

---

# A BILL FOR AN ACT

RELATING TO INSURANCE REGULATORY VARIANCE.

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

1       SECTION 1. The legislature finds that technology and  
2 consumer expectations are rapidly transforming the regulated  
3 health insurance industry. Substantial investments are being  
4 made in innovative health insurance products, services, and  
5 technologies, which have great potential to improve  
6 efficiencies, reduce costs of insurance transactions, improve  
7 health outcomes, and improve overall customer understanding of  
8 health and wellness.

9       The legislature further finds that some innovations may  
10 disrupt current insurance business models and introduce new and  
11 more efficient ways of doing business. By actively engaging  
12 with, and encouraging, the piloting and testing of new and  
13 innovative ways of delivering insurance to businesses and  
14 consumers, the State can expand insurance markets, particularly  
15 by making insurance transactions more accessible for first-time  
16 insurance buyers.



1           However, the legislature additionally finds that the strict  
2 application of uniformly applicable requirements can lead to  
3 unintended results when new and innovative technologies,  
4 products, and services are first tested in a closely regulated  
5 marketplace like insurance. In these circumstances, it may be  
6 appropriate to adopt a procedure for insurance regulators to  
7 provide targeted relief to persons or entities subject to  
8 regulation, thus promoting expanded competition and innovation  
9 for the benefit of businesses and consumers.

10           The legislature also finds that approving applications for  
11 targeted or limited variances, waivers, or no action letters  
12 with respect to the enforcement or application of certain  
13 requirements of the State's health insurance laws should be  
14 permissible, to the extent that:

- 15           (1) An applicant for such relief is able to demonstrate  
16           that the public policy purpose of the underlying law  
17           or rule may be achieved by alternative means; and  
18           (2) The application of the current law or rule would  
19           inhibit or discourage the introduction of new,  
20           innovative, or more efficient insurance products,  
21           services, or technologies to the State's consumers.



1 The purpose of this Act is to promote innovative health  
2 insurance technologies, products, and services by permitting the  
3 insurance commissioner to approve applications for health  
4 insurer no action letters, waivers, or variances.

5 SECTION 2. Chapter 431, Hawaii Revised Statutes, is  
6 amended by adding a new section to part II of article 2 to be  
7 appropriately designated and to read as follows:

8 "§431:2- Application for a health insurer no action  
9 letter, waiver, or variance; regulatory sandbox. (a) This  
10 section shall apply to health insurers subject to article 10A of  
11 chapter 431, or chapters 432 and 432D, and are participants in  
12 the regulatory sandbox.

13 (b) Applications for a health insurer no action letter,  
14 waiver, or variance must demonstrate that health insurer  
15 applicants have the following:

16 (1) A certificate of authority to sell health insurance in  
17 this State; and

18 (2) A location, whether physical or virtual, that is  
19 adequately accessible to the commissioner, from which  
20 testing will be developed and performed, and where all



1           required records, documents, and data will be  
2           maintained.

3           (c) Subject to the limitations specified in subsection

4   (b) :

5           (1) Under the regulatory sandbox, the commissioner may  
6           approve an application for a health insurer no action  
7           letter, waiver, or variance relating to a requirement  
8           of this state's health insurance laws or rules if a  
9           person or entity subject to this state's health  
10           insurance laws demonstrates that the public policy  
11           goals of the law or rule may be achieved by other  
12           means and that the requirement may inhibit or  
13           discourage the introduction of new, innovative, or  
14           more efficient insurance products, services, or  
15           technologies;

16           (2) An approval issued pursuant to this section shall be  
17           of a duration deemed appropriate by the commissioner;  
18           and

19           (3) The commissioner may issue approvals of differing or  
20           limited durations and scope.



1        (d) The commissioner shall not issue an approval under  
2 this section related to any provision of this chapter governing:

3        (1) Assets, deposits, investments, capital, surplus, or  
4        other solvency requirements applicable to insurance  
5        companies;

6        (2) Licensing and certificate of authority requirements  
7        applicable to any person or entity required to hold a  
8        license under this chapter;

9        (3) Required participation in any assigned risk plan,  
10       residual market, or guaranty fund;

11       (4) Requirements that the insurance division maintain its  
12       accreditation by the National Association of Insurance  
13       Commissioners, unless an approval under this section  
14       is permitted;

15       (5) The applicability of any tax or fee; and

16       (6) Any other requirement that the commissioner deems  
17       ineligible for the issuance of an approval under this  
18       section.

19       (e) When an application under this section is approved,  
20 the commissioner shall provide public notice of the application.  
21 The notice shall include:



1       (1) The specific law or rule to which the application  
2       applies;

3       (2) The name of the applicant; and

4       (3) The duration of the application.

5       The requirements of this subsection may be satisfied by the  
6       publication of a notice on the insurance division's website.

7       (f) The commissioner shall adopt rules pursuant to chapter  
8       91 that establish a procedure for the submission, granting, or  
9       denying of an application under this section; provided that the  
10      rules shall:

11      (1) Include procedures for the granting or denial of an  
12      application within sixty days of the receipt of the  
13      application;

14      (2) Prescribe conditions under which the commissioner may  
15      revoke an approval issued pursuant to this section;  
16      and

17      (3) Authorize the commissioner to require reasonable  
18      terms, conditions, or limitations on the conduct or  
19      activity permitted; provided that the terms,  
20      conditions, or limitations may include a requirement  
21      that the applicant shall take reasonable steps to



1 protect consumers, mitigate risks, or submit data or  
2 analysis to the commissioner on the market impact of  
3 the application's approval.

4 (g) Notwithstanding the provisions of subsection (e), the  
5 following shall be considered a trade secret and confidential  
6 information and shall not be subject to public disclosure:

7 (1) An application;

8 (2) Information contained in an application;

9 (3) All information provided to the commissioner by an  
10 applicant; and

11 (4) Any communication between the insurance division and  
12 the recipient that is required pursuant to the terms  
13 of the approval.

14 (h) The commissioner's authority to grant an approval  
15 under this section shall not be construed to limit or otherwise  
16 affect the authority of the commissioner to exercise discretion  
17 to waive or enforce requirements as permitted under any other  
18 law.

19 (i) No later than twenty days prior to the convening of  
20 each regular session, the commissioner shall submit an annual  
21 report to the legislature, related to the disposition of



1 applications granted under this section, that includes the  
2 following information for the previous year:

3 (1) The total number of applications granted or denied by  
4 the commissioner;

5 (2) For each approval by the commissioner, the information  
6 required under subsection (e);

7 (3) For each provision in this chapter to which an  
8 approval applies, the commissioner's recommendation as  
9 to whether the provision should be continued,  
10 eliminated, or amended in order to promote innovation  
11 and establish a uniform regulatory system for all  
12 regulated entities; and

13 (4) A list of approvals that have lapsed or been revoked  
14 and, if revoked, a description of other regulatory or  
15 disciplinary actions, if any, that resulted in,  
16 accompanied, or resulted from the revocation."

17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 2050.





**Report Title:**

Insurance Regulatory Variance; Insurance Commissioner;  
Applications; No Action Letters, Waivers, or Variances; Health  
Insurers

**Description:**

Permits the insurance commissioner to approve applications for  
health insurer no action letters, waivers, or variances with  
respect to specific requirements of the health insurance laws or  
its rules when certain conditions are met. (SB2938 HD1)

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

