

JAN 21 2011

A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING UNNECESSARY PROVISIONS.

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

PART I.

1 SECTION 1. Section 89-2, Hawaii Revised Statutes, is
2 amended by amending the definitions of "collective bargaining"
3 and "employee organization" to read as follows:
4 ""Collective bargaining" means the performance of the
5 mutual obligations of the public employer and an exclusive
6 representative to meet at reasonable times, to confer and
7 negotiate in good faith, and to execute a written agreement with
8 respect to wages, hours, amounts of contributions by the State
9 and counties to the [~~Hawaii public employees health fund,~~
10 Hawaii employer-union health benefits trust fund, and other
11 terms and conditions of employment, except that by any such
12 obligation neither party shall be compelled to agree to a
13 proposal, or be required to make a concession. For the purposes
14 of this definition, "wages" includes the number of incremental
15 and longevity steps, the number of pay ranges, and the movement



1 between steps within the pay range and between the pay ranges on
2 a pay schedule under a collective bargaining agreement.

3 "Employee organization" means any organization of any kind
4 in which public employees participate and which exists for the
5 primary purpose of dealing with public employers concerning
6 grievances, labor disputes, wages, hours, amounts of
7 contributions by the State and counties to the [~~Hawaii public~~
8 ~~employees health fund,~~] Hawaii employer-union health benefits
9 trust fund, and other terms and conditions of employment of
10 public employees."

11 SECTION 2. Chapter 89A, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]CHAPTER 89A

14 OFFICE OF COLLECTIVE BARGAINING AND MANAGED COMPETITION[+]"

15 SECTION 3. Section 231-40, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§231-40 Interpretation.** Sections 231-34, 231-35, 231-36,
18 and [~~231-7:5~~] 231-36.4 shall be construed in accordance with
19 judicial interpretations given to similar provisions of Title 26
20 of the United States Code; consistent therewith, the term
21 "wilfully" shall mean a voluntary, intentional violation of a
22 known legal duty."

1 SECTION 4. Section 231-41, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§231-41 Statute of limitation for criminal penalties.**

4 Notwithstanding any laws to the contrary, prosecutions under
5 sections 231-34, 231-35, 231-36, and [~~231-7.5~~] 231-36.4 shall be
6 commenced within seven years after the commission of the
7 offense."

8 SECTION 5. Section 235-2.35, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"[+]§235-2.35[+] Operation of certain Internal Revenue
11 Code provisions not operative under section 235-2.3.**

12 Notwithstanding the meaning of "Internal Revenue Code" as that
13 term is used in section [+]235-2.3[+], beginning April 1, 2010,
14 the following sections of the federal Internal Revenue Code of
15 1986, as amended as of April 1, 2010, shall be operative for
16 purposes of this chapter:

17 (1) Section 6041 as applicable to persons under section
18 6041(h) (with respect to information returns at the
19 source for certain corporations);

20 (2) Section 6038D (with respect to information with
21 respect to foreign financial assets). With respect to
22 persons required to report information under this

1 section, section 6662(j) (with respect to imposition
2 of accuracy-related penalties on underpayments) and
3 section 6501(e)(1)(A)(ii) (with respect to limitations
4 on assessment and collection) shall also be operative
5 for purposes of this chapter and shall be applied
6 consistently with the correlating provisions of
7 [+]sections[+] 231-36.6 and 235-111;

8 (3) Section 6045B (with respect to returns relating to
9 actions affecting basis in securities); and

10 (4) Section 6050W (with respect to returns relating to
11 payments made in settlement of payment card and third
12 party network transactions)."

13 SECTION 6. Section 237-24.8, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) As used in this section:

16 "Activities relating to the general servicing of fiduciary
17 or custodial accounts" means those activities performed by trust
18 companies which are directly or indirectly performed within the
19 fiduciary or custodial relationship between the trust company or
20 trust department of a financial institution and its client and
21 which are not offered to any person outside of the fiduciary or
22 custodial relationship.

1 "Annual percentage rate" and "finance charge" have the same
2 meaning as defined in the federal Truth in Lending Act (15
3 United States Code sections 1605(a) to (c) and 1606).

