



GOV. MSG. NO. 1214

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 28, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 28, 2021, the following bill was signed into law:

SB1100 SD1 HD2 CD1

**RELATING TO INSURANCE DATA SECURITY
ACT 112 (21)**

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor

on JUN 28 2021

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

ACT 112
S.B. NO.

1100
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO INSURANCE DATA SECURITY.

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

1 SECTION 1. The legislature finds that the National
2 Association of Insurance Commissioners adopted the Insurance
3 Data Security Model Law in 2017 to strengthen existing data
4 privacy and consumer breach notification obligations of
5 insurance licensees. The National Association of Insurance
6 Commissioners strongly encourages that states adopt this model
7 law by 2022, to avoid risking federal preemption of state laws
8 in this area. While some licensees may already have
9 cybersecurity policies and protocols in place, this Act will
10 ensure and formalize insurance data security protections for all
11 insurance licensees.

12 The purpose of this Act is to adopt the National
13 Association of Insurance Commissioners Insurance Data Security
14 Model Law to establish exclusive state standards applicable to
15 insurance data security standards for Hawaii insurance
16 licensees.



1 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new article to be appropriately designated
3 and to read as follows:

4 "ARTICLE

5 INSURANCE DATA SECURITY LAW

6 PART I. GENERAL PROVISIONS

7 §431: -101 Definitions. As used in this article:

8 "Authorized individual" means an individual known to and
9 screened by the licensee and determined to be necessary and
10 appropriate to have access to the nonpublic information held by
11 the licensee and its information systems.

12 "Commissioner" means the insurance commissioner of the
13 State.

14 "Consumer" means an individual, including but not limited
15 to applicants, policyholders, insureds, beneficiaries,
16 claimants, and certificate holders, who is a resident of this
17 State and whose nonpublic information is in a licensee's
18 possession, custody, or control.

19 "Cybersecurity event" means an event resulting in
20 unauthorized access to, or disruption or misuse of, an



1 information system or nonpublic information stored on that
2 information system. "Cybersecurity event" does not include:

3 (1) The unauthorized acquisition of encrypted nonpublic
4 information if the encryption, process, or key is not
5 also acquired, released, or used without
6 authorization; and

7 (2) An event in which the licensee has determined that the
8 nonpublic information accessed by an unauthorized
9 person has not been used or released and has been
10 returned or destroyed.

11 "Encrypted" means the transformation of data into a form
12 that results in a low probability of assigning meaning without
13 the use of a protective process or key.

14 "Information security program" means the administrative,
15 technical, and physical safeguards that a licensee uses to
16 access, collect, distribute, process, protect, store, use,
17 transmit, dispose of, or otherwise handle nonpublic information.

18 "Information system" means a discrete set of electronic
19 information resources organized for the collection, processing,
20 maintenance, use, sharing, dissemination, or disposition of
21 electronic nonpublic information, as well as any specialized



1 systems, such as industrial controls systems, process controls
2 systems, telephone switching and private branch exchange
3 systems, and environmental control systems.

4 "Licensee" means every licensed insurer, producer, and any
5 other person licensed or required to be licensed, authorized or
6 required to be authorized, or registered or required to be
7 registered, under chapter 431 or 432, or holding a certificate
8 of authority under chapter 432D. "Licensee" does not include a
9 purchasing group or risk retention group chartered and licensed
10 in a state other than this State, or a licensee that is acting
11 as an assuming insurer that is domiciled in another state or
12 jurisdiction.

13 "Multi-factor authentication" means authentication through
14 verification of at least two of the following types of
15 authentication factors:

- 16 (1) Knowledge factors, such as a password;
17 (2) Possession factors, such as a token or text message on
18 a mobile phone; or
19 (3) Inherence factors, such as a biometric characteristic.

