A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 Section 431:2-105, Hawaii Revised Statutes, is SECTION 1. 2 amended by amending subsection (a) to read as follows: 3 There shall be a chief deputy commissioner, who shall 4 be subject to chapter 76. The chief deputy commissioner shall 5 have the power to perform any act or duty assigned by the 6 commissioner. If a commissioner has not been appointed, the 7 chief deputy commissioner shall have the power to perform any 8 act conferred upon the commissioner until such appointment is 9 made. The certificate of the chief deputy commissioner's 10 appointment shall be filed in the office of the lieutenant 11 governor." 12 SECTION 2. Section 431:2-202.5, Hawaii Revised Statutes, 13 is amended to read as follows: 14 "\$431:2-202.5 Approval; when deemed effective. Except as 15 provided otherwise, any approval required by law shall be deemed 16 granted on the [thirtieth] seventy-fifth calendar day following

the filing of the request for approval if the commissioner does

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    not take any affirmative action to grant or deny the approval
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    within [thirty] seventy-five calendar days of the request."
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         SECTION 3. Section 431:2-206, Hawaii Revised Statutes, is
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    amended by amending subsection (a) to read as follows:
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         "(a)
               A person competent to serve a summons shall serve
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    upon the commissioner triplicate copies of legal process against
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    an insurer for whom the commissioner is attorney. In the
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    absence of the commissioner, the process may be served upon the
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    chief deputy or the deputy in charge of the insurance function.
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    At the time of service the plaintiff shall pay to the
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    commissioner [\$12] $25, taxable as costs in the action."
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         SECTION 4. Section 431:9-204, Hawaii Revised Statutes, is
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    amended to read as follows:
14
         "$431:9-204 Applications for license. (a) Application
    for [any such] an adjuster or independent bill reviewer license
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    shall be made to the commissioner upon forms as prescribed and
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    furnished by the commissioner. As a part of or in connection
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    with any such application, the applicant shall furnish
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20 (1) The applicant's identity, personal history,
 21 experience, business records, and a full set of
 22 fingerprints, including a scanned file from a hard

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information including:

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1		copy fingerprint, for the commissioner to obtain and
2		receive national and state criminal history
3		[+]record[+] checks from the Federal Bureau of
4		Investigation and the Hawaii criminal justice data
5		center, pursuant to section 846-2.7; and
6	(2)	Other pertinent facts as the commissioner may
7		reasonably require.
8	[(b)(1)	If the applicant is a partnership or corporation, the
9		application shall furnish in addition to the
10		requirements set forth in subsection (a):
11		(A) The names of all partners or officers; and
12		(B) A designation of each individual who is to
13		exercise the powers to be conferred by the
14		license upon the partnership or corporation.
15	(2)	Each individual shall be required to furnish
16		information to the commissioner as though for an
17		individual license.
18	(c)]	(b) Any person wilfully misrepresenting or omitting
19	any fact	required to be disclosed in any such application shall
20	be liable	for penalties as provided by this code."

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         SECTION 5. Section 431:9C-101, Hawaii Revised Statutes, is
    amended by amending the definition of "managing general agent"
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    to read as follows:
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         ""Managing general agent" means any person, firm,
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    association, or corporation that manages all or part of the
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    insurance business of an insurer (including the management of a
 7
    separate division, department, or underwriting office) and acts
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    as an agent for such insurer whether known as a managing general
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    agent, manager, or other similar term, who, with or without the
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    authority, either separately or together with affiliates,
11
    produces, directly or indirectly, and underwrites an amount of
12
    gross direct written premium equal to or more than five per cent
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    of the policyholder surplus as reported in the last annual
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    statement of the insurer in any one quarter or year, together
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    with one or more of the following activities related to the
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    business produced: adjusts or pays claims in excess of [an
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    amount determined by the commissioner, | $10,000, or negotiates
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    reinsurance on behalf of the insurer. Notwithstanding the
19
    preceding sentence, the following persons shall not be
20
    considered as managing general agents for the purposes of this
21
    article:
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22 (1) An employee of the insurer;



