurer's obligation to reimburse a third-party  
8 claimant for the applicable general excise tax and certificate  
9 of ownership fee as set forth in this section shall be subject  
10 to the property damage liability limit of the policy."

11 SECTION 2. Section 431:2-403, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) Violation of subsection (a) is a criminal offense and  
14 shall constitute:

15 (1) A class B felony if the value of the benefits,  
16 recovery, or compensation obtained or attempted to be  
17 obtained [~~is more than~~] exceeds \$20,000;

18 (2) A class C felony if the value of the benefits,  
19 recovery, or compensation obtained or attempted to be  
20 obtained [~~is more than \$300;~~] exceeds \$750; or



1 (3) A misdemeanor if the value of the benefits, recovery,  
 2 or compensation obtained or attempted to be obtained  
 3 is [~~\$300 or less.~~] not in excess of \$750."

4 SECTION 3. Section 431:3-212, Hawaii Revised Statutes, is  
 5 amended to read as follows:

6 "**§431:3-212 Application for authority.** To apply for an  
 7 original certificate of authority, an insurer shall[+] file with  
 8 the commissioner a Uniform Certificate of Authority Application  
 9 from the National Association of Insurance Commissioners that  
 10 shall set forth or be accompanied by all of the following:

11 (1) [~~File with the commissioner its~~] The insurer's request  
 12 showing:

13 (A) Its name, in compliance with sections 431:3-  
 14 202(b) and 431:4-104(d)(1), home office location,  
 15 type of insurer, organization date, [~~and~~] state  
 16 or country of its domicile, and name and location  
 17 of the principal office of its attorney-in-fact,  
 18 if a reciprocal insurer;

19 (B) The classes of insurance it proposes to transact;  
 20 and



- 1 (C) Additional information as the commissioner may
- 2 reasonably require[+].
- 3 (2) [~~File with the commissioner.~~] Documents including the
- 4 following:
- 5 (A) A copy of its charter as amended or [~~such copy~~]
- 6 certified by the proper public officer of the
- 7 state or country of domicile, if a foreign or
- 8 alien insurer;
- 9 (B) A copy of its bylaws as amended, certified by its
- 10 proper officer;
- 11 (C) A copy of its annual statement as of December 31
- 12 last preceding;
- 13 (D) An appointment of the commissioner as its
- 14 attorney to receive service of legal process, if
- 15 a foreign or alien insurer[7] or a domestic
- 16 reciprocal insurer;
- 17 (E) The name and business address of its authorized
- 18 resident agent upon whom process may be served in
- 19 all cases, if a foreign or alien insurer;



- 1 (F) A copy of the appointment and authority of its  
2 United States manager, certified by its proper  
3 officer, if an alien insurer;
- 4 (G) A certificate from the proper public official of  
5 its state or country of domicile showing that it  
6 is duly organized and [~~is~~] authorized to transact  
7 the classes of insurance proposed to be  
8 transacted, if a foreign or alien insurer;
- 9 (H) The declaration required by section 431:4-409, if  
10 a domestic reciprocal insurer;
- 11 (I) [~~Certificate~~] A certificate of the proper public  
12 official as to any deposit made or held in  
13 compliance with this code;
- 14 (J) [~~Copy~~] A copy of the report of the last  
15 examination made of the insurer certified by the  
16 insurance supervisory official of its state of  
17 domicile or entry into the United States, if a  
18 foreign or alien insurer; and
- 19 (K) Other documents or stipulations as the  
20 commissioner may reasonably require to evidence  
21 compliance with this code[ ~~and~~].



1 (3) [~~Deposit~~] A deposit with the commissioner of the  
2 appropriate fees required by this code."