20 "Nonpublic information" means electronic information that
21 is not publicly available information and is:



1 (1) Any information concerning a consumer that, because of
2 name, number, personal mark, or other identifier, can
3 be used to identify the consumer, in combination with
4 any one or more of the following data elements:

5 (A) Social security number;

6 (B) Driver's license number or non-driver
7 identification card number;

8 (C) Financial account number or credit or debit card
9 number;

10 (D) Any security code, access code, or password that
11 would permit access to a consumer's financial
12 account; or

13 (E) Biometric records; or

14 (2) Any information or data subject to the Health
15 Insurance Portability and Accountability Act of 1996,
16 P.L. 104-191, except age or gender, in any form or
17 medium created by or derived from a health care
18 provider or a consumer that identifies a particular
19 consumer and that relates to:



1 (A) The past, present, or future physical, mental, or
2 behavioral health or condition of any consumer or
3 a member of the consumer's family;

4 (B) The provision of health care to any consumer; or

5 (C) Payment for the provision of health care to any
6 consumer.

7 "Person" means any individual or any non-governmental
8 entity, including but not limited to any non-governmental
9 partnership, corporation, branch, agency, or association.

10 "Publicly available information" means any information that
11 a licensee has a reasonable basis to believe is lawfully made
12 available to the general public from federal, state, or local
13 government records; widely distributed media; or disclosures to
14 the general public that are required to be made by federal,
15 state, or local law. For purposes of this definition, a
16 licensee has a reasonable basis to believe that information is
17 lawfully made available to the general public if the licensee
18 has taken steps to determine:

19 (1) That the information is of the type that is available
20 to the general public; and



1 (2) Whether a consumer can direct that the information not
2 be made available to the general public and, if so,
3 that the consumer has not done so.

4 "Risk assessment" means the risk assessment that each
5 licensee is required to conduct under section 431: -202.

6 "State" means the State of Hawaii.

7 "Third-party service provider" means a person, not
8 otherwise defined as a licensee, that contracts with a licensee
9 to maintain, process, store, or otherwise is permitted access to
10 nonpublic information through its provision of services to the
11 licensee.

12 §431: -102 Powers of the commissioner. (a) The
13 licensee's regulator shall have the power to examine and
14 investigate the affairs of any licensee to determine whether the
15 licensee has been or is engaged in any conduct in violation of
16 this article.

17 (b) Any examination or investigation of a licensee
18 domiciled in the State shall be conducted pursuant to section
19 431:2-301.7.

20 (c) Whenever the commissioner has reason to believe that a
21 licensee has been or is engaged in conduct in the State that



1 violates this article, the commissioner may take action that is
2 necessary or appropriate to enforce the provisions of this
3 article.

4 §431: -103 Confidentiality. (a) Any documents,
5 materials, or other information in the control or possession of
6 the commissioner that is furnished by a licensee, or an employee
7 or agent thereof acting on behalf of the licensee pursuant to
8 sections 431: -208 and 431: -302, or that are obtained by
9 the commissioner in an examination or investigation pursuant to
10 section 431: -102, shall be confidential by law and
11 privileged, shall not be subject to chapter 92F, shall not be
12 subject to subpoena, and shall not be subject to discovery or
13 admissible as evidence in any private civil action; provided
14 that the commissioner may use the documents, materials, or other
15 information obtained in an examination or investigation in the
16 furtherance of any regulatory or legal action brought as a part
17 of the commissioner's duties.

18 (b) Neither the commissioner nor any person acting under
19 the direction of the commissioner shall be allowed or required
20 to testify in any private civil action concerning any



1 confidential documents, materials, or information subject to
2 subsection (a).

3 (c) To assist in the performance of the commissioner's
4 duties under this article, the commissioner may:

5 (1) Share documents, materials, or other information,
6 including the confidential and privileged documents,
7 materials, or information subject to subsection (a),
8 with other state, federal, and international
9 regulatory agencies; National Association of Insurance
10 Commissioners, its affiliates or subsidiaries; and
11 state, federal, and international law enforcement
12 authorities; provided that the recipient agrees in
13 writing to maintain the confidentiality and privileged
14 status of the document, material, or other
15 information;

16 (2) Receive documents, materials, or information,
17 including otherwise confidential and privileged
18 documents, materials, or information, from the
19 National Association of Insurance Commissioners, its
20 affiliates or subsidiaries, and from regulatory and
21 law enforcement officials of other foreign or domestic



1 jurisdictions; provided that the commissioner shall
2 maintain as confidential or privileged any document,
3 material, or information received with notice or the
4 understanding that it is confidential or privileged
5 under the laws of the jurisdiction that is the source
6 of the document, material, or information;

7 (3) Share documents, materials, or other information
8 subject to subsection (a) with a third-party
9 consultant or vendor; provided that the consultant or
10 vendor agrees in writing to maintain the
11 confidentiality and privileged status of the document,
12 material, or other information; and

13 (4) Enter into agreements governing sharing and use of
14 information consistent with this subsection.

