
A BILL FOR AN ACT

RELATING TO ACTIVITIES REGULATED BY THE INSURANCE COMMISSIONER.

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

1 SECTION 1. Section 431:7-101, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§431:7-101 Fees. (a) The commissioner shall collect in
4 advance the following fees:

5 (1) Certificate of authority: Issuance \$900

6 (2) Organization of domestic insurers and affiliated
7 corporations:

8 (A) Application and all other papers required
9 for issuance of solicitation permit,
10 filing \$1,500

11 (B) Issuance of solicitation permit \$150

12 (3) Producer's license:

13 (A) Issuance, regular license \$50

14 (B) Issuance, temporary license \$50

15 (4) Nonresident producer's license: Issuance \$75

16 (5) Independent adjuster's license: Issuance \$75

17 (6) Public adjuster's license: Issuance \$75



- 1 (7) Workers' compensation claim adjuster's limited
2 license: Issuance \$75
- 3 (8) Independent bill reviewer's license:
4 Issuance \$80
- 5 (9) Limited producer's license: Issuance \$60
- 6 (10) Managing general agent's license:
7 Issuance \$75
- 8 (11) Reinsurance intermediary's license:
9 Issuance \$75
- 10 (12) Surplus lines broker's license: Issuance \$150
- 11 (13) Service contract provider's registration:
12 Issuance \$75
- 13 (14) Approved course provider certificate:
14 Issuance \$100
- 15 (15) Approved continuing education course
16 certificate: Issuance \$30
- 17 (16) Vehicle protection product warrantor's
18 registration: Issuance \$75
- 19 (17) Criminal history record check \$20
- 20 (18) Limited line motor vehicle rental company producer's
21 license: Issuance \$1,000



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

3 (b) The fees for services of the department of commerce
4 and consumer affairs subsequent to the issuance of a certificate
5 of authority, license, or other certificate are as follows:

6 (1) \$600 per year for all services (including extension of
7 the certificate of authority) for an authorized
8 insurer;

9 (2) \$50 per year for all services (including extension of
10 the license) for a regularly licensed producer;

11 (3) \$75 per year for all services (including extension of
12 the license) for a regularly licensed nonresident
13 producer;

14 (4) \$45 per year for all services (including extension of
15 the license) for a regularly licensed independent
16 adjuster;

17 (5) \$45 per year for all services (including extension of
18 the license) for a regularly licensed public adjuster;

19 (6) \$45 per year for all services (including extension of
20 the license) for a workers' compensation claims
21 adjuster's limited license;



- 1 (7) \$60 per year for all services (including extension of
2 the license) for a regularly licensed independent bill
3 reviewer;
- 4 (8) \$45 per year for all services (including extension of
5 the license) for a producer's limited license;
- 6 (9) \$75 per year for all services (including extension of
7 the license) for a regularly licensed managing general
8 agent;
- 9 (10) \$75 per year for all services (including extension of
10 the license) for a regularly licensed reinsurance
11 intermediary;
- 12 (11) \$45 per year for all services (including extension of
13 the license) for a licensed surplus lines broker;
- 14 (12) \$75 per year for all services (including renewal of
15 registration) for a service contract provider;
- 16 (13) \$65 per year for all services (including extension of
17 the certificate) for an approved course provider;
- 18 (14) \$20 per year for all services (including extension of
19 the certificate) for an approved continuing education
20 course;



- 1 (15) \$75 per year for all services (including renewal of
2 registration) for a vehicle protection product
3 warrantor;
- 4 (16) \$20 for a criminal history record check; and
- 5 (17) \$600 per year for all services (including extension of
6 the license) for a regularly licensed limited line
7 motor vehicle rental company producer.

8 The services referred to in paragraphs (1) to (17) shall
9 not include services in connection with examinations,
10 investigations, hearings, appeals, and deposits with a
11 depository other than the department of commerce and consumer
12 affairs.

13 (c) The commissioner shall notify the holder of a
14 certificate of authority issued under article 3 by written
15 notice at least thirty days prior to the extension date of the
16 certificate of authority, license, or other certificate. If the
17 fee is not paid before or on the extension date, the fee shall
18 be increased by a penalty in the amount of fifty per cent of the
19 fee. If the fee and the penalty are not paid within the thirty
20 days immediately following the extension date, the commissioner
21 may revoke, suspend, or inactivate the certificate of authority,
22 license, or other certificate, and shall not reissue, remove the



1 suspension of, or reactivate the certificate of authority,
2 license, or other certificate until the fee and penalty have
3 been paid.

4 (d) Failure to pay the fee before or on the extension date
5 for a license or other certificate issued under article 8, 9
6 [~~or~~], 9A, 9B, or 9C shall cause the automatic inactivation of
7 the license or certificate effective as of the extension date.

8 (e) Failure of a vehicle protection product warrantor or a
9 service contract provider to make timely payment of the annual
10 renewal of registration fee under chapter 481R or 481X shall
11 result in automatic inactivation of the registration of the
12 vehicle protection product warrantor or service contract
13 provider.