4 "Deposit" means:

5 (1) Money or its equivalent received or held by a
6 financial institution in the usual course of business
7 and for which it has given or is obligated to give
8 credit to:

9 (A) A commercial (including public deposits),
10 checking, savings, time, or thrift account;

11 (B) A check or draft drawn against a deposit account
12 and certified by the financial institution;

13 (C) A letter of credit; or

14 (D) A traveler's check, on which the financial
15 institution is primarily liable;

16 (2) Trust funds received or held by a financial
17 institution, whether held in the trust department or
18 held or deposited in any other department of the
19 financial institution;

20 (3) Money received or held by a financial institution, or
21 the credit given for money or its equivalent received
22 or held by a financial institution in the usual course

1 of business for a special or specific purpose,
2 regardless of the legal relationship thereby
3 established, including, without being limited to,
4 escrow funds, funds held as security for an obligation
5 due the financial institution or others (including
6 funds held as dealers' reserves) or for securities
7 loaned by the financial institution, funds deposited
8 by a debtor to meet maturing obligations, funds
9 deposited as advance payment on subscriptions to
10 United States government securities, funds held for
11 distribution or purchase of securities, funds held to
12 meet the financial institution's acceptances or
13 letters of credit, and withheld taxes;

14 (4) Outstanding drafts, cashier's checks, money orders, or
15 other officer's checks issued in the usual course of
16 business for any purpose; or

17 (5) Money or its equivalent held as a credit balance by a
18 financial institution on behalf of its customer if the
19 financial institution is engaged in soliciting and
20 holding the balances in the regular course of its
21 business.

1 "Financial institution" means banks, building and loan
2 associations, development companies, financial corporations,
3 financial services loan companies, small business investment
4 companies, financial holding companies, [~~mortgage loan~~
5 ~~originator companies as defined in chapter 454F,~~] and trust
6 companies all as defined in chapter 241[~~-~~], and mortgage loan
7 originator companies as defined in chapter 454F.

8 "Leasing of personal property" occurs if:

- 9 (1) The lease is to serve as the functional equivalent of
10 an extension of credit to the lessee of the property;
- 11 (2) The property to be leased is acquired specifically for
12 the leasing transaction under consideration, or was
13 acquired specifically for an earlier leasing
14 transaction;
- 15 (3) The lease is on a nonoperating basis where the
16 financial institution may not, directly or indirectly:
- 17 (A) Provide for the maintenance, repair, replacement,
18 or servicing of the leased property during the
19 lease term;
- 20 (B) Purchase parts and accessories in bulk or for an
21 individual property after the lessee has taken
22 delivery of the property; or

- 1 (C) Purchase insurance for the lessee;
- 2 (4) At the inception of the lease the effect of the
- 3 transaction will yield a return that will compensate
- 4 the lessor financial institution for not less than the
- 5 lessor's full investment in the property plus the
- 6 estimated total cost of financing the property over
- 7 the term of the lease, from:
- 8 (A) Rentals;
- 9 (B) Estimated tax benefits, including capital goods
- 10 excise tax credit, net economic gain from tax
- 11 deferral from accelerated depreciation, and other
- 12 tax benefits with a substantially similar effect;
- 13 and
- 14 (C) The estimated residual value of the property at
- 15 the expiration of the initial term of the lease;
- 16 (5) The maximum lease term during which the lessor
- 17 financial institution shall recover the lessor's full
- 18 investment in the property, plus the estimated total
- 19 cost of financing the property, shall be forty years;
- 20 and
- 21 (6) At the expiration of the lease, including any renewals
- 22 or extensions with the same lessee, all interest in

1 the property shall be either liquidated or leased
2 again on a nonoperating basis as soon as practicable
3 but in no event later than two years from the
4 expiration of the lease; provided that in no case
5 shall the lessor retain any interest in the property
6 beyond fifty years after the lessor's acquisition of
7 the property."