1	(2)	A United States manager of the United States branch of
2		an alien insurer;
3	(3)	An underwriting manager who, pursuant to contract,
4		manages all the insurance operations of the insurer,
5		is under common control with the insurer, subject to
6		article 11, and whose compensation is not based on the
7		volume of premiums written;
8	(4)	The attorney-in-fact authorized by and acting for the
9		subscribers of a reciprocal insurer or inter-insurance
10		exchange under a power of attorney; and
11	(5)	Any person, firm, association, or corporation
12		domiciled in the State and authorized to do business
13		only in the State and acting as a managing general
14		agent for an insurer licensed and conducting business
15		only in the State."
16	SECT	ION 6. Section 431:10H-228, Hawaii Revised Statutes,
17	is amended	d to read as follows:
18	" [-[] !	§431:10H-228 Filing requirements; advertisements.[+]
19	(a) Every	y insurer, health care service plan, or other entity
20	providing	long-term care insurance or benefits in this State
21	shall prov	vide a copy of any long-term care insurance
22	advertise	ment intended for use in this State whether through
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1	written, radio, or television medium to the commissioner for
2	review or approval by the commissioner to [the extent it may be
3	reviewed under state law.] determine compliance with this
4	article. In addition, all advertisements shall be retained by
5	the insurer, health care service plan, or other entity for at
6	least three years from the date the advertisement was first
7	used.
8	(b) The commissioner may exempt from the requirements of
9	this section any advertising form or material when, in the
10	commissioner's opinion, this requirement may not reasonably be
11	applied."
12	SECTION 7. Section 431:11-106, Hawaii Revised Statutes, is
13	amended by amending subsection (a) to read as follows:
14	"(a) (1) Transactions within a holding company system to
15	which an insurer subject to registration is a party
16	shall be subject to the following standards:
17 ,	(A) The terms shall be fair and reasonable;
18	(B) Charges or fees for services performed shall be
19	reasonable;
20	(C) Expenses incurred and payment received shall be
21	allocated to the insurer in conformity with

1			customary insurance accounting practices
2			consistently applied;
3		(D)	The books, accounts, and records of each party to
4			all transactions shall be maintained so as to
5			clearly and accurately disclose the nature and
6			details of the transactions including the
7			accounting information necessary to support the
8			reasonableness of the charges or fees to the
9			respective parties; and
10		(E)	The insurer's surplus as regards policyholders
11			following any dividends or distributions to
12			shareholder affiliates shall be reasonable in
13			relation to the insurer's outstanding liabilities
14			and adequate to its financial needs;
15	(2)	The	following transactions involving a domestic
16		insu	rer and any person in its holding company system
17		shal	l not be entered into unless the insurer has
18		noti	fied the commissioner in writing of its intention
19		to e	nter into the transaction at least thirty days
20		prio	r thereto, or a shorter period as the commissioner
21		may j	permit, and the commissioner has not disapproved
22		it w	ithin that period:

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1	(A)	Sales, purchases, exchanges, loans or extensions
2		of credit, guarantees, or investments; provided
3		that the transactions are equal to or exceed:
4		(i) With respect to nonlife insurers, the lesser
5		of three per cent of the insurer's admitted
6		assets or twenty-five per cent of surplus as
7		regards policyholders each as of the thirty-
8		first day of December next preceding; or
9		(ii) With respect to life insurers, three per
10		cent of the insurer's admitted assets as of
11		the thirty-first day of December next
12		preceding;
13	(B)	Loans or extensions of credit to any person who
14		is not an affiliate, where the insurer makes the
15		loans or extensions of credit with the agreement
16		or understanding that the proceeds of the
17		transactions, in whole or in substantial part,
18		are to be used to make loans or extensions of
19		credit to, to purchase assets of, or to make
20		investments in, any affiliate of the insurer
21		making the loans or extensions of credit;