15 (d) No waiver of any applicable privilege or claim of
16 confidentiality in the documents, materials, or information
17 shall occur as a result of disclosure to the commissioner under
18 this section or as a result of sharing as authorized in
19 subsection (c).

20 (e) Nothing in this article shall prohibit the
21 commissioner from releasing final, adjudicated actions that are



1 open to public inspection pursuant to chapter 92F to a database
2 or other clearinghouse service maintained by the National
3 Association of Insurance Commissioners, its affiliates, or
4 subsidiaries.

5 §431: -104 Exceptions. (a) The following exceptions
6 shall apply to this article:

7 (1) A licensee with fewer than ten employees, including
8 any independent contractors, shall be exempt from
9 part II;

10 (2) A licensee subject to the Health Insurance Portability
11 and Accountability Act of 1996, Public Law 104-191,
12 that has established and maintains an information
13 security program pursuant to the statutes, rules,
14 regulations, procedures, or guidelines established
15 thereunder shall be considered to have met the
16 requirements of part II of this article; provided that
17 the licensee is compliant with and submits a written
18 statement certifying its compliance with the Health
19 Insurance Portability and Accountability Act of 1996,
20 Public Law 104-191; and



1 (3) An employee, agent, representative, or designee of a
2 licensee, who is also a licensee, shall be exempt from
3 part II of this article and shall not be required to
4 develop its own information security program; provided
5 that the employee, agent, representative, or designee
6 is covered by the information security program of the
7 other licensee.

8 (b) In the event that a licensee ceases to qualify for an
9 exception pursuant to this section, the licensee shall have one
10 hundred eighty days to comply with this article.

11 §431: -105 Penalties. In the case of a violation of
12 this article, a licensee may be penalized in accordance with
13 section 431:2-203.

14 §431: -106 Private cause of action. This article shall
15 not be construed to create or imply a private cause of action
16 for any violation of its provisions, and it shall not be
17 construed to curtail a private cause of action that would
18 otherwise exist in the absence of this article.

19 §431: -107 Rules. The commissioner may adopt rules
20 pursuant to chapter 91 as necessary to carry out the provisions
21 of this article.



1 PART II. INFORMATION SECURITY PROGRAM

2 §431: -201 Implementation of an information security
3 program. Commensurate with the size and complexity of the
4 licensee, the nature and scope of the licensee's activities,
5 including its use of third-party service providers, and the
6 sensitivity of the nonpublic information used by the licensee or
7 in the licensee's possession, custody, or control, each licensee
8 shall develop, implement, and maintain a comprehensive written
9 information security program based on the licensee's risk
10 assessment and that contains administrative, technical, and
11 physical safeguards for the protection of nonpublic information
12 and the licensee's information system.

13 §431: -202 Objectives of the information security
14 program; risk assessment. (a) A licensee's information
15 security program shall be designed to:

- 16 (1) Protect the security and confidentiality of nonpublic
17 information and the security of the information
18 system;
- 19 (2) Protect against any threats or hazards to the security
20 or integrity of nonpublic information and the
21 information system;



- 1 (3) Protect against unauthorized access to or use of
2 nonpublic information, and minimize the likelihood of
3 harm to any consumer; and
- 4 (4) Define and periodically reevaluate a schedule for
5 retention of nonpublic information and a mechanism for
6 its destruction when no longer needed.
- 7 (b) Regarding risk assessment, the licensee shall:
- 8 (1) Designate one or more employees, an affiliate, or a
9 third-party service provider to act on behalf of the
10 licensee who is responsible for the information
11 security program;
- 12 (2) Identify reasonably foreseeable internal or external
13 threats that could result in unauthorized access,
14 transmission, disclosure, misuse, alteration, or
15 destruction of nonpublic information, including the
16 security of information systems and nonpublic
17 information that are accessible to or held by
18 third-party service providers;
- 19 (3) Assess the likelihood and potential damage of the
20 reasonably foreseeable internal or external threats,