8 SECTION 7. Section 291-11.5, Hawaii Revised Statutes, is
9 amended by amending subsection (e) to read as follows:

10 "(e) Violation of this section shall be considered an
11 offense as defined under section 701-107(5) and shall subject
12 the violator to the following penalties:

13 (1) For a first conviction, the person shall:

14 (A) Be fined not more than \$100;

15 (B) Be required by the court to attend a child
16 passenger restraint system safety class conducted
17 by the division of driver education; provided
18 that:

19 (i) The class may include video conferences as
20 determined by the administrator of the
21 division of driver education as an
22 alternative method of education; and

- 1 (ii) The class shall not exceed four hours;
- 2 (C) Pay a \$50 driver education assessment as provided
- 3 in section 286G-3;
- 4 (D) Pay a \$10 surcharge to be deposited into the
- 5 neurotrauma special fund; [+]and[+]
- 6 (E) Pay up to a \$10 surcharge to be deposited into
- 7 the trauma system [+]special[+] fund if the court
- 8 so orders; and
- 9 (2) For a conviction of a second offense committed within
- 10 three years of any other conviction under this
- 11 section, the person shall:
- 12 (A) Be fined not less than \$100 but not more than
- 13 \$200;
- 14 (B) Be required by the court to attend a child
- 15 passenger restraint system safety class not to
- 16 exceed four hours in length conducted by the
- 17 division of driver education if the person has
- 18 not previously attended such a class;
- 19 (C) Pay a \$50 driver education assessment as provided
- 20 in section 286G-3 if the person has not
- 21 previously attended a child passenger restraint

1 system safety class conducted by the division of
2 driver education;

3 (D) Pay a \$10 surcharge to be deposited into the
4 neurotrauma special fund; [+]and[+]

5 (E) Pay up to a \$10 surcharge to be deposited into
6 the trauma system [+]special[+] fund if the court
7 so orders;

8 (3) For a conviction of a third or subsequent offense
9 committed within three years of any other conviction
10 under this section, the person shall:

11 (A) Be fined not less than \$200 but not more than
12 \$500;

13 (B) Be required by the court to attend a child
14 passenger restraint system safety class not to
15 exceed four hours in length conducted by the
16 division of driver education if the person has
17 not previously attended such a class;

18 (C) Pay a \$50 driver education assessment as provided
19 in section 286G-3 if the person has not
20 previously attended a child passenger restraint
21 system safety class conducted by the division of
22 driver education;

- 1 (D) Pay a \$10 surcharge to be deposited into the
2 neurotrauma special fund; [+]and[+]
3 (E) Pay up to a \$10 surcharge to be deposited into
4 the trauma system [+]special[+] fund if the court
5 so orders."

6 SECTION 8. Section 339D-9, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Notwithstanding subsection (a), the department shall
9 not have the authority to assess any fees, including an advanced
10 recycling fee, registration fee, or other fee, on consumers,
11 television manufacturers, or retailers for recovery of covered
12 televisions except those noted in sections [+]339D-4[+] and
13 339D-22."

14 PART II.

15 SECTION 9. Section 346-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "critical access hospital"
17 to read as follows:

18 ""Critical access hospital" means a hospital located in the
19 State that is included in Hawaii's rural health plan approved by
20 the federal [~~Health Care Financing Administration~~] Centers for
21 Medicare and Medicaid Services and approved as a critical access

1 hospital by the department of health as provided in Hawaii's
2 rural health plan and as defined in 42 U.S.C. section 1395i-4."

3 SECTION 10. Section 346D-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "critical access hospital"
5 to read as follows:

6 "Critical access hospital" means a hospital located in the
7 State that is included in Hawaii's rural health plan approved by
8 the federal [~~Health Care Financing Administration~~] Centers for
9 Medicare and Medicaid Services and approved as a critical access
10 hospital by the department of health as provided in Hawaii's
11 rural health plan and as defined in 42 U.S.C. section 1395i-4."

12 SECTION 11. Section 346D-2, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) Medicaid home and community-based waiver program
15 expenditures shall not exceed the amount authorized by the
16 federal [~~Health Care Financing Administration.~~] Centers for
17 Medicare and Medicaid Services."

