

# H.B. NO. 1329

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## A BILL FOR AN ACT

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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 to article 7 a new section to be appropriately  
3 designated and to read as follows:

4           "§431:7-       Application of attractions and educational  
5 facilities tax credit. The attractions and educational  
6 facilities tax credit provided under section 235-110.46 may be  
7 claimed against the tax imposed under section 431:7-202."

8           SECTION 2. Section 431:7-209, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "~~[+]§431:7-209 [+~~ **High technology business investment tax**  
11 **credit.** The high technology business investment tax credit  
12 provided under section 235-110.9 ~~[shall be operative for this~~  
13 ~~chapter on July 1, 1999.]~~ may be claimed against the tax imposed  
14 under section 431:7-202."

15           SECTION 3. Section 431:9A-108, Hawaii Revised Statutes, is  
16 amended as follows:

17           (1) By amending subsection (a) to read as follows:

1           "(a) Except as provided in section 431:9A-112, a  
2 nonresident [~~applicant~~] person shall receive a nonresident  
3 producer license if:

4           (1) The [~~applicant~~] person is currently licensed as a  
5 resident and is in good standing in the [~~applicant's~~]  
6 person's home state;

7           (2) The [~~applicant~~] person has submitted the proper request  
8 for licensure and has paid the fees required by section  
9 431:7-101;

10          (3) The [~~applicant~~] person has submitted or transmitted to  
11 the commissioner the application for licensure that the  
12 [~~applicant~~] person submitted to the [~~applicant's~~]  
13 person's home state<sup>[7]</sup> or, in lieu of the same, a  
14 completed uniform application; and

15          (4) The [~~applicant's~~] person's home state awards  
16 nonresident producer licenses to residents of this  
17 State on the same basis."

18          (2) By amending subsections (d) and (e) to read as follows:

19          "(d) Notwithstanding any other provision of this article,  
20 [~~an applicant~~] a person licensed as a surplus lines producer in  
21 the [~~applicant's~~] person's home state shall receive a surplus  
22 lines broker license if:



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1 insurer may issue, shall be limited for each calendar year to  
2 two per cent of the total number of covered policies of the  
3 insurer in force at last year-end in each of the insurer's  
4 rating territories in use in this State that have completed  
5 their required policy periods. However, the insurer may non-  
6 renew or conditionally renew one policy in any of the insurer's  
7 rating territories in use in this State if the applicable  
8 percentage limitation results in less than one policy.  
9 Cancellations, notices of intention not to renew, and [~~notice~~]  
10 notices of intention to conditionally renew made pursuant to  
11 section 431:10C-111(a)(1), ~~[and]~~ (a)(2), and [~~section 431:10C-~~  
12 ~~111(e)]~~ (d) shall be independent of and in addition to those  
13 permitted under this subsection."

14 SECTION 5. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon approval.

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INTRODUCED BY:

Calvin K. Ay  
BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.

PURPOSE: To make the insurance statutes more understandable, technically correct, and consistent by:

1. Clarifying that the attractions and educational facilities tax credit and the high technology business investment tax credit may be claimed against insurance premium taxes under section 431:7-202, Hawaii Revised Statutes (HRS);
2. Substituting all references to "applicant" with "person" in section 431:9A-108, HRS; and
3. Correcting a statutory cross-reference that referred to the wrong subsection.

MEANS: Add a new section to article 7 of chapter 431, HRS, and amend sections 431:7-209, 431:9A-108(a), (d), and (e), and 431:10C-111.5(a), HRS.

JUSTIFICATION: The Department of Commerce and Consumer Affairs is continuing its efforts to make the insurance statutes more understandable, technically correct, and consistent by:

1. Adding a new section to article 7, chapter 431, HRS, to clarify that the attractions and educational facilities tax credit prescribed by section 235-110.46, HRS, may be claimed against the tax imposed

under section 431:7-202, HRS. This new section will reduce taxpayer confusion by clarifying what is available under existing law;

2. Amending section 431:7-209, HRS, to clarify that the high technology business investment tax credit may be claimed against the tax imposed under section 431:7-202, HRS. This amendment reduces taxpayer confusion by clarifying what is available under existing law;
3. Amending section 431:9A-108, HRS, by substituting all references to "applicant" with "person." "Person" is the correct terminology. Moreover, the incorrect designation of a nonresident licensee as an "applicant" has resulted in confusion regarding the applicability of continuing education credits and testing requirements of the resident state to nonresident licensees. This amendment will ensure that nonresident licensees comply with the oversight, testing, and education requirements of the licensee's resident state; and
4. Amending section 431:10C-111.5, HRS, to correct an erroneous reference to subsection (e) of section 431:10C-111, HRS, which should have referred instead to subsection (d) of 431:10C-111, HRS. The erroneous reference resulted when Act 124, Session Laws of Hawaii 2004, deleted a subsection of section 431:10C-111, HRS, thus concomitantly changing the subsection designations in that

section. Conforming changes were not made to the references in section 431:10C-111.5.

Impact on the public: The impact should be positive as:

- (1) The new section in article 7, chapter 431 and the amendments to section 431:7-209 will reduce taxpayer confusion by clarifying what is available under existing law;
- (2) The amendments to section 431:9A-108 will ensure that nonresident licensees comply with oversight, testing and education requirements required by the licensee's resident state; and
- (3) The amendments to section 431:10C-111.5 will correct an erroneous statutory reference.

Impact on the department and other agencies:

None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-106.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.