1 taking into consideration the sensitivity of the
2 nonpublic information;

3 (4) Assess the sufficiency of policies, procedures,
4 information systems, and other safeguards in place to
5 manage the reasonably foreseeable internal or external
6 threats, including consideration of threats in each
7 relevant area of the licensee's operations, including:
8 (A) Employee training and management;
9 (B) Information systems, including network and
10 software design, as well as information
11 classification, governance, processing, storage,
12 transmission, and disposal; and
13 (C) Detecting, preventing, and responding to attacks,
14 intrusions, or other systems failures; and
15 (5) Implement information safeguards to manage the threats
16 identified in its ongoing assessment, and no less than
17 annually, assess the effectiveness of the safeguards'
18 key controls, systems, and procedures.

19 §431: -203 Risk management. Based on its risk
20 assessment, the licensee shall:



- 1 (1) Design its information security program to mitigate
- 2 the identified risks, commensurate with the size and
- 3 complexity of the licensee's activities, including its
- 4 use of third-party service providers, and the
- 5 sensitivity of the nonpublic information used by the
- 6 licensee or in the licensee's possession, custody, or
- 7 control;
- 8 (2) Determine which security measures listed in this
- 9 paragraph are appropriate and implement those security
- 10 measures:
- 11 (A) Place access controls on information systems,
- 12 including controls to authenticate and permit
- 13 access only to authorized individuals to protect
- 14 against the unauthorized acquisition of nonpublic
- 15 information;
- 16 (B) Identify and manage the data, personnel, devices,
- 17 systems, and facilities that enable the licensee
- 18 to achieve business purposes in accordance with
- 19 their relative importance to business objectives
- 20 and the licensee's risk strategy;



- 1 (C) Restrict access at physical locations containing
2 nonpublic information only to authorized
3 individuals;
- 4 (D) Protect by encryption or other appropriate means,
5 all nonpublic information while being transmitted
6 over an external network and all nonpublic
7 information stored on a laptop computer or other
8 portable computing or storage device or media;
- 9 (E) Adopt secure development practices for in-house
10 developed applications used by the licensee and
11 procedures for evaluating, assessing, or testing
12 the security of externally developed applications
13 used by the licensee;
- 14 (F) Modify the information system in accordance with
15 the licensee's information security program;
- 16 (G) Use effective controls, which may include
17 multi-factor authentication procedures for any
18 individual accessing nonpublic information;
- 19 (H) Regularly test and monitor systems and procedures
20 to detect actual and attempted attacks on, or
21 intrusions into, information systems;



1 (I) Include audit trails within the information
2 security program designed to detect and respond
3 to cybersecurity events and reconstruct material
4 financial transactions sufficient to support
5 normal operations and obligations of the
6 licensee;

7 (J) Implement measures to protect against
8 destruction, loss, or damage of nonpublic
9 information due to environmental hazards, such as
10 fire and water damage or other catastrophes or
11 technological failures; and

12 (K) Develop, implement, and maintain procedures for
13 the secure disposal of nonpublic information in
14 any format;

15 (3) Include cybersecurity risks in the licensee's
16 enterprise risk management process;

17 (4) Stay informed regarding emerging threats or
18 vulnerabilities and use reasonable security measures
19 when sharing information relative to the character of
20 the sharing and the type of information shared; and



1 (5) Provide its personnel with cybersecurity awareness
2 training that is updated as necessary to reflect risks
3 identified by the licensee in the risk assessment.

4 §431: -204 Oversight by board of directors. If the
5 licensee has a board of directors, the board or an appropriate
6 committee of the board shall, at a minimum:

7 (1) Require the licensee's executive management or its
8 delegates to develop, implement, and maintain the
9 licensee's information security program;

10 (2) Require the licensee's executive management or its
11 delegates to report in writing at least annually, the
12 following information:

13 (A) The overall status of the information security
14 program and the licensee's compliance with this
15 article; and

16 (B) Material matters related to the information
17 security program, addressing issues such as risk
18 assessment, risk management and control
19 decisions, third-party service provider
20 arrangements, results of testing, cybersecurity
21 events or violations and management's responses



1 thereto, and recommendations for changes in the
2 information security program; and

3 (3) If executive management delegates any of its
4 responsibilities under this part, it shall oversee the
5 development, implementation, and maintenance of the
6 licensee's information security program prepared by
7 the delegate and shall receive a report from the
8 delegate complying with the requirements of the report
9 to the board of directors specified in paragraph (2).

