

A BILL FOR AN ACT

RELATING TO INSURANCE FRAUD.

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

1 PART I

2 SECTION 1. The legislature finds that insurance fraud is
3 not a victimless crime and imposes substantial costs on
4 policyholders, insurers, and state economies by increasing
5 premiums, distorting insurance markets, and undermining public
6 confidence in systems designed to provide protection during
7 times of vulnerability. National data compiled by insurance
8 regulators and industry oversight organizations estimate that
9 insurance fraud results in annual costs exceeding
10 \$300,000,000,000 across the United States. State-level data
11 demonstrates significant financial impact from fraudulent and
12 abusive insurance claims over the past decade, including
13 billions of dollars paid in bodily injury and related claims in
14 multiple states.

15 The legislature further finds that regions exposed to
16 natural disasters experience heightened risk of opportunistic
17 fraud following emergency declarations, including unlicensed



1 contractor activity, litigation driven by false or inflated
2 claims, and coordinated schemes involving improper financial
3 inducements.

4 The legislature recognizes that insurance fraud
5 increasingly operates across jurisdictional boundaries and that
6 effective prevention and enforcement require coordinated,
7 modernized, and data-driven responses. Florida, Kentucky,
8 Louisiana, and North Dakota have enacted or proposed
9 comprehensive insurance fraud reforms, including expanded
10 statutory definitions, enhanced penalties, mandatory reporting
11 requirements, and advanced analytic tools, that have resulted in
12 substantial fraud recoveries and improved market stability.

13 These other states' initiatives have been informed by
14 collaborative, multi-state policy development efforts, including
15 model frameworks and recommendations advanced through the
16 National Council of Insurance Legislators and the National
17 Association of Insurance Commissioners, which emphasize cross-
18 agency coordination, standardized reporting, fraud analytics,
19 and strong enforcement authority as essential components of
20 effective insurance fraud prevention.



1 The purpose of this Act is to align the state insurance
2 code with these multi-state legislative and enforcement efforts
3 by establishing comprehensive insurance fraud prevention and
4 enforcement mechanisms. The following new and amended sections
5 are intended to deter fraudulent conduct, strengthen
6 investigative and prosecutorial capacity, promote data sharing
7 and modern enforcement tools, protect policyholders and
8 insurers, and ensure market integrity, particularly during
9 periods of heightened risk following declared emergencies.

PART II

11 SECTION 2. Section 431:2-401, Hawaii Revised Statutes, is
12 amended by adding five new definitions to be appropriately
13 inserted and to read as follows:

14 ""Claim harvesting"" means the solicitation, inducement,
15 procurement, or acquisition of insurance claims or potential
16 insurance claims through false, misleading, coercive, or
17 deceptive practices.

18 "Disaster-related insurance activity" or "disaster-related
19 services" means any insurance claim, solicitation, adjustment,
20 repair, remediation, legal service, or construction service



1 arising from or related to a state-declared emergency, natural
2 disaster, or catastrophic event.

3 "Fraud analytics" or "predictive analytics" means the use
4 of statistical modeling, data mining, artificial intelligence,
5 or other analytical techniques to identify patterns, trends,
6 anomalies, or indicators of insurance fraud.

7 "Litigation financing arrangement" means any agreement
8 under which a person or entity that is not a party to an
9 insurance claim or legal action provides funding or financial
10 assistance in exchange for a contingent interest in the proceeds
11 of a claim or settlement.

12 "Post-loss assignment abuse" means the use of an assignment
13 of insurance benefits or rights that are obtained, executed, or
14 enforced through fraud, misrepresentation, coercion, or
15 noncompliance with statutory disclosure, licensure, or bonding
16 requirements."

17 PART III

18 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
19 amended by designating sections 431:2-401 to 431:2-410, as
20 subpart A and inserting a title before section 431:2-401, to
21 read as follows:



"A. General Provisions"

SECTION 4. Chapter 431, Hawaii Revised Statutes, is amended by adding three new sections to part IV, subpart A, of article 2 to be appropriately designated and to read as follows:

"§431:2- Claims harvesting and solicitation; prohibited.