14 [~~(e)~~] (f) All fees and penalties shall be deposited to the
15 credit of the compliance resolution fund."

16 SECTION 2. Section 431:9A-124, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The required number of credit hours shall be as
19 follows:

20 (1) For a licensee authorized to sell lines of insurance
21 in only one of the following groups:

22 (A) Life or accident and health or sickness; or



1 (B) Property, marine and transportation, vehicle,
2 general casualty, or surety;
3 the requisite number of credit hours shall be [~~twenty~~]
4 twenty-four credit hours, including twenty-one credit
5 hours relating to the line of authority for which the
6 license is held, [~~including~~] and three credit hours
7 relating to [~~the insurance laws and the insurance~~
8 ~~rules~~] ethics training;

9 (2) For a licensee with a license to sell lines of
10 insurance in both groups in paragraph (1), the total
11 requisite number of credit hours shall be [~~thirty~~]
12 twenty-four credit hours, [of which] including:

13 (A) [~~Twelve~~] Ten credit hours [~~shall relate~~] relating
14 to paragraph (1) (A) [of which two hours shall
15 relate to the insurance laws and the rules
16 relating to the line of authority for which the
17 license is held, and];

18 (B) [~~Eighteen~~] Eleven credit hours [~~shall relate~~]
19 relating to paragraph (1) (B) [of which two hours
20 shall relate to the insurance laws and the rules
21 relating to the line of authority for which the
22 license is held.]; and



1 (C) Three credit hours relating to ethics training.
 2 For purposes of this section, ethics training
 3 shall include, but shall not be limited to, the
 4 study of fiduciary responsibility, commingling of
 5 funds, payment and acceptance of commissions,
 6 unfair claims practices, policy replacement
 7 considerations, and conflicts of interest."

8 SECTION 3. Section 481R-4, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 "~~§~~481R-4~~§~~ **Registration requirements.** (a) Before
 11 conducting business in this State or issuing any warranty, a
 12 warrantor shall register with the commissioner on a form
 13 prescribed by the commissioner, and shall pay to the
 14 commissioner a fee as provided under section 431:7-101. A
 15 person who sells or solicits a vehicle protection product, but
 16 who is not a warrantor, shall not be required to register with
 17 the commissioner as a warrantor.

18 (b) Warrantor registration records shall be updated
 19 annually or within thirty days of any change, whichever occurs
 20 first, and shall contain the following information:

21 (1) The address of the principal office of the warrantor;



- 1 (2) The name and address of the warrantor's agent for the
2 service of process in this State if other than the
3 provider;
- 4 (3) The identities of the warrantor's executive officer or
5 officers directly responsible for the warrantor's
6 vehicle protection product business;
- 7 (4) The name, address, and telephone number of any
8 administrators designated by the warrantor to be
9 responsible for the administration of vehicle
10 protection product warranties in this State;
- 11 (5) A copy of each warranty form the warrantor proposes to
12 use in this State; and
- 13 (6) A statement that the warrantor is in compliance with
14 the financial responsibility requirements of section
15 481R-5 and that details how the warrantor intends to
16 meet the requirements, and proof of compliance with
17 the requirements.

18 Failure to timely notify the commissioner of any change in
19 registration records shall result in a penalty, pursuant to
20 section 481R-13.

21 (c) Each warrantor shall pay to the commissioner the
22 applicable fee, pursuant to section 431:7-101. Failure to make



1 timely payment of the applicable fee shall result in automatic
2 inactivation of the registration of the warrantor, effective the
3 day after the fee payment was due. A warrantor whose
4 registration has been suspended for nonpayment of the fee may
5 reinstate the registration; provided that the fee payable and a
6 penalty, in the amount of fifty per cent of the unpaid fees, are
7 paid within thirty days from the inactivation date and the
8 warrantor is in compliance with all of the requirements of
9 chapter 481R. If the warrantor fails to reinstate the
10 warrantor's registration within the thirty-day period, the
11 registration shall automatically expire.

12 [~~e~~] (d) The marketing, selling, offering for sale,
13 issuing, making, proposing to make, and administering of vehicle
14 protection products shall be exempt from:

- 15 (1) Chapter 481X; and
16 (2) The insurance laws of this State~~(-)~~, unless
17 specifically made applicable by this chapter.

18 [~~d~~] (e) The following contracts and agreements shall be
19 exempt from this chapter and shall only be subject to other
20 statutes and laws that specifically apply to them:

- 21 (1) Warranties or guarantees, other than those provided as
22 part of a vehicle protection product; and



1 (2) Service contracts regulated by chapter 481X.

2 ~~[(e)]~~ (f) A seller shall not be deemed to be a warrantor
3 unless, in addition to acting as a seller, the person is named
4 under the terms of a vehicle protection product warranty as the
5 contractual obligor to the consumer."