10 **§431: -205 Oversight of third-party service provider**
11 **arrangements.** A licensee shall:

12 (1) Exercise due diligence in selecting its third-party
13 service provider; and

14 (2) Where appropriate, require a third-party service
15 provider to implement appropriate administrative,
16 technical, and physical measures to protect and secure
17 the information systems and nonpublic information that
18 are accessible to or held by the third-party service
19 provider; provided that encrypted nonpublic
20 information is not accessible to or held by the
21 third-party service provider within the meaning of



1 this paragraph if the third-party service provider
2 does not possess the associated protective process or
3 key necessary to assign meaning to the nonpublic
4 information.

5 **§431: -206 Program adjustments.** The licensee shall
6 monitor, evaluate, and adjust, as appropriate, the information
7 security program consistent with any relevant changes in
8 technology, the sensitivity of its nonpublic information,
9 internal or external threats to information, and the licensee's
10 own changing business arrangements, such as mergers and
11 acquisitions, alliances and joint ventures, outsourcing
12 arrangements, and changes to information systems.

13 **§431: -207 Incident response plan.** (a) As part of its
14 information security program, each licensee shall establish a
15 written incident response plan designed to promptly respond to
16 and recover from any cybersecurity event that compromises the
17 confidentiality, integrity, or availability of nonpublic
18 information in its possession, the licensee's information
19 systems, or the continuing functionality of any aspect of the
20 licensee's business or operations.



1 (b) The incident response plan shall address the following
2 areas:

3 (1) The internal process for responding to a cybersecurity
4 event;

5 (2) The goals of the incident response plan;

6 (3) The definition of clear roles, responsibilities, and
7 levels of decision-making authority;

8 (4) External and internal communications and information
9 sharing;

10 (5) Identification of requirements for the remediation of
11 any identified weaknesses in information systems and
12 associated controls;

13 (6) Documentation and reporting regarding cybersecurity
14 events and related incident response activities; and

15 (7) The evaluation and revision, as necessary, of the
16 incident response plan following a cybersecurity
17 event.

18 §431: -208 Annual certification to commissioner. (a)

19 Each insurer domiciled in the State shall annually submit to the
20 commissioner a written statement by March 31, certifying that



1 the insurer is in compliance with the requirements set forth in
2 this part.

3 (b) Each insurer shall maintain all records, schedules,
4 and data supporting this certificate for a period of five years
5 for examination by the commissioner.

6 (c) To the extent an insurer has identified areas,
7 systems, or processes that require material improvement,
8 updating, or redesign, the insurer shall document the
9 identification and the remedial efforts planned and underway to
10 address those areas, systems, or processes. The documentation
11 shall be available for inspection by the commissioner.

12 **PART III. CYBERSECURITY EVENTS**

13 **§431: -301 Investigation of a cybersecurity event. (a)**
14 If the licensee learns that a cybersecurity event has or may
15 have occurred, the licensee or third-party service provider
16 designated to act on behalf of the licensee shall conduct a
17 prompt investigation.

18 (b) During the investigation, the licensee or third-party
19 service provider designated to act on behalf of the licensee
20 shall, at a minimum, determine as much of the following
21 information as possible:



- 1 (1) Whether a cybersecurity event has occurred;
- 2 (2) The nature and scope of the cybersecurity event; and
- 3 (3) Any nonpublic information that may have been involved
- 4 in the cybersecurity event.

5 The licensee or third-party service provider designated to

6 act on behalf of the licensee shall perform or oversee

7 reasonable measures to restore the security of the information

8 systems compromised in the cybersecurity event to prevent

9 further unauthorized acquisition, release, or use of nonpublic

10 information in the licensee's possession, custody, or control.