3 SECTION 4. Section 431:3-212.5, Hawaii Revised Statutes,  
4 is amended by amending subsection (b) to read as follows:

5 "(b) Each transferring insurer shall file new policy forms  
6 on or before the effective date of the transfer, if such forms  
7 are required to be approved by the commissioner. The insurer  
8 may use existing policy forms with appropriate endorsements if  
9 permitted by [~~and under such conditions as approved by,~~] the  
10 commissioner. Every [~~such~~] transferring insurer shall notify  
11 the commissioner of the details of the proposed transfer and  
12 shall file promptly a Uniform Certificate of Authority  
13 Application for any resulting amendments to corporate documents  
14 filed or required to be filed with the commissioner."

15 SECTION 5. Section 431:7-101, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

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

- 19 (1) Certificate of authority:
  - 20 (A) Application for [a] certificate of authority . \$900
  - 21 (B) Issuance of certificate of authority ..... \$600



- 1           (C) Application for motor vehicle self-insurance . \$300
- 2           (2) Organization of domestic insurers and affiliated
- 3           corporations:
- 4           (A) Application for [a] solicitation permit .... \$1,500
- 5           (B) Issuance of solicitation permit ..... \$150
- 6           (3) Producer's license:
- 7           (A) Issuance[7] of regular license ..... \$50
- 8           (B) Issuance[7] of temporary license ..... \$50
- 9           (4) Nonresident producer's license: Issuance ..... \$75
- 10          (5) Independent adjuster's license: Issuance ..... \$75
- 11          (6) Public adjuster's license: Issuance ..... \$75
- 12          (7) Claims adjuster's limited license: Issuance ..... \$75
- 13          (8) Independent bill reviewer's license:
- 14            Issuance ..... \$80
- 15          (9) Limited producer's license: Issuance ..... \$60
- 16          (10) Managing general agent's license: Issuance ..... \$75
- 17          (11) Reinsurance intermediary's license:
- 18            Issuance ..... \$75
- 19          (12) Surplus lines broker's license: Issuance ..... \$150
- 20          (13) Service contract provider's registration:
- 21            Issuance ..... \$75



- 1       (14)   Approved course provider certificate:
- 2                Issuance ..... \$100
- 3       (15)   Approved continuing education course certificate:
- 4                Issuance ..... \$30
- 5       (16)   Vehicle protection product warrantor's registration:
- 6                Issuance ..... \$75
- 7       (17)   Criminal history record check; fingerprinting: For
- 8                each criminal history record check and fingerprinting
- 9                check, a fee to be established by the commissioner.
- 10       (18)   Limited line motor vehicle rental company producer's
- 11               license: Issuance ..... \$1,000
- 12       (19)   Legal service plan certificate of authority:
- 13                Issuance before July 1, 2014 ..... \$1,000
- 14                Issuance on or after July 1, 2014 ..... \$500
- 15       (20)   Life settlement provider's license:
- 16                Issuance before July 1, 2014 ..... \$150
- 17                Issuance on or after July 1, 2014 ..... \$75
- 18       (21)   Life settlement broker's license:
- 19                Issuance before July 1, 2014 ..... \$150
- 20                Issuance on or after July 1, 2014 ..... \$75





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

3 SECTION 6. Section 431:9-201, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) Notwithstanding subsection (a), following a  
6 [~~catastrophe in this State,~~] declaration by the commissioner  
7 authorizing assistance of nonresident adjusters, a Hawaii  
8 license shall not be required of a nonresident adjuster for the  
9 adjustment of losses; provided that:

10 (1) The common losses suffered that are to be adjusted are  
11 a direct result of [~~the catastrophe~~] an event and  
12 [~~shall be~~] are so severe that licensed adjusters and  
13 licensed independent adjusters who are residents of  
14 this State will be unable to adjust the losses within  
15 a reasonable time as determined by the commissioner;

16 (2) The nonresident adjuster provides [~~to~~] the  
17 commissioner a certified copy of the adjuster's  
18 current license in another state. The other state  
19 shall have substantially similar licensing  
20 requirements to section 431:9-222; and



1 (3) Within three working days of the commencement of work  
2 by the nonresident adjuster, the insurance company,  
3 independent adjusting company, or producer that is  
4 using the adjuster shall provide on its letterhead to  
5 the commissioner:

6 (A) The name of the nonresident adjuster;

7 (B) The nonresident adjuster's Hawaii mailing and  
8 business addresses and phone numbers; and

9 (C) The nonresident adjuster's permanent home and  
10 business addresses and phone numbers.

