
A BILL FOR AN ACT

RELATING TO UNFAIR BUSINESS PRACTICES.

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

1 SECTION 1. Section 431:13-104 , Hawaii Revised Statutes,
2 is amended to read as follows:
3 "**§431:13-104 Favored producer or insurer; coercion of**
4 **debtors.** (a) No person may require as a condition precedent to
5 the lending of money or extension of credit, or any renewal
6 thereof, that the person to whom [~~such~~] the money or credit is
7 extended or whose obligation a creditor is to acquire or
8 finance, negotiate any contract of insurance, or renewal
9 thereof, through a particular insurer or group of insurers or
10 producer or group of producers.
11 (b) No person who lends money or extends credit may:
12 (1) Solicit insurance, after a person indicates interest
13 in securing a loan or credit extension, until [~~such~~]
14 the person has received a commitment in writing from
15 the lender as to a loan or credit extension. The
16 requirement for a commitment shall not apply in cases
17 where the premium for the required insurance is to be



1 financed as part of the loan or extension of credit
2 involving personal property transactions;
3 (2) Unreasonably reject a contract of insurance furnished
4 by the borrower where insurance is required by the
5 loan or credit transaction. A rejection shall not be
6 deemed unreasonable if it is based on reasonable
7 standards, uniformly applied, relating to the extent
8 of coverage required and the financial soundness and
9 the services of an insurer. Such standards shall not
10 discriminate against any particular type of insurer,
11 nor shall such standards call for rejection of an
12 insurance contract because the contract contains
13 coverage in addition to that required in the loan or
14 credit transaction;
15 (3) Require that any borrower, mortgagor, purchaser,
16 insurer, or producer pay a separate charge, in
17 connection with the handling of any contract of
18 insurance required by the loan or credit transaction,
19 or pay a separate charge to substitute the insurance
20 policy of one insurer for that of another. This
21 paragraph does not include the interest [~~which~~] that
22 may be charged on premium loans or premium

1 advancements in accordance with the terms of the loan
2 or credit document;

3 (4) Use or disclose information relative to a contract of
4 insurance [~~which~~] that is required by, or supplied in
5 response to, the loan or credit transaction, for the
6 purpose of replacing the insurance or soliciting
7 insurance; or

8 (5) Require any procedures or conditions of duly licensed
9 producers or insurers not customarily required of
10 those producers or insurers affiliated or in any way
11 connected with the person who lends money or extends
12 credit.

13 (c) Every person who lends money or extends credit and who
14 solicits insurance subject to subsection (b) [~~must~~] shall
15 explain to the borrower in writing that the insurance related to
16 [~~such~~] the credit extension may be purchased from an insurer or
17 producer of the borrower's choice, subject only to the lender's
18 right to reject a given insurer or producer as provided in
19 subsection (b)(2). Compliance with disclosures as to insurance
20 required by truth-in-lending laws or comparable state laws shall
21 be in compliance with this paragraph.

1 (d) No person or entity, public or private, requiring a
2 bid, payment, or performance bond as security to guarantee the
3 performance of any contract for the construction of improvements
4 to real property shall require any person or entity to acquire
5 the bond from a particular surety or group of sureties or a
6 producer or agent of any surety or group of sureties.

7 [~~d~~] (e) The commissioner shall have the power to examine
8 and investigate those insurance related activities of any person
9 whom the commissioner believes may be in violation of this
10 section. Any affected person may submit to the commissioner a
11 complaint or material pertinent to the enforcement of this
12 section.

13 [~~e~~] (f) Nothing in this section shall prevent a person
14 who lends money or extends credit from placing insurance on real
15 or personal property in the event the mortgagor, borrower, or
16 purchaser has failed to provide required insurance in accordance
17 with the terms of the loan or credit document.

18 [~~f~~] (g) Nothing contained in this section shall apply to
19 credit life or credit disability insurance.

20 [~~g~~] (h) Nothing in this section shall prevent a person
21 who lends money or extends credit from assisting a mortgagor,
22 borrower, or purchaser in obtaining homeowners insurance where



1 the borrower requests [~~such~~] the assistance in writing. Nothing
2 in this section shall prevent a person who lends money or
3 extends credit from referring a mortgagor, borrower, or
4 purchaser to the Hawaii hurricane relief fund.

5 [~~h~~] (i) The commissioner shall adopt rules to prevent
6 any bank, or subsidiary or affiliate thereof, [~~which~~] that is
7 engaged in insurance activities, from draining assets to the
8 detriment of the insurance operations; and shall also adopt
9 rules to obtain diverted assets from the bank, subsidiary, or
10 affiliate in the case of insolvency of the insurance operation."

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

13 SECTION 3. This Act shall take effect on January 1, 2112.



Report Title:

Surety; Unfair Methods of Competition

Description:

Prohibits the practice of mandating the use of certain surety producers or surety insurers by applicants when a bid, payment, or performance bond is required to ensure the performance of any real property construction contract. (HB1833 HD1)