18 SECTION 12. Section 353G-16, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) The department of public safety, with the assistance
21 of the department of health, may pursue all available funding
22 through federal programs and private sources. Contingent upon

1 the receipt of sufficient funds, the department of public safety
2 may implement the assessment and treatment services mandated
3 pursuant to this chapter. If at any time funds are not
4 available, the department may not be required to provide these
5 services. In addition, the department of public safety, in
6 conjunction with the department of health, may pursue all
7 available federal matching funds through medicaid for
8 nonhospital residential alcohol and other drug treatment
9 services from the United States [~~Health Care Financing~~
10 ~~Administration.~~] Centers for Medicare and Medicaid Services."

11 SECTION 13. Section 431:10A-119, Hawaii Revised Statutes,
12 is amended by amending subsection (a) to read as follows:

13 "(a) Any other law to the contrary notwithstanding,
14 commencing on January 1, 2000, all authorized insurers that
15 provide for payment of or reimbursement for hospice care, shall
16 reimburse hospice care services for each insured policyholder
17 covered for hospice care according to the following:

18 (1) A minimum daily rate as set by the [~~Health Care~~
19 ~~Financing Administration~~] Centers for Medicare and
20 Medicaid Services for hospice care;

1 (2) Reimbursement for residential hospice room and board
2 expenses directly related to the hospice care being
3 provided; and

4 (3) Reimbursement for each hospice referral visit during
5 which a patient is advised of hospice care options,
6 regardless of whether the referred patient is
7 eventually admitted to hospice care."

8 SECTION 14. Section 432:1-608, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Any other law to the contrary notwithstanding,
11 commencing on January 1, 2000, all mutual benefit societies
12 issuing or renewing an individual and group hospital or medical
13 service plan, policy, contract, or agreement in this State that
14 provides for payment of or reimbursement for hospice care, shall
15 reimburse hospice care services for each insured member covered
16 for hospice care according to the following:

17 (1) A minimum daily rate as set by the [~~Health-Care~~
18 ~~Financing Administration~~] Centers for Medicare and
19 Medicaid Services for hospice care;

20 (2) Reimbursement for residential hospice room and board
21 expenses directly related to the hospice care being
22 provided; and

1 (3) Reimbursement for each hospice referral visit during
2 which a patient is advised of hospice care options,
3 regardless of whether the referred patient is
4 eventually admitted to hospice care."

5 SECTION 15. Section 432E-1.4, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) For the purposes of this section:

8 "Cost-effective" means a health intervention where the
9 benefits and harms relative to the costs represent an
10 economically efficient use of resources for patients with the
11 medical condition being treated through the health intervention;
12 provided that the characteristics of the individual patient
13 shall be determinative when applying this criterion to an
14 individual case.

15 "Effective" means a health intervention that may reasonably
16 be expected to produce the intended results and to have expected
17 benefits that outweigh potential harmful effects.

18 "Health intervention" means an item or service delivered or
19 undertaken primarily to treat a medical condition or to maintain
20 or restore functional ability. A health intervention is defined
21 not only by the intervention itself, but also by the medical
22 condition and patient indications for which it is being applied.

1 New interventions for which clinical trials have not been
2 conducted and effectiveness has not been scientifically
3 established shall be evaluated on the basis of professional
4 standards of care or expert opinion. For existing
5 interventions, scientific evidence shall be considered first and
6 to the greatest extent possible, shall be the basis for
7 determinations of medical necessity. If no scientific evidence
8 is available, professional standards of care shall be
9 considered. If professional standards of care do not exist or
10 are outdated or contradictory, decisions about existing
11 interventions shall be based on expert opinion. Giving priority
12 to scientific evidence shall not mean that coverage of existing
13 interventions shall be denied in the absence of conclusive
14 scientific evidence. Existing interventions may meet the
15 definition of medical necessity in the absence of scientific
16 evidence if there is a strong conviction of effectiveness and
17 benefit expressed through up-to-date and consistent professional
18 standards of care, or in the absence of such standards,
19 convincing expert opinion.