11 Upon satisfaction of all of these requirements, the  
12 nonresident adjuster may be registered with the commissioner and  
13 adjust ~~[catastrophic]~~ the event's losses in this State for up to  
14 one hundred twenty days from the date of registration or for a  
15 period of time determined by the commissioner, whichever is  
16 less.

17 As used in this subsection, [~~"catastrophe"~~] "event" means  
18 insured property losses in Hawaii that result from a sudden,  
19 specific, and natural or manmade disaster or phenomenon, as  
20 determined by the commissioner."



1 SECTION 7. Section 431:9A-102, Hawaii Revised Statutes, is  
2 amended by amending the definition of "terminate" to read as  
3 follows:

4 "Terminate" means:

5 (1) To cancel the relationship between an insurance  
6 producer and an insurer; or

7 ~~[-(2) To cancel the relationship between an appointing  
8 producer and another producer; or~~

9 ~~+(3)]~~ (2) To terminate a producer's authority to transact  
10 insurance."

11 SECTION 8. Section 431:9A-114, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§431:9A-114 Appointments.** (a) An insurance producer  
14 shall not act as an agent of an insurer unless the [~~insurance~~]  
15 producer becomes an appointed agent of that insurer [~~or is~~  
16 ~~contracted with and appointed by an insurance producer so~~  
17 ~~appointed]~~.

18 (b) To appoint a producer as its agent, the [~~appointing~~]  
19 insurer [~~or producer~~] shall file, in a format approved by the  
20 commissioner, a notice of appointment within fifteen days from  
21 the date the agency or business entity contract is executed or



1 the first insurance application is submitted to the insurer [~~or~~  
2 ~~producer~~]. If the appointment form is not received by the  
3 commissioner within the fifteen-day period, the appointment  
4 shall become effective on the date on which the commissioner  
5 receives the appointment form. A producer shall disclose to a  
6 client if the conditions of subsection (a) have not been met.  
7 An insurer [~~or producer~~] may also elect to appoint a producer to  
8 all or some insurers within the insurer's [~~or producer's~~]  
9 holding company system or group by filing with the commissioner  
10 a single appointment notice.

11 (c) Upon receipt of the notice of appointment and within a  
12 reasonable time not to exceed thirty days, the commissioner  
13 shall verify that the [~~insurance~~] producer is eligible for  
14 appointment. If the [~~insurance~~] producer is determined to be  
15 ineligible for appointment, the commissioner shall notify the  
16 appointing insurer [~~or producer~~] within five days of its  
17 determination.

18 (d) An appointing insurer [~~or producer~~] shall pay an  
19 appointment fee, in the amount and method of payment set forth  
20 in article 7, for each [~~insurance~~] producer appointed by the  
21 appointing insurer [~~or producer~~].



1 (e) An appointing insurer [~~or producer~~] shall remit, in a  
2 manner prescribed by the commissioner, a renewal appointment fee  
3 in the amount set forth in article 7."

