
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 insurance industry. Substantial investments are being made in
4 innovative insurance products, services, and technologies, which
5 have great potential to improve risk mitigation, improve
6 efficiencies, reduce costs of insurance transactions, speed up
7 claims payments, and improve overall customer understanding of,
8 and satisfaction with, this essential form of financial
9 protection.

10 The legislature further finds that some innovations may
11 disrupt current insurance business models and introduce new and
12 more efficient ways of doing business. By actively engaging
13 with, and encouraging, the piloting and testing of new and
14 innovative ways of delivering insurance to businesses and
15 consumers, the State can expand insurance markets, particularly
16 by making insurance transactions more accessible for first-time
17 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 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 insurance
2 technologies, products, and services by permitting the insurance
3 commissioner to approve applications for no action letters,
4 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 no action letter, waiver, or
9 variance. (a) Subject to the limitations specified in
10 subsection (b):

11 (1) The commissioner may approve an application for a no
12 action letter, waiver, or variance relating to a
13 requirement of this chapter if a person or entity
14 subject to this chapter demonstrates that the public
15 policy goals of this chapter may be achieved by other
16 means and that the requirement may inhibit or
17 discourage the introduction of new, innovative, or
18 more efficient insurance products, services, or
19 technologies;



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

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

6 (b) The commissioner shall not issue an approval under
7 this section related to any provision of this chapter governing:

8 (1) Assets, deposits, investments, capital, surplus, or
9 other solvency requirements applicable to insurance
10 companies;

11 (2) Licensing and certificate of authority requirements
12 applicable to any person or entity required to hold a
13 license under this chapter;

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

16 (4) Requirements that the insurance division maintain its
17 accreditation by the National Association of Insurance
18 Commissioners, unless an approval under this section
19 is permitted;

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



1 (6) Any other requirement that the commissioner deems
2 ineligible for the issuance of an approval under this
3 section.

4 (c) When an application under this section is approved,
5 the commissioner shall provide public notice of the application.

6 The notice shall include:

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

9 (2) The name of the applicant; and

10 (3) The duration of the application.

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

13 (d) The commissioner shall adopt rules pursuant to chapter
14 91 that establish a procedure for the submission, granting, or

15 denying of an application under this section; provided that the
16 rules shall:

17 (1) Include procedures for the granting or denial of an
18 application within sixty days of the receipt of the
19 application;



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

4 (3) Authorize the commissioner to require reasonable
5 terms, conditions, or limitations on the conduct or
6 activity permitted; provided that the terms,
7 conditions, or limitations may include a requirement
8 that the applicant shall take reasonable steps to
9 protect consumers, mitigate risks, or submit data or
10 analysis to the commissioner on the market impact of
11 the application's approval.

12 (e) Notwithstanding the provisions of subsection (c), the
13 following shall be considered a trade secret and confidential
14 information and shall not be subject to public disclosure:

15 (1) An application;

16 (2) Information contained in an application;

17 (3) All information provided to the commissioner by an
18 applicant; and

19 (4) Any communication between the insurance division and
20 the recipient that is required pursuant to the terms
21 of the approval.



1 (f) The commissioner's authority to grant an approval
2 under this section shall not be construed to limit or otherwise
3 affect the authority of the commissioner to exercise discretion
4 to waive or enforce requirements as permitted under any other
5 law.

6 (g) No later than twenty days prior to the convening of
7 each regular session, the commissioner shall submit an annual
8 report to the legislature, related to the disposition of
9 applications granted under this section, that includes the
10 following information for the previous year:

- 11 (1) The total number of applications granted or denied by
12 the commissioner;
- 13 (2) For each approval by the commissioner, the information
14 required under subsection (c);
- 15 (3) For each provision in this chapter to which an
16 approval applies, the commissioner's recommendation as
17 to whether the provision should be continued,
18 eliminated, or amended in order to promote innovation
19 and establish a uniform regulatory system for all
20 regulated entities; and



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

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7



Report Title:

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

Description:

Permits the insurance commissioner to approve applications for no action letters, waivers, or variances with respect to specific requirements of the insurance code or its rules when certain conditions are met. (SD1)

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