20 "Health outcomes" mean outcomes that affect health status
21 as measured by the length or quality of a patient's life,
22 primarily as perceived by the patient.

1 "Medical condition" means a disease, illness, injury,
2 genetic or congenital defect, pregnancy, or a biological or
3 psychological condition that lies outside the range of normal,
4 age-appropriate human variation.

5 "Physician designee" means a physician or other health care
6 practitioner designated to assist in the decisionmaking process
7 who has training and credentials at least equal to the treating
8 licensed health care provider.

9 "Scientific evidence" means controlled clinical trials that
10 either directly or indirectly demonstrate the effect of the
11 intervention on health outcomes. If controlled clinical trials
12 are not available, observational studies that demonstrate a
13 causal relationship between the intervention and the health
14 outcomes may be used. Partially controlled observational
15 studies and uncontrolled clinical series may be suggestive, but
16 do not by themselves demonstrate a causal relationship unless
17 the magnitude of the effect observed exceeds anything that could
18 be explained either by the natural history of the medical
19 condition or potential experimental biases. Scientific evidence
20 may be found in the following and similar sources:

21 (1) Peer-reviewed scientific studies published in or
22 accepted for publication by medical journals that meet

1 nationally recognized requirements for scientific
2 manuscripts and that submit most of their published
3 articles for review by experts who are not part of the
4 editorial staff;

5 (2) Peer-reviewed literature, biomedical compendia, and
6 other medical literature that meet the criteria of the
7 National [+]Institutes[+] of Health's National Library
8 of Medicine for indexing in Index Medicus, Excerpta
9 Medicus (EMBASE), Medline, and MEDLARS database Health
10 Services Technology Assessment Research (HSTAR);

11 (3) Medical journals recognized by the Secretary of Health
12 and Human Services under section 1861(t)(2) of the
13 Social Security Act, as amended;

14 (4) Standard reference compendia including the American
15 Hospital Formulary Service-Drug Information, American
16 Medical Association Drug Evaluation, American Dental
17 Association Accepted Dental Therapeutics, and United
18 States Pharmacopoeia-Drug Information;

19 (5) Findings, studies, or research conducted by or under
20 the auspices of federal agencies and nationally
21 recognized federal research institutes including but
22 not limited to the Federal Agency for Health Care

1 Policy and Research, National Institutes of Health,
2 Health, National Cancer Institute, National Academy of
3 Sciences, ~~[Health Care Financing Administration,]~~
4 Centers for Medicare and Medicaid Services,
5 Congressional Office of Technology Assessment, and any
6 national board recognized by the National Institutes
7 of Health for the purpose of evaluating the medical
8 value of health services; and

9 (6) Peer-reviewed abstracts accepted for presentation at
10 major medical association meetings.

11 "Treat" means to prevent, diagnose, detect, provide medical
12 care, or palliate.

13 "Treating licensed health care provider" means a licensed
14 health care provider who has personally evaluated the patient."

15 SECTION 16. Section 431:3-304.5, Hawaii Revised Statutes,
16 is amended by amending subsection (b) to read as follows:

17 "(b) Documents, materials, or other information related to
18 or provided in connection with an actuarial report, working
19 papers, or actuarial opinion summary that are in possession or
20 control of the commissioner shall be confidential by law and
21 privileged, shall not be made public, shall not be subject to

1 subpoena or discovery, and shall not be admissible as evidence
2 in any private civil action; provided that:

3 (1) The commissioner may release the documents to the
4 Actuarial Board for Counseling and Discipline or its
5 successor to the extent that the material is required
6 for the purpose of professional disciplinary
7 proceedings and that the Actuarial Board for
8 Counseling and Discipline or its successor establishes
9 procedures satisfactory to the commissioner for
10 preserving the confidentiality of the documents;

11 (2) This section shall not be construed to limit the
12 commissioner's authority to use the documents,
13 materials, or other information in furtherance of any
14 regulatory or legal action brought as part of the
15 commissioner's official duties; and

16 (3) Neither the commissioner nor any person who received
17 documents, materials, or other information while
18 acting under the authority of the commissioner shall
19 be permitted or required to testify in any private
20 civil action concerning any confidential documents,
21 materials, or information subject to this subsection."