- (a) No person shall engage in claims harvesting.
- (b) Prohibited conduct under this section includes:
 - (1) Soliciting insurance claims or potential claims through false or misleading representations;
 - (2) Offering or providing anything of value, including cash, gifts, services, fee reductions, or other consideration, in exchange for the assignment of insurance benefits, the referral of a claimant, or the execution of a claim-related agreement;
 - (3) Using runners, call centers, social media campaigns, door-to-door solicitations, or disaster-response canvassing to obtain insurance claims through deception or coercion; and
 - (4) Misrepresenting licensure, qualifications, affiliations, or authority to induce a person to file or transfer an insurance claim.



1 (c) Each prohibited solicitation or inducement made in
2 violation of this section shall constitute a separate violation.

3 **§431:2- Litigation-related insurance fraud.** (a) No
4 person shall initiate, finance, support, or maintain litigation
5 arising from an insurance claim using false, inflated, or
6 unverified information.

7 (b) A litigation financing arrangement related to an
8 insurance claim shall be prohibited if the arrangement:

9 (1) Is contingent upon the pursuit or maintenance of a
10 fraudulent or unverified claim;
11 (2) Encourages inflated damages, unnecessary medical
12 treatment, or manufactured injuries; or
13 (3) Obstructs disclosure of material information to an
14 insurer or tribunal.

15 (c) Participation in a litigation financing arrangement in
16 violation of this section shall constitute insurance fraud
17 pursuant to this part.

18 **§431:2- Confidentiality; centralized insurance fraud**
19 database; interagency data sharing. (a) Information obtained
20 during an insurance fraud investigation, including all reports,
21 data and information obtained pursuant to this part, shall be



1 confidential and not subject to disclosure, except as necessary
2 for enforcement, prosecution, or otherwise required by law. The
3 commissioner may share confidential information with prosecuting
4 authorities, law enforcement agencies, regulatory agencies, or
5 insurers for purposes of fraud detection and enforcement.
6 Disclosure executed pursuant to this section shall not waive any
7 privilege or confidentiality protection.

8 (b) The insurance commissioner may establish and maintain
9 a centralized insurance fraud database for the collection,
10 storage, analysis, and dissemination of information related to
11 insurance fraud. The database may include:

12 (1) Fraud reports submitted under this part;
13 (2) Claims data and loss information;
14 (3) Licensing and disciplinary records; and
15 (4) Referral and enforcement outcomes.

16 (c) Access to the database, if established pursuant to
17 subsection (b), shall be restricted to the commissioner, the
18 insurance fraud investigations branch, and the authorized
19 personnel of entities with whom the commissioner has entered
20 into agreements to share data pursuant to this section. These
21 entities may include:



1 (1) State and county agencies;
2 (2) Law enforcement entities;
3 (3) Prosecuting authorities;
4 (4) Other state insurance regulators;
5 (5) The National Association of Insurance Commissioners;
6 and
7 (6) The National Council of Insurance Legislators.
8 (d) Data shared pursuant to this section shall be used
9 solely for insurance fraud prevention, detection, investigation,
10 prosecution, and development of enforcement strategies.
11 (e) The commissioner shall adopt reasonable policies for
12 the retention, security, and destruction of insurance fraud
13 data. Data management pursuant to this section shall comply
14 with applicable state and federal privacy and cybersecurity
15 standards."

16 PART IV

17 SECTION 5. Chapter 431, Hawaii Revised Statutes, is
18 amended by adding a new subpart to article 2, part IV, to be
19 appropriately designated and to read as follows:
20 "B. Disaster Related Insurance Fraud

1 **\$431:2- Post-loss assignment abuse; prohibited.** (a)

2 Post-loss assignment abuse is prohibited. A post-loss
3 assignment of insurance benefits or rights shall be void and
4 unenforceable if obtained through fraud, misrepresentation,
5 coercion, or material nondisclosure.

6 (b) No person or insurer shall:

7 (1) Execute or enforce a post-loss assignment without
8 providing clear written disclosure of the scope,
9 duration, and financial impact of the assignment;

10 (2) Require or induce execution of a post-loss assignment
11 as a condition of emergency or disaster-related
12 services; or

13 (3) Use a post-loss assignment to circumvent licensing,
14 bonding, or regulatory requirements.