6 SECTION 4. Section 481R-5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) To ensure the adequate performance of a warrantor's
9 obligations to a consumer, each warrantor shall comply with
10 financial security requirements by insuring each vehicle
11 protection product warranty issued by the warrantor under a
12 reimbursement insurance policy issued by an insurer authorized
13 to engage in the business of insurance in this State or ~~[under a~~
14 ~~surplus lines insurance policy issued by an insurer eligible to~~
15 ~~place coverage in this State as regulated under the insurance~~
16 ~~laws of this State.]~~ with an insurer approved by the
17 commissioner."

18 SECTION 5. Section 481X-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§481X-3[+] **Registration.** (a) Before conducting
21 business in this State, a provider shall register with the
22 commissioner on a form prescribed by the commissioner, and shall



1 pay to the commissioner a fee as provided under section 431:7-
2 101.

3 (b) Provider registration shall be updated annually or
4 within thirty days of any change, whichever occurs first, and
5 shall contain the following information:

6 (1) The address of the principal office of the provider;

7 (2) The name and address of the provider's agent for the
8 service of process in this State, if other than the
9 provider;

10 (3) The identities of the provider's executive officer or
11 officers directly responsible for the provider's
12 service contract business;

13 (4) The name, address, and telephone number of any
14 administrators designated by the provider to be
15 responsible for the administration of service
16 contracts in this State;

17 (5) A copy of each service contract form the provider
18 proposes to use in this State; and

19 (6) A statement that the provider is in compliance with
20 the financial responsibility requirements of section
21 481X-4 and that details how the provider intends to



1 meet the requirements, and proof of compliance with
2 the requirements.

3 Failure to timely notify the commissioner of any change in
4 registration records shall result in a penalty, pursuant to
5 section 481X-12.

6 (c) Each provider shall pay to the commissioner the
7 applicable fee, pursuant to section 431:7-101. Failure to make
8 timely payment of the applicable fee shall result in automatic
9 inactivation of the registration of the provider, effective the
10 day after the fee payment was due. A provider whose
11 registration has been suspended for nonpayment of the fee may
12 reinstate the registration; provided that the fee payable and a
13 penalty, in the amount of fifty per cent of the unpaid fees, are
14 paid within thirty days from the inactivation date and the
15 provider is in compliance with all of the requirements of
16 chapter 481X. If the provider fails to meet the requirements to
17 reinstate the provider's registration within the thirty-day
18 period, the registration shall automatically expire."

19 SECTION 6. Section 481X-4, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§481X-4 **Financial responsibility.** A provider shall
22 comply with the requirements under any one of the following



1 paragraphs, and shall not be subject to any other financial
2 security requirements under state law:

3 (1) The provider shall insure all service contracts under
4 a contractual liability insurance policy issued by an
5 insurer authorized to transact insurance in this State
6 or [~~issued pursuant to part III of article 8 of~~
7 ~~chapter 431;~~] with an insurer approved by the
8 commissioner;

9 (2) The provider shall:

10 (A) Maintain a funded reserve account for all
11 obligations under service contracts issued and in
12 force in this State. The reserves shall not be
13 less than forty per cent of the gross
14 consideration received from the sale of the
15 service contract, less claims paid, for all in
16 force contracts. The reserve account shall be
17 subject to examination by the commissioner; and

18 (B) Place in trust with the commissioner, for all
19 service contracts issued and in force in this
20 State, a financial security deposit having a
21 value that is the larger of \$25,000 or five per



1 cent of the gross consideration received, less
2 claims paid for the sale of the service
3 contracts. The financial security deposit shall
4 consist of one of the following:

- 5 (i) A surety bond issued by an authorized
6 surety;
- 7 (ii) Securities of the type eligible for deposit
8 by authorized insurers in this State;
- 9 (iii) Cash;
- 10 (iv) A letter of credit issued by a qualified
11 financial institution; or
- 12 (v) Another form of security authorized by the
13 commissioner [~~by rule~~]; or

- 14 (3) The provider or its parent company shall:
 - 15 (A) Maintain a net worth or stockholders' equity of
16 at least \$100,000,000; and
 - 17 (B) Upon request, provide the commissioner with a
18 copy of the provider's or the provider's parent
19 company's most recent Form 10-K or Form 20-F
20 filed with the Securities and Exchange Commission
21 within the last calendar year, or if the company



1 does not file with the Securities and Exchange
2 Commission, a copy of the provider's or the
3 provider's parent company's audited financial
4 statements.

5 If the financial responsibility requirement under this
6 paragraph is to be maintained by the provider's parent
7 company, the parent company shall guarantee the
8 provider's obligations under service contracts sold by
9 the provider in this State."

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 2008.



Report Title:

Insurance Producers; Continuing Education; Automatic
Inactivation; Financial Responsibility

Description:

Creates uniformity between other states' laws and Hawaii law in regard to licensing requirements. Makes educational requirements to keep a license uniform, automatically inactivates a license if fees are not paid on time, allows reactivation if the fee is paid in 30 days, and broadens the types of reinsurance that can be used to meet the financial obligations of insurance agents. (SD1)