1 SECTION 17. Section 431:9-203, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) A licensee shall:

4 (1) Inform the commissioner by any means acceptable to the
5 commissioner of any change of status within thirty
6 days of the change; and

7 (2) Report any change of status to the business
8 registration division if the licensee is a business
9 entity registered with the department of commerce and
10 consumer affairs pursuant to title 23 or title 23A, or
11 if the licensee has registered a trade name pursuant
12 to [+]part II[+] of chapter 482.

13 Failure to timely inform the commissioner or business
14 registration division of a change of status shall result in a
15 penalty pursuant to section 431:2-203."

16 SECTION 18. Section 431:10A-105, Hawaii Revised Statutes,
17 is amended to read as follows:

18 "**§431:10A-105 Required provisions.** Except as provided in
19 section 431:10A-107, each policy of accident and health or
20 sickness insurance delivered or issued for delivery to any
21 person in this State shall contain the provisions set forth
22 below. These provisions shall be in the words in which they

1 appear below; provided that the insurer may substitute
2 corresponding provisions of different wording certified by an
3 officer of the insurer to be in substantial conformance with the
4 wording below that are in each instance not less favorable in
5 any respect to the insured or the beneficiary. The provisions
6 shall be preceded individually by the specified caption, or by
7 appropriate individual or group captions or subcaptions that are
8 substantially similar to the specified captions. The provisions
9 required by this section are as follows:

10 (1) "Entire Contract; Changes: This policy, including the
11 endorsements and the attached papers, if any,
12 constitutes the entire contract of insurance. No
13 change in this policy shall be valid until approved by
14 an executive officer of the insurer and unless the
15 approval is endorsed on or attached to this policy.
16 No agent has authority to change this policy or to
17 waive any of its provisions";

18 (2) (A) "Time Limit on Certain Defenses:
19 (i) After three years from the date of issue of
20 this policy no misstatements, except
21 fraudulent misstatements, made by the
22 applicant in the application for this policy

1 shall be used to void this policy or to deny
2 a claim for loss incurred or disability as
3 defined in the policy commencing after the
4 expiration of the three-year period; and

5 (ii) No claim for loss incurred or disability as
6 defined in the policy commencing after three
7 years from the date of issue of this policy
8 shall be reduced or denied on the ground
9 that a disease or physical condition not
10 excluded on the date of loss from coverage
11 by name or specific description [effective]
12 had existed prior to the effective date of
13 coverage of this policy";

14 (B) The policy provision set forth in subparagraph
15 (A)(i) shall not be construed to affect any legal
16 requirement for avoidance of a policy or denial
17 of a claim during the initial three-year period,
18 nor to limit the application of section 431:10A-
19 106(1) through (4) in the event of misstatement
20 with respect to age, occupation, or other
21 insurance; and

1 (C) A policy that the insured has the right to
2 continue in force subject to its terms by the
3 timely payment of premium until at least age
4 fifty or, in the case of a policy issued after
5 age forty-four, for at least five years from its
6 date of issue, may contain in lieu of
7 subparagraph (A)(i) the following provision from
8 which the clause in parentheses may be omitted at
9 the insurer's option: "Incontestable: After
10 this policy has been in force for a period of
11 three years during the lifetime of the insured
12 (excluding any period during which the insured is
13 disabled), it shall become incontestable as to
14 the statements contained in the application";
15 (3) (A) "Grace period: A grace period of (insert a
16 number not less than seven for weekly premium
17 policies, ten for monthly premium policies, and
18 thirty-one for all other policies) days will be
19 granted for the payment of each premium falling
20 due after the first premium, during which grace
21 period the policy shall continue in force";

1 (B) A policy that contains a cancellation provision
2 may add at the end of the provision required by
3 subparagraph (A): "subject to the right of the
4 insurer to cancel in accordance with the
5 cancellation provision"; and