11 (c) If the licensee provides nonpublic information to a

12 third-party service provider and learns that a cybersecurity

13 event has or may have impacted the licensee's nonpublic

14 information in a system maintained by a third-party service

15 provider, the licensee shall meet the requirements of

16 subsection (b) or confirm and document that the third-party

17 service provider has met the requirements of subsection (b).

18 (d) The licensee shall maintain records concerning all

19 cybersecurity events for a period of at least five years from

20 the date of the cybersecurity event and shall produce those

21 records upon demand of the commissioner.



1 §431: -302 Notification of a cybersecurity event. (a)

2 Each licensee shall notify the commissioner as promptly as

3 possible, but in no event later than three business days from a

4 determination that a cybersecurity event impacting two hundred

5 fifty or more consumers has occurred. If law enforcement

6 officials instruct a licensee not to distribute information

7 regarding a cybersecurity event, the licensee shall not be

8 required to provide notification until instructed to do so by

9 law enforcement officials. Notification shall be provided when

10 either of the following criteria has been met:

11 (1) The licensee is domiciled in the State, in the case of

12 an insurer, or the licensee's home state is Hawaii, in

13 the case of an independent insurance producer; or

14 (2) The licensee reasonably believes that the nonpublic

15 information involved is of two hundred fifty or more

16 consumers residing in the State and is a cybersecurity

17 event that has a reasonable likelihood of materially

18 harming:

19 (A) Any consumer residing in the State; or

20 (B) Any material part of the normal operation of the

21 licensee.



1 (b) The licensee shall provide as much of the following
2 information as possible and practicable and as promptly as
3 possible:

- 4 (1) The date of the cybersecurity event;
- 5 (2) The description of how the nonpublic information was
6 exposed, lost, stolen, or breached, including the
7 specific roles and responsibilities of third-party
8 service providers, if any;
- 9 (3) How the cybersecurity event was discovered;
- 10 (4) Whether any lost, stolen, or breached information has
11 been recovered and, if so, how it was recovered;
- 12 (5) The identity of the source of the cybersecurity event;
- 13 (6) Whether the licensee has filed a police report or has
14 notified any regulatory, government, or law
15 enforcement agencies and, if so, when the notification
16 was provided;
- 17 (7) A description of the specific types of information
18 acquired without authorization. For purposes of this
19 paragraph, "specific types of information" means
20 particular data elements, including but not limited to
21 types of medical information, types of financial

- 1 information, or types of information allowing
2 identification of the consumer;
- 3 (8) The period during which the information system was
4 compromised by the cybersecurity event;
- 5 (9) The number of total consumers in the State affected by
6 the cybersecurity event. The licensee shall provide
7 the best estimate in the initial notification to the
8 commissioner and update this estimate with each
9 subsequent notification to the commissioner pursuant
10 to this section;
- 11 (10) The results of any internal review identifying a lapse
12 in either automated controls or internal procedures,
13 or confirming that all automated controls or internal
14 procedures were followed;
- 15 (11) A description of efforts being undertaken to remediate
16 the situation that permitted the cybersecurity event
17 to occur;
- 18 (12) A copy of the licensee's privacy policy and a
19 statement outlining the steps the licensee will take
20 to investigate and notify consumers affected by the
21 cybersecurity event; and



1 (13) The name of a contact person who is both familiar with
2 the cybersecurity event and authorized to act for the
3 licensee.

4 (c) The licensee shall provide the information in
5 electronic form as directed by the commissioner.

6 (d) The licensee shall have a continuing obligation to
7 update and supplement initial and subsequent notifications to
8 the commissioner regarding material changes to previously
9 provided information concerning the cybersecurity event.

10 (e) This section shall not supersede any reporting
11 requirements in chapter 487N.

12 **§431: -303 Notification to consumers.** The licensee
13 shall comply with chapter 487N, as applicable, and provide a
14 copy of the notice sent to consumers under chapter 487N to the
15 commissioner when a licensee is required to notify the
16 commissioner under section 431: -302.

17 **§431: -304 Notice regarding cybersecurity events of**
18 **third-party service providers.** (a) In the case of a
19 cybersecurity event impacting a licensee's nonpublic information
20 in a system maintained by a third-party service provider, of
21 which the licensee has become aware, the licensee shall treat



1 the event as it would under section 431: -302 unless the
2 third-party service provider provides the notice required under
3 section 431: -302.