15 (c) Any violation of this section shall constitute

16 insurance fraud pursuant to this part.

17 **\$431:2- State-declared emergency fraud protections.**

18 Upon the issuance of a state or county emergency proclamation,
19 the provisions of this part shall apply to all disaster-related
20 insurance activity and shall be subject to heightened



1 enforcement standards pursuant to chapter 127A to prevent fraud,
2 abuse, and exploitation of policyholders.

3 **\$431:2- Prohibition on emergency assignment coercion.**

4 No person or insurer shall require or induce a policyholder to
5 execute a post-loss assignment of insurance benefits or rights
6 as a condition of receiving emergency or disaster-related
7 services. Any assignment obtained in violation of this section
8 shall be deemed void and unenforceable. Each violation shall
9 constitute an act of fraud under this part.

10 **\$431:2- Advertising and solicitation restrictions during**
11 **emergencies.** (a) During a declared emergency, no person or
12 insurer shall advertise or solicit disaster-related insurance
13 services in a manner that is false, misleading, or deceptive,
14 including:

15 (1) Representing affiliation with an insurer, government
16 agency, or emergency authority without authorization;
17 (2) Guaranteeing claim approval or specific settlement
18 outcomes; or
19 (3) Using high-pressure tactics to obtain insurance
20 assignments or contracts.



3 §431:2- Coordination with emergency management agencies.

4 The commissioner may coordinate with state and county emergency
5 management agencies, law enforcement, and licensing boards to
6 monitor, investigate, and enforce compliance with this part
7 during declared emergencies."

8 PART V

9 SECTION 6. Section 431:2-211, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "\$431:2-211 Annual report. The commissioner[, as early
12 each year as accurate preparation enables,] shall [prepare and]
13 submit a report of its findings and recommendations, including
14 any proposed legislation, to the legislature [a report which
15 shall contain:] no later than twenty days prior to the convening
16 of each regular session, which shall include but not be limited
17 to:

18 (1) The condition of all insurers authorized to do
19 business in this State during the preceding year[–];
20 (2) A summary of abuses and deficiencies in benefit
21 payments, the complaints made to the commissioner and



their disposition, and the extent of compliance and noncompliance by each insurer with the provisions of this code[–];

(3) The number and types of insurance fraud investigations, as well as referrals for prosecution of insurance fraud, enforcement outcomes for insurance fraud prosecutions, amounts recovered from insurance fraud, and emerging fraud trends; and

(3) (4) Such additional information and comments relative to insurance activities in this State as the commissioner deems proper."

SECTION 7. Section 431:2-402, Hawaii Revised Statutes, is amended to read as follows:

"§431:2-402 Insurance fraud investigations branch. (a)

15 There is established in the insurance division the insurance
16 fraud investigations branch for the purposes set forth in this
17 part.

18 (b) The branch shall:

19 (1) Conduct a statewide program for the prevention of
20 insurance fraud under title 24, including chapters
21 431, 432, and 432D; provided that the branch shall



1 have jurisdiction over workers' compensation under
2 chapter 386;

3 (2) Notwithstanding any other law to the contrary,
4 investigate and prosecute in administrative hearings
5 and courts of competent jurisdiction all persons
6 involved in insurance fraud violations; and
7 (3) Promote public and industry-wide education about
8 insurance fraud.

9 (c) The branch may review and take appropriate action on
10 complaints of fraud relating to insurance under title 24,
11 including chapters 431, 432, and 432D, but excluding workers'
12 compensation insurance under chapter 386. The branch may deploy
13 fraud analytics or predictive analytics and case flagging
14 systems to identify patterns, anomalies, and indicators of
15 insurance fraud; prioritize investigations; and allocate
16 enforcement resources; provided that the use of fraud analytics
17 or predictive analytics shall not create a presumption of
18 wrongdoing nor shall it be used as the sole basis for
19 enforcement action.