4 SECTION 9. Section 431:9A-115, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§431:9A-115 Notification to commissioner of termination.**

7 (a) A producer who terminates the appointment, employment,  
8 contract, or other insurance business relationship with an  
9 insurer shall notify the commissioner within thirty days  
10 following the effective date of the termination, using the  
11 applicable format prescribed by the commissioner. An insurer[~~7~~]  
12 or its authorized representative [~~of the insurer, or a producer~~]  
13 that terminates the appointment, employment, contract, or other  
14 insurance business relationship with a producer shall notify the  
15 commissioner within thirty days following the effective date of  
16 the termination, using the applicable format prescribed by the  
17 commissioner. An insurer[~~7~~, ~~an~~] or its authorized representative  
18 [~~of the insurer, or a producer who~~] that terminates a producer  
19 for one of the reasons set forth in section 431:9A-112, or [~~who~~]  
20 that has knowledge the producer was found by a court,  
21 governmental body, or self-regulatory organization to have



1 engaged in any of the activities in section 431:9A-112, shall  
2 use the particular format for that situation as prescribed by  
3 the commissioner. Upon the written request of the commissioner,  
4 ~~[the]~~ an insurer or its authorized representative that  
5 terminates a producer shall provide additional information,  
6 documents, records, or other data pertaining to the termination  
7 or activity of the producer.

8 (b) ~~[The]~~ An insurer~~[, an]~~ or its authorized  
9 representative ~~[of the insurer, or]~~ that terminates a producer  
10 shall promptly notify the commissioner in a format acceptable to  
11 the commissioner if, upon further review or investigation, the  
12 insurer~~[, an]~~ or its authorized representative ~~[of the insurer,~~  
13 ~~or a producer]~~ discovers additional information that would have  
14 been reportable to the commissioner in accordance with  
15 subsection (a), had the insurer~~[, ]~~ or its authorized  
16 representative ~~[of the insurer, or producer then]~~ known of its  
17 existence.

18 (c) ~~[The]~~ An insurer~~[, ]~~ and its authorized representative  
19 ~~[of the insurer, and the]~~ that terminate a producer are subject  
20 to the following:



- 1           (1) Within fifteen days after making the notification  
2           required by subsections (a) and (b), the insurer[~~7~~] or  
3           its authorized representative [~~of the insurer, or the~~  
4           ~~producer~~] shall mail a copy of the notification to the  
5           producer at the producer's last known address. If the  
6           producer is terminated for any of the causes listed in  
7           section 431:9A-112, the insurer[~~7~~] or its authorized  
8           representative [~~of the insurer, or the producer~~] shall  
9           provide a copy of the notification to the producer at  
10          the producer's last known address by certified mail,  
11          return receipt requested, postage prepaid or by  
12          overnight delivery using a nationally recognized  
13          carrier.
- 14          (2) Within thirty days after the producer has received the  
15          original or additional notification, the producer may  
16          file written comments concerning the substance of the  
17          notification with the commissioner. The producer, by  
18          the same means, shall simultaneously send a copy of  
19          the comments to the reporting insurer[~~7~~] or its  
20          authorized representative [~~of the insurer, or the~~  
21          ~~producer~~], and the comments shall become [a] part of



1 the commissioner's file and shall accompany every copy  
2 of a report distributed or disclosed for any reason  
3 about the producer as permitted under subsection  
4 [~~(e)~~] (f).

5 (d) A producer initiating the termination is subject to  
6 the following:

7 (1) Within fifteen days after making the notification  
8 required by subsection (a), the producer shall mail a  
9 copy of the notification to the insurer at the  
10 insurer's last known address.

11 (2) Within thirty days after the insurer has received the  
12 original or additional notification, the insurer may  
13 file written comments concerning the substance of the  
14 notification with the commissioner. The insurer, by  
15 the same means, shall simultaneously send a copy of  
16 the comments to the producer, and the comments shall  
17 become part of the commissioner's file and shall  
18 accompany every copy of a report distributed or  
19 disclosed for any reason about the insurer as  
20 permitted under subsection (f).