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1	provided that the transactions are equal to or
2	exceed:
3	(i) With respect to nonlife insurers, the lesser
4	of three per cent of the insurer's admitted
5	assets or twenty-five per cent of surplus as
6	regards policyholders each as of the thirty-
7	first day of December next preceding; or
8	(ii) With respect to life insurers, three per
9	cent of the insurer's admitted assets as of
10	the thirty-first day of December next
11	preceding;
12	(C) Reinsurance agreements or modifications thereto
13	in which the reinsurance premium or a change in
14	the insurer's liabilities equals or exceeds five
15	per cent of the insurer's surplus as regards
16	policyholders, as of the thirty-first day of
17	December next preceding, including those
18	agreements which may require as consideration the
19	transfer of assets from an insurer to a
20	nonaffiliate, if an agreement or understanding
21	exists between the insurer and nonaffiliate that

1		any portion of the assets will be transferred to
2		one or more affiliates of the insurer;
3		(D) All management agreements, service contracts, and
4		[all] cost-sharing arrangements; and
5		(E) Any material transactions, specified by rule,
6		which the commissioner determines may adversely
7		affect the interests of the insurer's
8	i	policyholders.
9		Nothing in this section shall be deemed to authorize
10		or permit any transactions which, in the case of an
11		insurer not a member of the same holding company
12		system, would be otherwise contrary to law;
13	(3)	A domestic insurer may not enter into transactions
14		which are part of a plan or series of like
15		transactions with persons within the holding company
16		system if the purpose of those separate transactions
17		is to avoid the statutory threshold amount and thus
18		avoid the review that would otherwise occur. 'If the
19		commissioner determines that the separate transactions
20		were entered into over any twelve-month period for
21		that purpose, the commissioner may exercise the
22		commissioner's authority under section 431:11-111;

1	(4)	The commissioner, in reviewing transactions pursuant
2		to subsection (a)(2), shall consider whether the
3		transactions comply with the standards set forth in
4		subsection (a)(1) and whether they may adversely
5		affect the interests of policyholders; and
6	(5)	The commissioner shall be notified within thirty days
7		of any investment of the domestic insurer in any one
8		person if the total investment in the person by the
9		insurance holding company system exceeds ten per cent
10		of the [corporation's] <u>person's</u> voting securities[+]
11		or the domestic insurer possesses control of the
12		person as defined in section 431:11-102."
13	SECT	ION 8. Section 431:14G-105, Hawaii Revised Statutes,
14	is amende	d by amending subsections (a) and (b) to read as
15	follows:	•
16	"(a)	Every managed care plan shall file [in triplicate]
17	with the	commissioner, every rate, charge, classification,
18	schedule,	practice, or rule and every modification of any of the
19	foregoing	that it proposes to use.
20	Every fil:	ing shall [state]:
21	(1)	State its proposed effective date [and shall
22		indicate];

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1	(2)	<u>Indicate</u> the character and extent of the coverage
2		contemplated[. The filing also shall include];
3	(3)	<pre>Include a report on investment income[-]; and</pre>
4	(4)	Be accompanied by a \$50 fee payable to the
5		commissioner and shall be deposited in the
6		commissioner's education and training fund.
7	[(b)	Each filing shall be accompanied by a \$50 fee payable
8	to the cor	mmissioner and shall be deposited in the commissioner's
9	education	and training fund.]
10	(b)	For each filing, an insurer shall submit to the
11	commission	ner:
12	(1)	An electronic copy of the filing; or
13	(2)	Two printed copies of the filing.
14	The commis	ssioner may also request a printed version of an
15	electronic	c filing to be submitted pursuant to paragraph (1)."
16	SECT	ION 9. Section 431P-16, Hawaii Revised Statutes, is
17	amended by	y amending subsection (e) to read as follows:
18	"(e)	After each covered event, if the board shall
19	determine	that the moneys in the hurricane reserve trust fund,
20	excluding	moneys determined by the board to be needed to
21	continue f	fund operations following that covered event, will be
22	insufficie	ent to pay claims and other obligations of the fund