20 (d) The commissioner shall employ or retain, by contract
21 or otherwise, attorneys, investigators, investigator assistants,



1 auditors, accountants, physicians, health care professionals,
2 paralegals, consultants, experts, and other professional,
3 technical, and support staff as necessary to promote the
4 effective and efficient conduct of the branch's activities. The
5 commissioner may hire these employees without regard to
6 chapter[s] 76 or 89.

7 (e) Notwithstanding any other law to the contrary, an
8 attorney employed or retained by the branch may represent the
9 State in any criminal, civil, or administrative proceeding to
10 enforce all applicable state laws relating to insurance fraud,
11 including criminal prosecutions, disciplinary actions, and
12 actions for declaratory and injunctive relief. The attorney
13 general may designate an attorney as a special deputy attorney
14 general for purposes of this subsection.

15 (f) Investigators appointed and commissioned under this
16 part shall have and may exercise all of the powers and authority
17 of a police officer or of a deputy sheriff.

18 (g) Funding for the branch shall come from the compliance
19 resolution fund established by section 26-9(o).

20 (h) The commissioner may adopt rules pursuant to chapter
21 91 to implement and administer this part, including rules



1 governing reporting thresholds, data submission standards, and
2 analytic methodologies."

3 SECTION 8. Section 431:2-403, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§431:2-403 Insurance fraud.** (a) A person commits the
6 offense of insurance fraud if the person:

7 (1) Intentionally or knowingly misrepresents or conceals,
8 or attempts to misrepresent or conceal, material
9 facts, opinions, intention, or law to obtain or
10 attempt to obtain coverage, benefits, recovery, or
11 compensation:

12 (A) When presenting, or causing or permitting to be
13 presented, an application, whether written,
14 typed, or transmitted through electronic media,
15 for the issuance or renewal of an insurance
16 policy or reinsurance contract;

17 (B) When presenting, or causing or permitting to be
18 presented, false information on a claim for
19 payment;

20 (C) When presenting, or causing or permitting to be
21 presented, a claim for the payment of a loss;



- (D) When presenting, or causing or permitting to be presented, multiple claims for the same loss or injury, including knowingly presenting [such] multiple and duplicative claims to more than one insurer;
- (E) When presenting, or causing or permitting to be presented, any claim for payment of a health care benefit;
- (F) When presenting, or causing or permitting to be presented, a claim for a health care benefit that was not used by, or provided on behalf of, the claimant;
- (G) When presenting, or causing or permitting to be presented, improper multiple and duplicative claims for payment of the same health care benefit;
- (H) When presenting, or causing or permitting to be presented, for payment any undercharges for benefits on behalf of a specific claimant unless any known overcharges for benefits under this





with regard to obtaining legal recovery or
benefits; and

(M) When presenting, causing to be presented, or preparing with knowledge or belief that it will be presented, any statement, application, estimate, invoice, record, or document containing false, incomplete, misleading, or deceptive information in support of an insurance claim, policy application, premium calculation, or benefit determination;

(2) Intentionally or knowingly aids, agrees, or attempts to aid, solicit, or conspire with any person who engages in an unlawful act as defined under this section; [or]

(3) Intentionally or knowingly makes, causes, or permits to be presented, any false statements or claims by any person or on behalf of any person during an official proceeding as defined by section 710-1000 [–];

(4) Intentionally or knowingly offers or provides anything of value, including cash, gifts, services, or fee reductions, in exchange for the assignment of

1 insurance benefits, the referral of a claimant, or the
2 execution of a claim-related agreement;

3 (5) Intentionally or knowingly initiates, supports, or
4 benefits from a litigation financing arrangement
5 arising from an insurance claim using false, inflated,
6 or unverified information;

7 (6) Knowingly concealing, suppressing, or omitting any
8 material fact that affects an insurer's evaluation,
9 adjustment, settlement, or payment of a claim; or

10 (7) Knowingly benefiting directly or indirectly from the
11 proceeds of insurance fraud.

12 If a person commits or attempts to commit any of the foregoing
13 offenses at any stage of the insurance transaction, including
14 but not limited to policy issuance, underwriting, claims
15 solicitation, claims adjustment, payment, litigation, or
16 settlement, each offense, omission, transaction, or claim
17 submitted in furtherance thereof shall constitute a separate
18 offense.