6 (C) A policy in which the insurer reserves the right
7 to refuse any renewal shall have at the beginning
8 of the provision required by subparagraph (A):
9 "Unless not less than thirty days prior to the
10 premium due date the insurer has delivered to the
11 insured or has mailed to the insured's last
12 address as shown by the records of the insurer
13 written notice of its intention not to renew this
14 policy beyond the period for which the premium
15 has been accepted";

16 (4) (A) "Reinstatement: If any renewal premium is not
17 paid within the time granted to the insured for
18 payment, a subsequent acceptance of premium by
19 the insurer or by any agent duly authorized by
20 the insurer to accept the premium, without
21 requiring in connection therewith an application
22 for reinstatement, shall reinstate the policy;

1 provided that if the insurer or agent requires an
2 application for reinstatement and issues a
3 conditional receipt for the premium tendered, the
4 policy shall be reinstated upon approval of the
5 application by the insurer or, lacking approval,
6 upon the forty-fifth day following the date of
7 conditional receipt unless the insurer has
8 previously notified the insured in writing of its
9 disapproval of the application. The reinstated
10 policy shall cover only loss resulting from
11 accidental injury as may be sustained after the
12 date of reinstatement and loss due to sickness as
13 may begin more than ten days after that date. In
14 all other respects the insured and insurer shall
15 have the same rights as they had under the policy
16 immediately before the due date of the defaulted
17 premium, subject to any provisions endorsed
18 hereon or attached hereto in connection with the
19 reinstatement. Any premium accepted in
20 connection with the reinstatement shall be
21 applied to a period for which premium has not
22 been previously paid, but not to any period more

1 than sixty days prior to the date of
2 reinstatement"; and

3 (B) The last sentence in subparagraph (A) may be
4 omitted from any policy that the insured has the
5 right to continue in force subject to its terms
6 by the timely payment of premiums until at least
7 age fifty or, in the case of a policy issued
8 after age forty-four, for at least five years
9 from its date of issue;

10 (5) (A) "Notice of Claim: Written notice of claim shall
11 be given to the insurer within twenty days after
12 the occurrence or commencement of any loss
13 covered by the policy, or as soon thereafter as
14 is reasonably possible. Notice given by or on
15 behalf of the insured or the beneficiary to the
16 insurer at (insert the location of the office as
17 the insurer may designate for the purpose) or to
18 any authorized agent of the insurer, with
19 information sufficient to identify the insured,
20 shall be deemed notice to the insurer"; and

21 (B) In a policy providing a loss of time benefit that
22 may be payable for at least two years, an insurer

1 may at its option insert the following between
2 the first and second sentences in subparagraph
3 (A): "Subject to the qualification set forth
4 below, if the insured suffers loss of time on
5 account of disability for which indemnity may be
6 payable for at least two years, the insured
7 shall, at least once in every six months after
8 having given notice of claim, give to the insurer
9 notice of continuance of the disability, except
10 in the event of legal incapacity. The period of
11 six months following any filing of proof by the
12 insured or any payment by the insurer on account
13 of the claim or any denial of liability in whole
14 or in part by the insurer shall be excluded in
15 applying this provision. Delay in giving notice
16 shall not impair the insured's right to any
17 indemnity which would otherwise have accrued
18 during the period of six months preceding the
19 date on which notice is actually given";

- 20 (6) "Claim Forms: The insurer, upon receipt of a notice
21 of claim, will furnish to the claimant any forms that
22 are usually furnished by it for filing proofs of loss.

1 If the forms are not furnished within fifteen days
2 after the giving of notice the claimant shall be
3 deemed to have complied with the requirements of this
4 policy as to proof of loss upon submitting, within the
5 time fixed in the policy for filing proofs of loss,
6 written proof covering the occurrence, the character,
7 and the extent of the loss for which claim is made";

8 (7) "Proofs of Loss: In case of claim for loss for which
9 this policy provides any periodic payment contingent
10 upon continuing loss, written proof of loss must be
11 furnished to the insurer at its office within ninety
12 days after the termination of the period for which the
13 insurer is liable, and in case of claim for any other
14 loss within ninety days after the date of loss.