- 1 arising out of that covered event, the Hawaii hurricane relief
- 2 fund [is authorized to] shall levy a surcharge not to exceed
- 3 seven and one-half per cent a year on premiums charged for all
- 4 property and casualty insurance policies issued for risks
- 5 insured in this State. These moneys may be deposited into the
- 6 hurricane reserve trust fund or into trust or custodial
- 7 accounts, created for the benefit of the fund's secured parties,
- 8 that are held inside or outside the hurricane reserve trust
- 9 fund. The [formula to calculate the amount and period of the
- 10 surcharge for each covered event and the procedures and
- 11 methodology for payment of claims and other obligations of the
- 12 fund shall be provided in the plan of operation and the
- 13 surcharge [may] shall remain in effect until all claims and
- 14 other obligations of the fund, including but not limited to
- 15 claims under fund policies of hurricane property insurance,
- 16 claims financing transactions, bonds, notes, and other
- 17 obligations arising out of that covered event, shall have been
- 18 fully discharged. The amount and reason for any surcharge made
- 19 pursuant to this subsection shall be separately stated on any
- 20 billing sent to an insured. The surcharge shall not be
- 21 considered premiums for any other purpose, including the
- 22 computation of gross premium tax or the determination of

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- 1 producers' commissions. The fund may establish procedures for
- 2 insurers to collect the surcharge from their customers who hold
- 3 property or casualty policies."
- 4 SECTION 10. Section 432:1-306, Hawaii Revised Statutes, is
- 5 amended by amending subsection (a) to read as follows:
- 6 "(a) [After the organization of the society is completed,
- 7 and before a certificate of compliance is granted by the
- 8 commissioner, the] The society shall deposit with the
- 9 commissioner [one half the maximum amount required to be
- 10 maintained in its death benefit and disability, or sick, or
- 11 other benefit fund, as provided in section 432:1-401, [fifty per
- 12 cent of the minimum net worth requirement as provided in section
- 13 432:1-407(a)(2), either in cash or in securities approved by the
- 14 commissioner[-]; provided that the deposit shall be not less
- 15 than \$1,000,000 and shall not exceed \$20,000,000."
- 16 SECTION 11. Act 59, Session Laws of Hawaii 2010, is
- 17 amended as follows:
- 18 1. By amending section 4 to read:
- 19 "SECTION 4. Section 431:7-101, Hawaii Revised Statutes, is
- 20 amended by amending subsections (a) and (b) to read as follows:
- 21 "(a) The commissioner shall collect in advance the
- 22 following fees:

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1	(1)	Certificate of authority: Issuance\$900
2	(2)	Organization of domestic insurers and affiliated
3		corporations:
4		(A) Application and all other papers required for
5		issuance of solicitation permit,
6		filing \$1,500
7		(B) Issuance of solicitation permit\$150
8	(3)	Producer's license:
9		(A) Issuance, regular license\$50
10		(B) Issuance, temporary license\$50
11	(4)	Nonresident producer's license:
12		Issuance\$75
13	(5)	Independent adjuster's license: Issuance\$75
14	(6)	Public adjuster's license: Issuance \$75
15	(7)	[Workers' compensation claim] Claims adjuster's
16		limited license: Issuance\$75
17	(8)	Independent bill reviewer's license:
18		Issuance\$80
19	(9)	Limited producer's license: Issuance\$60
20	(10)	Managing general agent's license: Issuance\$75
21	(11)	Reinsurance intermediary's license:
22		Tssuance \$75

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

1	(b)	The fees for services of the department of commerce
2	and consu	mer affairs subsequent to the issuance of a certificate
3	of author	ity, license, or other certificate are as follows:
4	(1)	\$600 per year for all services (including extension of
5		the certificate of authority) for an authorized
6		insurer;
7	(2)	\$50 per year for all services (including extension of
8		the license) for a regularly licensed producer;
9	(3)	\$75 per year for all services (including extension of
10		the license) for a regularly licensed nonresident
11		producer;
12	(4)	\$45 per year for all services (including extension of
13		the license) for a regularly licensed independent
14		adjuster;
15	(5)	\$45 per year for all services (including extension of
16		the license) for a regularly licensed public adjuster;
17	(6)	\$45 per year for all services (including extension of
18		the license) for a [workers' compensation] claims
19		adjuster's limited license;
20	(7)	\$60 per year for all services (including extension of
21		the license) for a regularly licensed independent bill
22		reviewer;