19 (b) Violation of subsection (a) is a criminal offense and
20 shall constitute:



1 common law, or through civil actions or administrative
2 enforcement, and all [such] applicable remedies shall be
3 cumulative.

4 (d) A business entity shall be liable for insurance fraud
5 committed by an officer, employee, agent, or contractor acting
6 within the scope of the entity's business or for the benefit of
7 the entity. Lack of direct knowledge by the entity shall not
8 preclude liability if the entity failed to implement reasonable
9 compliance or oversight measures."

10 SECTION 9. Section 431:2-405, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) In addition to or in lieu of criminal penalties under
13 section 431:2-403(b), any person who commits insurance fraud as
14 defined under section 431:2-403, may be subject to the
15 administrative penalties or civil fines established in this
16 section.

17 (b) If a person is found to have knowingly committed
18 insurance fraud under this part, the commissioner may assess any
19 or all of the following penalties:

20 (1) Restitution to any insurer, policyholder, or any other
21 person, including the State or county for costs



1 incurred related to investigation or enforcement, of
2 benefits or payments fraudulently received or other
3 damages or costs incurred;
4 (2) A fine of not less than \$5,000 and not more than
5 ~~[\$10,000]~~ \$50,000 for each violation; [and]
6 (3) Reimbursement of attorneys' fees and costs of the
7 party sustaining a loss under this part; provided that
8 the State shall be exempt from paying attorneys' fees
9 and costs to other parties[‐];
10 (4) Sanctions, including but not limited to license
11 suspension, license revocation, or probationary
12 licensing conditions; and
13 (5) Disgorgement of profits obtained through insurance
14 fraud."

15 SECTION 10. Section 431:2-409, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[f]~~§431:2-409~~[f]~~ Mandatory reporting[‐]; whistleblower
18 protection. (a) Within sixty days of an insurer or other
19 licensee's employee or agent discovering credible information
20 indicating a violation of section 431:2-403, or as soon
21 thereafter as practicable, the insurer or licensee shall provide

1 to the branch information, including documents and other
2 evidence, regarding the alleged violation of section 431:2-403.
3 The insurance fraud investigations branch shall work with the
4 insurer or licensee to determine what information shall be
5 provided.

6 (b) Information provided pursuant to this section shall be
7 protected from public disclosure to the extent authorized by
8 chapter 92F and section 431:2-209; provided that the branch may
9 release the information in an administrative or judicial
10 proceeding to enforce this part to federal, state, or local law
11 enforcement or regulatory authorities, the National Association
12 of Insurance Commissioners, the National Insurance Crime Bureau,
13 or an insurer or other licensee aggrieved by the alleged
14 violation of section 431:2-403.

15 (c) An insurer or a person that submits a report of
16 suspected insurance fraud to the insurance fraud investigations
17 branch or a law enforcement agency in good faith shall be immune
18 from civil or administrative liability arising from the report.
19 Any retaliation from an employer against an employee who makes a
20 report of suspected insurance fraud in good faith shall
21 constitute a violation of section 378-62. This subsection shall

1 not apply to knowingly submitting false or malicious reports of
2 suspected insurance fraud."

3 SECTION 11. Section 431:2-410, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~431:2-410~~ **Deposit into the compliance resolution**
6 **fund.** All moneys that have been recovered by the department of
7 commerce and consumer affairs as a result of prosecuting
8 insurance fraud violations pursuant to this part, including
9 civil fines, criminal fines, administrative fines, forfeitures,
10 disgorged funds, and settlements, but not including restitution
11 made pursuant to section 431:2-404, 431:2-405(b)(1), or 431:2-
12 408, shall be deposited into the compliance resolution fund
13 established pursuant to section 26-9(o)."