4 (b) The computation of the licensee's deadlines shall
5 begin on the day after the third-party service provider notifies
6 the licensee of the cybersecurity event or the licensee
7 otherwise has actual knowledge of the cybersecurity event,
8 whichever is sooner.

9 (c) Nothing in this article shall prevent or abrogate an
10 agreement between a licensee and another licensee, a third-party
11 service provider, or any other party to fulfill any of the
12 investigation requirements imposed under section 431: -301 or
13 notice requirements imposed under this part.

14 **§431: -305 Notice regarding cybersecurity events of**
15 **reinsures to insurers.** (a) In the case of a cybersecurity
16 event involving nonpublic information that is used by the
17 licensee that is acting as an assuming insurer or in the
18 possession, custody, or control of a licensee that is acting as
19 an assuming insurer and that does not have a direct contractual
20 relationship with the affected consumers, the assuming insurer
21 shall notify its affected ceding insurers and the commissioner



1 of its state of domicile within three business days of making
2 the determination that a cybersecurity event has occurred.

3 (b) In the case of a cybersecurity event involving
4 nonpublic information that is in the possession, custody, or
5 control of a third-party service provider of a licensee that is
6 an assuming insurer, the assuming insurer shall notify its
7 affected ceding insurers and the commissioner of its state of
8 domicile within three business days of receiving notice from its
9 third-party service provider that a cybersecurity event has
10 occurred.

11 (c) The ceding insurers that have a direct contractual
12 relationship with affected consumers shall fulfill the consumer
13 notification requirements imposed under chapter 487N and any
14 other notification requirements relating to a cybersecurity
15 event imposed under this part.

16 §431: -306 Notice regarding cybersecurity events of
17 insurers to producers of record. (a) In the case of a
18 cybersecurity event involving nonpublic information that is in
19 the possession, custody, or control of a licensee that is an
20 insurer or its third-party service provider, and for which a
21 consumer accessed the insurer's services through an independent



1 insurance producer, the insurer shall notify the producers of
2 record of all affected consumers as soon as practicable as
3 directed by the commissioner.

4 (b) The insurer is exempt from this obligation in
5 instances where it does not have the current producer of record
6 information for any individual consumer."

7 SECTION 3. Section 431:19-115, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) No insurance laws of this State other than those
10 contained in this article, article 15, or specifically
11 referenced in this article shall apply to captive insurance
12 companies; provided that:

13 (1) Sections 431:3-302 to 431:3-304.5, 431:3-307,
14 431:3-401 to 431:3-409, 431:3-411, 431:3-412, and
15 431:3-414; articles 1, 2, 4A, 5, 6, 9A, 9B, 9C, 11,
16 [~~and~~] 11A[+], and _____; and chapter 431K shall apply to
17 risk retention captive insurance companies; and

18 (2) Articles 1, 2, and 6 shall apply to class 5
19 companies."

20 SECTION 4. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2021;
8 provided that:

9 (1) Licensees, other than risk retention groups chartered
10 and licensed in this State, shall have:

11 (A) One year from the effective date of this Act to
12 implement sections 431: -201, 431: -202,
13 431: -203, 431: -204, 431: -206,
14 431: -207, and 431: -208, Hawaii Revised
15 Statutes, established by section 2 of this Act;
16 and

17 (B) Two years from the effective date of this Act to
18 implement section 431: -205, Hawaii Revised
19 Statutes, established by section 2 of this Act;
20 and



1 (2) Risk retention groups chartered and licensed in this
2 State shall have:

3 (A) Two years from the effective date of this Act to
4 implement sections 431: -201, 431: -202,
5 431: -203, 431: -204, 431: -206,
6 431: -207, and 431: -208, Hawaii Revised
7 Statutes, established by section 2 of this Act;
8 and

9 (B) Three years from the effective date of this Act
10 to implement section 431: -205, Hawaii Revised
11 Statutes, established by section 2 of this Act.

APPROVED this 28 day of JUN, 2021



GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

SB No. 1100, SD 1, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives