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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1           SECTION 1. Section 431:19-108, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§431:19-108 Examinations, investigations, and financial  
4 surveillance[-]; certificate of exemption. (a) The  
5 commissioner or any authorized examiner may conduct an  
6 examination, investigation, or financial surveillance of any  
7 captive insurance company as often as the commissioner deems  
8 appropriate; provided that, unless exempt or the commissioner  
9 requires otherwise:

10           (1) An examination shall be conducted at least once every  
11 five years for all captive insurance companies, except  
12 as provided in paragraph (2); and

13           (2) An examination of a risk retention captive insurance  
14 company shall be conducted no later than three years  
15 after its formation and at least once every five years  
16 thereafter.



1           The commissioner or any authorized examiner shall  
2 thoroughly inspect and examine the captive insurance company's  
3 affairs to ascertain its financial condition, its ability to  
4 fulfill its obligations, and whether it has complied with this  
5 article.

6           (b) The powers, authorities, and duties relating to  
7 examinations vested in and imposed upon the commissioner under  
8 section 431:2-301 through section 431:2-307.5 of the code are  
9 extended to and imposed upon the commissioner in respect to  
10 examinations of captive insurance companies.

11           (c) All examination reports, preliminary examination  
12 reports or results, working papers, recorded information,  
13 documents, and copies thereof produced by, obtained by, or  
14 disclosed to the commissioner or any person in the course of an  
15 examination made under this section are confidential and are not  
16 subject to subpoena and may not be made public by the  
17 commissioner or an employee or agent of the commissioner without  
18 the written consent of the company, except to the extent  
19 provided in this subsection. Nothing in this subsection shall  
20 prevent the commissioner from using information in furtherance  
21 of the commissioner's regulatory authority under this title.



1 The commissioner may grant access to the information to public  
2 officers having jurisdiction over the regulation of insurance in  
3 any other state or country, or to law enforcement officers of  
4 this State or any other state or agency of the federal  
5 government at any time, so long as the officers receiving the  
6 information agree in writing to hold it in a manner consistent  
7 with this section.

8 (d) Each branch captive insurance company shall file  
9 annually with the commissioner a certificate of compliance  
10 issued by the insurance regulatory authority of the jurisdiction  
11 in which the outside captive insurance company of the branch  
12 captive insurance company is domiciled along with certified  
13 copies of any examination reports conducted of the outside  
14 captive insurance company by its domiciliary insurance regulator  
15 during the preceding calendar year. These filings shall be made  
16 with the commissioner by March 1 of each year. So long as the  
17 branch captive insurance company complies with the requirements  
18 of this subsection, and unless otherwise deemed necessary by the  
19 commissioner, any examination of the branch captive insurance  
20 company under this subsection shall be only with respect to the  
21 business underwritten by the branch captive insurance company in



1 this State. If necessary, however, the commissioner may examine  
2 the outside captive insurance company of any branch captive  
3 insurance company licensed under this article.

4 (e) Except for a risk retention captive insurance company,  
5 a captive insurance company may apply to the commissioner for a  
6 certificate of exemption from examination; provided that the  
7 captive insurance company applicant:

8 (1) Has completed at least one examination under this  
9 section to the satisfaction of the commissioner;

10 (2) Has timely filed and continues to timely file all  
11 reports required under this article, including but not  
12 limited to financial statements and other reports  
13 required by section 431:19-107;

14 (3) Attests, by an officer and its captive manager, to its  
15 compliance with required provisions of this article at  
16 the time of application and annually thereafter during  
17 the period of any approved exemption from examination;  
18 and

19 (4) Has demonstrated other good cause supporting its  
20 application for exemption from further examination.



1       (f) If the commissioner is satisfied with the captive  
2 insurance company's application, the commissioner may issue a  
3 certificate of exemption from examination.

4       (g) Unless earlier revoked by the commissioner for good  
5 cause, a certificate of exemption from examination shall be  
6 valid for a term not to exceed five years from its effective  
7 date.

8       (h) A captive insurance company may apply to the  
9 commissioner for one successive renewal of its current  
10 certificate of exemption from examination no earlier than six  
11 months before the expiration date of the applicant's certificate  
12 of exemption. After the expiration of a renewed certificate of  
13 exemption, and if required by the commissioner, a captive  
14 insurance company shall complete at least one examination to the  
15 satisfaction of the commissioner before the captive insurance  
16 company may apply for another certificate of exemption from  
17 examination."

18       SECTION 2. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20       SECTION 3. This Act shall take effect on July 1, 2050.



**Report Title:**

Insurance; Captive Insurance Companies; Insurance Commissioner;  
Certificate of Exemption; Examinations

**Description:**

Allows captive insurance companies that are not risk retention  
captive insurance companies to apply to the Insurance  
Commissioner for certificates of exemption from examination  
after meeting certain requirements. Effective 7/1/2050. (SD1)

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