15 Failure to furnish proof of loss within the time
16 required shall not invalidate nor reduce any claim if
17 it was not reasonably possible to give proof within
18 the time required, provided proof is furnished as soon
19 as reasonably possible and in no event, except the
20 absence of legal capacity, later than fifteen months
21 from the time proof is otherwise required";

1 (8) "Time of Payment of Claims: Indemnities payable under
2 this policy for any loss other than loss for which
3 this policy provides any periodic payment shall be
4 paid immediately upon receipt of due written proof of
5 loss. Subject to due written proof of loss, all
6 accrued indemnities for loss for which this policy
7 provides periodic payment shall be paid (insert period
8 for payment which must not be less frequently than
9 monthly) and any balance remaining unpaid upon the
10 termination of liability shall be paid immediately
11 upon receipt of due written proof";

12 (9) (A) "Payment of Claims: Indemnity for loss of life
13 shall be payable in accordance with the
14 beneficiary designation and the provisions
15 respecting payment which may be prescribed herein
16 and effective at the time of payment. If no
17 designation or provision is then effective, the
18 indemnity shall be payable to the estate of the
19 insured. Any other accrued indemnities unpaid at
20 the insured's death may, at the option of the
21 insurer, be paid either to the designated
22 beneficiary or to the estate of the insured. All

1 other indemnities shall be payable to the
2 insured"; and

3 (B) Either or both of the following provisions may be
4 included with the provision set forth in
5 subparagraph (A) at the option of the insurer:

6 (i) "If any indemnity of this policy shall be
7 payable to the estate of the insured, or to
8 an insured or beneficiary who is a minor or
9 otherwise not competent to give a valid
10 release, the insurer may pay the indemnity,
11 up to an amount not exceeding \$2,000 to any
12 relative by blood or connection by marriage
13 of the insured or beneficiary who is deemed
14 by the insurer to be equitably entitled
15 thereto. Any payment made by the insurer in
16 good faith pursuant to this provision shall
17 fully discharge the insurer to the extent of
18 the payment"; and

19 (ii) "Subject to any written direction of the
20 insured in the application or otherwise all
21 or a portion of any indemnities provided by
22 this policy on account of hospital, nursing,

1 medical, or surgical services may, at the
2 insurer's option and unless the insured
3 requests otherwise in writing not later than
4 the time of filing proofs of loss, be paid
5 directly to the hospital or person rendering
6 the services; but it is not required that
7 the service be rendered by a particular
8 hospital or person";

9 (10) "Physical Examinations and Autopsy: The insurer at
10 its own expense shall have the right and opportunity
11 to examine the person of the insured when and as often
12 as it may reasonably require during the pendency of a
13 claim hereunder and to make an autopsy in case of
14 death where it is not forbidden by law";

15 (11) "Legal Actions: No action at law or in equity shall
16 be brought to recover on this policy prior to the
17 expiration of sixty days after written proof of loss
18 has been furnished in accordance with the requirements
19 of this policy. No action at law or in equity shall
20 be brought after the expiration of three years after
21 the time written proof of loss is required to be
22 furnished"; and

1 in section [~~587-2~~] 587A-4 when the offense rises to the degree
2 of a felony as defined in section 701-107."

3 PART III.

4 SECTION 20. Section 353G-5, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) Anyone receiving drug test results or assessment
7 results under subsection (a) shall keep that information
8 confidential in accordance with the requirements of 42 United
9 States Code section [~~290dd-3.~~] 290dd-2."

10 SECTION 21. Section 353G-6, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) Except as provided in this chapter, any information
13 obtained as a result of an assessment program or a treatment
14 program, including positive drug tests, shall be kept
15 confidential in accordance with the requirements of 42 United
16 States Code section [~~290dd-3.~~] 290dd-2."

17 PART IV.

18 SECTION 22. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 23. This Act shall take effect upon its approval.

21

INTRODUCED BY: _____



Report Title:
Revision Bill

Description:

Amends various provisions of the Hawaii Revised Statutes for the purpose of correcting errors and references, clarifying language, and deleting unnecessary provisions.

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