1	(8)	\$45 per year for all services (including extension of
2		the license) for a producer's limited license;
3	(9)	\$75 per year for all services (including extension of
4		the license) for a regularly licensed managing general
5		agent;
6	(10)	\$75 per year for all services (including extension of
7		the license) for a regularly licensed reinsurance
8		intermediary;
9	(11)	\$45 per year for all services (including extension of
10		the license) for a licensed surplus lines broker;
11	(12)	\$75 per year for all services (including renewal of
12		registration) for a service contract provider;
13	(13)	\$65 per year for all services (including extension of
14		the certificate) for an approved course provider;
15	(14)	\$20 per year for all services (including extension of
16		the certificate) for an approved continuing education
17		course;
18	(15)	\$75 per year for all services (including renewal of
19	·	registration) for a vehicle protection product
20		warrantor;
21	(16)	\$20 for a criminal history record check;
22		fingerprinting: For each criminal history record

1		check and fingerprinting check, a fee to be
2		established by the commissioner;
3	(17)	\$600 per year for all services (including extension of
4		the license) for a regularly licensed limited line
5		motor vehicle rental company producer[+
6	(18)	\$150 per year for all services (including extension of
7		the license) for a regularly-licensed life settlement
8		contract-provider; and
9	(19)	\$150 per year for all services (including extension of
10		the license) for a regularly licensed life settlement
11		contract broker.]; and
12	(18)	\$500 per year for all services (including extension of
13		the certificate) for an authorized legal service plan.
14	The s	services referred to in paragraphs (1) to [(19)] <u>(18)</u>
15	shall not	include services in connection with examinations,
16	investigat	tions, hearings, appeals, and deposits with a
17	depository	y other than the department of commerce and consumer
18	affairs."	, .
19	2. I	By amending section 5 to read:
20	"SEC	FION 5. Section 431:7-101, Hawaii Revised Statutes, is
21	amended to	read as follows:
22	1. F	By amending subsections (a) and (b) to read:

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1	"(a)	The commissioner shall collect in advance the
2	following	fees:
3	(1)	Certificate of authority: Issuance\$1,800
4	(2)	Organization of domestic insurers and affiliated
5		corporations:
6		(A) Application and all other papers required for
7		issuance of solicitation permit,
8		filing\$3,000
9		(B) Issuance of solicitation permit\$300
10	(3)	Producer's license:
11		(A) Issuance, regular license\$100
12		(B) Issuance, temporary license\$100
13	(4)	Nonresident producer's license:
14		Issuance\$150
15	(5)	Independent adjuster's license: Issuance\$150
16	(6)	Public adjuster's license: Issuance\$150
17	(7)	[Workers' compensation claim] Claim adjuster's limited
18		license: Issuance\$150
19	(8)	Independent bill reviewer's license:
20		Issuance\$160
21	(9)	Limited producer's license: Issuance\$120
22	(10)	Managing general agent's license: Issuance\$150
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1	(11)	Reinsurance intermediary's license:
2		Issuance\$150
3	(12)	Surplus lines broker's license: Issuance\$300
4	(13)	Service contract provider's registration:
5		Issuance\$150
6	(14)	Approved course provider certificate:
7		Issuance\$200
8	(15)	Approved continuing education course certificate:
9		Issuance\$60
10	(16)	Vehicle protection product warrantor's registration:
11		Issuance\$150
12	(17)	Criminal history record check; fingerprinting: For
13		each criminal history record check and fingerprinting
14		check, a fee to be established by the commissioner.
15	(18)	Limited line motor vehicle rental company producer's
16		license: Issuance\$2,000
17	[(19)	Life settlement contract provider's license:
18		Issuance\$150
19	(20)	Life settlement contract broker's license:
20		Issuance\$150
21	<u>(19)</u>	Legal service plan certificate of authority:
22		Issuance\$1,000