1           ~~[(d)]~~ (e) Immunity from civil liability for notification  
2 applies as follows:

3           (1) In the absence of actual malice, an insurer, the  
4 insurer's authorized representative, a producer, the  
5 commissioner, or an organization of which the  
6 commissioner is a member and that compiles the  
7 information and makes it available to other  
8 commissioners or regulatory or law enforcement  
9 agencies shall not be subject to civil liability~~[, and~~  
10 a]. A civil cause of action of any nature shall not  
11 arise against these entities or their respective  
12 agents or employees~~[,]~~ as a result of ~~[any]~~ :

13           (A) Any statement or information required by or  
14 provided pursuant to this section ~~[or any]~~ ;

15           (B) Any information relating to any statement that  
16 may be requested in writing by the  
17 commissioner~~[,]~~ from an insurer or producer; or  
18 [a]

19           (C) A statement by a terminating insurer or producer  
20 to an insurer or producer limited solely ~~[and~~  
21 exclusively] to whether a termination under



1 subsection (a) was reported to the commissioner,  
2 provided that the propriety of any termination  
3 under subsection (a) is certified in writing by  
4 an officer or authorized representative of the  
5 insurer or producer terminating the relationship.

6 (2) In any action brought against a person that may have  
7 immunity under paragraph (1) for making any statement  
8 required by this section or for providing any  
9 information relating to any statement that may be  
10 requested by the commissioner, the party bringing the  
11 action shall plead specifically in any allegation that  
12 paragraph (1) does not apply because the person making  
13 the statement or providing the information did so with  
14 actual malice.

15 (3) [~~Paragraphs~~] Paragraph (1) or (2) shall not abrogate  
16 or modify any existing statutory or common law  
17 privileges or immunities.

18 [~~(e)~~] (f) Confidentiality and privilege from disclosure  
19 [~~is~~] are established as follows:

20 (1) Any documents, materials, or other information in the  
21 control or possession of the commissioner or [~~any~~] the



1        commissioner's agent [~~of the commissioner~~] that is  
2        furnished by an insurer, a producer, or an employee or  
3        agent [~~thereof who is~~] acting on behalf of the insurer  
4        or producer, or is obtained by the commissioner, [~~any~~]  
5        the commissioner's agent [~~of the commissioner~~], the  
6        insurance division, or any employee of the insurance  
7        division, in an investigation pursuant to this section  
8        shall be confidential and privileged, shall not be  
9        subject to chapter 92F, [~~shall not be subject to~~]  
10       subpoena, [~~shall not be subject to~~] or discovery, and  
11       shall not be admissible in evidence in any civil  
12       action; provided that the commissioner or the  
13       commissioner's designee is authorized to use the  
14       documents, materials, or other information in the  
15       furtherance of any regulatory or legal action brought  
16       as a part of the commissioner's duties.

17       (2) Neither the commissioner nor any person who received  
18       documents, materials, or other information while  
19       acting under the authority of the commissioner shall  
20       be required to testify in any civil action concerning



1 any confidential documents, materials, or information  
2 subject to paragraph (1).

3 (3) Any provision to the contrary notwithstanding, the  
4 commissioner may:

5 (A) Share documents, materials, or other information,  
6 including the confidential and privileged  
7 documents, materials, or information subject to  
8 paragraph (1), with other state, federal, and  
9 international regulatory and law enforcement  
10 agencies and authorities, the National  
11 Association of Insurance Commissioners, and their  
12 affiliates or subsidiaries; provided that the  
13 recipient agrees to maintain the confidentiality  
14 and privileged status of the document, material,  
15 or other information;

16 (B) Receive documents, materials, or information,  
17 including otherwise confidential and privileged  
18 documents, materials, or information, from the  
19 National Association of Insurance Commissioners,  
20 its affiliates or subsidiaries, and [~~from~~] state,  
21 federal, and international regulatory and law



1 enforcement agencies and authorities and shall  
2 maintain as confidential or privileged any  
3 document, material, or information received with  
4 the notice or [the] understanding that it is  
5 confidential or privileged under the laws of the  
6 jurisdiction that is the source of the document,  
7 material, or information; and

8 (C) Enter into agreements governing sharing and use  
9 of information consistent with this subsection.

10 (4) No waiver of any applicable privilege or claim of  
11 confidentiality in the documents, materials, or  
12 information shall occur as a result of disclosure to  
13 the commissioner under this section or [~~as a result~~  
14 ~~of~~] sharing, receiving, or using the information as  
15 authorized in paragraph (3).

16 (5) Nothing in this article shall prohibit the  
17 commissioner from releasing final[~~r~~] adjudicated  
18 actions, including terminations that are open to  
19 public inspection pursuant to section 431:2-209 to a  
20 database or other clearinghouse service maintained by



1           the National Association of Insurance Commissioners or  
2           its affiliates or subsidiaries.

3           ~~(f)~~ (g) An insurer, ~~the~~ its authorized representative  
4 ~~[of the insurer]~~, or a producer who fails to report as required  
5 ~~[under the provisions of]~~ by this section or who is found to  
6 have reported with actual malice by a court of competent  
7 jurisdiction may, after notice and hearing, have its license or  
8 certificate of authority suspended or revoked and may be fined  
9 in accordance with article 2."

10           SECTION 10. Section 431:15-201, Hawaii Revised Statutes,  
11 is amended to read as follows:

12           "**§431:15-201 Commissioner's summary orders and supervision**

13 **proceedings.** (a) If, upon examination or at any other time,  
14 the commissioner finds that any domestic insurer requires  
15 supervision because it is in ~~[such]~~ a condition ~~[as to]~~ that  
16 would render the continuance of its business hazardous to the  
17 public or to holders of its policies or certificates of  
18 insurance, or if the domestic insurer gives its consent, then  
19 the commissioner shall issue a supervision order and shall:

20           (1) Notify the insurer of the commissioner's order; and



1           (2)   Furnish to the insurer a written list of the  
2                   commissioner's requirements to abate the  
3                   commissioner's order.  The commissioner shall also  
4                   proceed, if necessary, against the insurer pursuant to  
5                   section 431:2-203.

6           (b)   During the period of supervision, the commissioner may  
7                   appoint a supervisor to supervise the insurer[-] and may employ  
8                   counsel, clerks, and assistants as necessary.  The supervisor  
9                   shall have all the powers and responsibilities granted under  
10                  this section.  Any persons appointed under this section shall  
11                  serve at the pleasure of the commissioner.

12           (c)   The compensation of the supervisor, counsel, clerks,  
13                  and assistants and all expenses of the supervision shall be  
14                  approved by the commissioner and paid out of the funds or assets  
15                  of the insurer upon presentation of a detailed account of the  
16                  expenses filed by the supervisor or other persons employed or  
17                  appointed by the commissioner.  The commissioner may in whole or  
18                  in part defer payment of expenses due from the insurer pursuant  
19                  to this section upon a showing that payment would adversely  
20                  impact the financial condition of the insurer and jeopardize its  
21                  recovery during supervision.  Deferred payments shall be made by



1 the insurer when payment no longer adversely impacts its  
2 financial condition.

3       (d) The order appointing a supervisor shall direct the  
4 supervisor to enforce orders issued under subsection (a) and  
5 ~~[also]~~ may ~~[require that]~~ prohibit the insurer ~~[shall not do]~~  
6 from doing any of the following ~~[things]~~ during the period of  
7 supervision without ~~[the]~~ prior written approval of the  
8 commissioner or ~~[the]~~ supervisor:

- 9       (1) Dispose of, convey, or encumber any of its assets or  
10       ~~[its]~~ business in force;
- 11       (2) Withdraw from any of its bank accounts;
- 12       (3) Lend any of its funds;
- 13       (4) Invest any of its funds;
- 14       (5) Transfer any of its property;
- 15       (6) Incur any debt, obligation, or liability;
- 16       (7) Merge or consolidate with another company;
- 17       (8) Enter into any new reinsurance contract or treaty; or
- 18       (9) Write any new or renewal business.