1	$[\frac{(21)}{(21)}]$	(20) Examination for license: For each examination,
2		a fee to be established by the commissioner.
3	(b)	The fees for services of the department of commerce
4	and consu	mer affairs subsequent to the issuance of a certificate
5	of author	ity, license, or other certificate are as follows:
6	(1)	\$1,200 per year for all services (including extension
7		of the certificate of authority) for an authorized
8		insurer;
9	(2)	\$100 per year for all services (including extension of
10	·	the license) for a regularly licensed producer;
11	(3)	\$150 per year for all services (including extension of
12		the license) for a regularly licensed nonresident
13		producer;
14	(4)	\$90 per year for all services (including extension of
15		the license) for a regularly licensed independent
16		adjuster;
17	(5)	\$90 per year for all services (including extension of
18		the license) for a regularly licensed public adjuster;
19	(6)	\$90 per year for all services (including extension of
20		the license) for a [workers' compensation] claims
21		adjuster's limited license;

1	(7)	\$120 per year for all services (including extension of
2		the license) for a regularly licensed independent bill
3		reviewer;
4	(8)	\$90 per year for all services (including extension of
5		the license) for a producer's limited license;
6	(9)	\$150 per year for all services (including extension of
7		the license) for a regularly licensed managing general
8		agent;
9	(10)	\$150 per year for all services (including extension of
10		the license) for a regularly licensed reinsurance
11		intermediary;
12	(11)	\$90 per year for all services (including extension of
13		the license) for a licensed surplus lines broker;
14	(12)	\$150 per year for all services (including renewal of
15		registration) for a service contract provider;
16	(13)	\$130 per year for all services (including extension of
17		the certificate) for an approved course provider;
18	(14)	\$40 per year for all services (including extension of
19		the certificate) for an approved continuing education
20		course;

1	(15)	\$150 per year for all services (including renewal of
2		registration) for a vehicle protection product
3		warrantor;
4	(16)	\$40 for a criminal history record check;
5		fingerprinting: For each criminal history record
6		check and fingerprinting check, a fee to be
7		established by the commissioner;
8	(17)	\$1,200 per year for all services (including extension
9		of the license) for a regularly licensed limited line
10		motor vehicle rental company producer; and
11	[(18)	\$150-per year for all services (including extension of
12		the license) for a regularly licensed life settlement
13		contract provider; and
14	(19)	\$150 per year for all services (including extension of
15		the license) for a regularly licensed life settlement
16		contract-broker.]
17	(18)	\$1,000 per year for all services (including extension
18		of the certificate) for an authorized legal service
19		plan.
20	The s	services referred to in paragraphs (1) to [(19)] <u>(18)</u>
21	shall not	include services in connection with examinations,
22	investigat	tions, hearings, appeals, and deposits with a
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1	depositor	y other than the department of commerce and consumer
2	affairs.	
3	2.	By amending subsection (e) to read as follows:
4	" (e)	All fees and penalties shall be deposited to the
5	credit of	the compliance resolution fund; provided that
6	beginning	July 1, 2010, the statutory fees collected pursuant to
7	subsectio	ns (a) and (b), not including administratively set fees
8	and asses	sments as may be authorized under this section, shall
9	be deposi	ted as follows:
10	(1)	Fifty per cent shall be deposited into the compliance
11		resolution fund; and
12	(2)	Fifty per cent shall constitute an insurance license
13		and service tax, which shall be deposited into the
14		general fund.""
15	SECT	ION 12. Section 432:1-401, Hawaii Revised Statutes, is
16	repealed.	
17	[" 54	32:1-401 Benefit funds. Each society shall at all
18	times mai	ntain:
19	(1)	In its death benefit fund, at least five times the
20		maximum amount of death benefit offered or promised to
21		be paid to any one member, and

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1	(2) In its sick, disability or other benefit fund, at
2	least twenty times the maximum amount of sick,
3	disability or other benefits, whichever maximum amount
4	is greater, offered or promised to be paid to any one
5	member during or within a period of thirty days."]
6	SECTION 13. Statutory material to be repealed is bracketed
7	and stricken. New statutory material is underscored.
8	SECTION 14. This Act shall take effect on July 1, 2011.

Report Title:

Insurance

Description:

Updates the Insurance Code and related provisions. (HB1049 HD1)

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