19       ~~[+e)]~~ (e) Any insurer subject to an order under this  
20 section shall comply with the requirements of the commissioner  
21 within sixty days from the date the supervision order is served.





1 If the insurer fails to comply within the time specified, the  
2 commissioner may institute proceedings under section 431:15-301  
3 or section 431:15-306 to have a rehabilitator or liquidator  
4 appointed[~~7~~] or seek to enforce the order pursuant to section  
5 431:2-203.

6 [~~d~~] (f) Any insurer subject to an order under this  
7 section may request a hearing to review the order. The hearing  
8 shall be held as provided in chapter 91, but the request for a  
9 hearing shall not stay the effect of the order. The insurer, at  
10 any time, may waive said hearing and apply for immediate  
11 judicial relief by means of any remedy afforded by law without  
12 first exhausting administrative remedies.

13 [~~e~~] (g) During the period of supervision, the insurer  
14 may request that the commissioner [~~t~~] review an action taken or  
15 proposed to be taken by the supervisor[~~, specifying where the~~  
16 ~~action complained of is believed not to be~~] that the insurer  
17 believes is not in the best interest of the insurer.

18 [~~f~~] (h) If any person has violated any supervision order  
19 issued under this section [~~which as to the person was then still~~  
20 ~~in effect~~], the person shall pay a penalty imposed by the



1 circuit court of the first judicial circuit of this State, which  
2 shall not [~~to~~] exceed \$10,000 for each violation.

3 [~~g~~] (i) The commissioner may apply for, and the court  
4 may grant, [~~such~~] restraining orders, preliminary [~~and~~] or  
5 permanent injunctions, [~~and~~] or other orders [~~as may be deemed~~  
6 ~~necessary and proper~~] to enforce a supervision order.

7 [~~h~~] (j) If any person:

8 (1) With authority over or in charge of any segment of the  
9 insurer's affairs; or

10 (2) Who exercises control directly or indirectly over  
11 activities of the insurer through any holding company  
12 or other affiliate of the insurer;

13 knowingly violates any valid order of the commissioner issued  
14 under this section and, as a result of the violation, the net  
15 worth of the insurer is reduced or the insurer suffers loss it  
16 would not otherwise have suffered, the person shall become  
17 personally liable to the insurer for the amount of the reduction  
18 or loss. The commissioner or supervisor may bring an action on  
19 behalf of the insurer in the circuit court of the first judicial  
20 circuit of this State to recover the amount of the reduction or  
21 loss together with any costs."



1 SECTION 11. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 12. This Act shall take effect on July 1, 2050;  
4 provided that sections 7, 8, and 9 shall take effect on  
5 January 1, 2019.



**Report Title:**

Insurance Fraud; Certificate of Authority; Fees; Motor Vehicle Self-insurance; Declaration by the Commissioner; Nonresident Adjusters; Producer Licensing Model Act; Appointments; Notification of Termination; Motor Vehicle Insurance; Third-party Claimant; General Excise Tax; Certificate of Ownership Fee; Supervision

**Description:**

Conforms monetary penalties for insurance fraud with penal code monetary penalties for a class C felony and misdemeanor. Clarifies process for insurers applying for an original certificate of authority and transferring insurers amending corporate documents after a transfer. Specifies fee for a certificate of authority for an application for motor vehicle self-insurance. Permits insurance commissioner to issue a declaration before an event that may require the use of nonresident adjusters. Beginning 1/1/2019, conforms producer licensing requirements to the National Association of Insurance Commissioners' Producer Licensing Model Act. Allows third-party claimants to claim general excise tax and certificate of ownership fee in total loss claims. Requires certain costs and expenses incurred by the commissioner during supervisory procedures to be paid or reimbursed by insurer assets. Makes housekeeping amendments. Effective 7/1/2050. (SD2)

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