14 SECTION 12. Section 431:13-103, Hawaii Revised Statutes,
15 is amended by amending subsection (a) to read as follows:

16 "(a) The following are defined as unfair methods of
17 competition and unfair or deceptive acts or practices in the
18 business of insurance:

19 (1) Misrepresentations and false advertising of insurance
20 policies. Making, issuing, circulating, or causing to
21 be made, issued, or circulated, any estimate,



1 illustration, circular, statement, sales presentation,
2 omission, or comparison that:

3 (A) Misrepresents the benefits, advantages,
4 conditions, or terms of any insurance policy;

5 (B) Misrepresents the dividends or share of the
6 surplus to be received on any insurance policy;

7 (C) Makes any false or misleading statement as to the
8 dividends or share of surplus previously paid on
9 any insurance policy;

10 (D) Is misleading or is a misrepresentation as to the
11 financial condition of any insurer, or as to the
12 legal reserve system upon which any life insurer
13 operates;

14 (E) Uses any name or title of any insurance policy or
15 class of insurance policies misrepresenting the
16 true nature thereof;

17 (F) Is a misrepresentation for the purpose of
18 inducing or tending to induce the lapse,
19 forfeiture, exchange, conversion, or surrender of
20 any insurance policy;



1 (G) Is a misrepresentation for the purpose of
2 effecting a pledge or assignment of or effecting
3 a loan against any insurance policy;

4 (H) Misrepresents any insurance policy as being
5 shares of stock;

6 (I) Publishes or advertises the assets of any insurer
7 without publishing or advertising with equal
8 conspicuousness the liabilities of the insurer,
9 both as shown by its last annual statement; or

10 (J) Publishes or advertises the capital of any
11 insurer without stating specifically the amount
12 of paid-in and subscribed capital;

13 (2) False information and advertising generally. Making,
14 publishing, disseminating, circulating, or placing
15 before the public, or causing, directly or indirectly,
16 to be made, published, disseminated, circulated, or
17 placed before the public, in a newspaper, magazine, or
18 other publication, or in the form of a notice,
19 circular, pamphlet, letter, or poster, or over any
20 radio or television station, or in any other way, an
21 advertisement, announcement, or statement containing



1 any assertion, representation, or statement with
2 respect to the business of insurance or with respect
3 to any person in the conduct of the person's insurance
4 business, which is untrue, deceptive, or misleading;

5 (3) Defamation. Making, publishing, disseminating, or
6 circulating, directly or indirectly, or aiding,
7 abetting, or encouraging the making, publishing,
8 disseminating, or circulating of any oral or written
9 statement or any pamphlet, circular, article, or
10 literature which is false, or maliciously critical of
11 or derogatory to the financial condition of an
12 insurer, and which is calculated to injure any person
13 engaged in the business of insurance;

14 (4) Boycott, coercion, and intimidation.

15 (A) Entering into any agreement to commit, or by any
16 action committing, any act of boycott, coercion,
17 or intimidation resulting in or tending to result
18 in unreasonable restraint of, or monopoly in, the
19 business of insurance; or

20 (B) Entering into any agreement on the condition,
21 agreement, or understanding that a policy will



1 not be issued or renewed unless the prospective
2 insured contracts for another class or an
3 additional policy of the same class of insurance
4 with the same insurer;

5 (5) False financial statements.

6 (A) Knowingly filing with any supervisory or other
7 public official, or knowingly making, publishing,
8 disseminating, circulating, or delivering to any
9 person, or placing before the public, or
10 knowingly causing, directly or indirectly, to be
11 made, published, disseminated, circulated,
12 delivered to any person, or placed before the
13 public, any false statement of a material fact as
14 to the financial condition of an insurer; or

15 (B) Knowingly making any false entry of a material
16 fact in any book, report, or statement of any
17 insurer with intent to deceive any agent or
18 examiner lawfully appointed to examine into its
19 condition or into any of its affairs, or any
20 public official to whom the insurer is required
21 by law to report, or who has authority by law to



1 examine into its condition or into any of its
2 affairs, or, with like intent, knowingly omitting
3 to make a true entry of any material fact
4 pertaining to the business of the insurer in any
5 book, report, or statement of the insurer;

6 (6) Stock operations and advisory board contracts.
7 Issuing or delivering or permitting agents, officers,
8 or employees to issue or deliver, agency company stock
9 or other capital stock, or benefit certificates or
10 shares in any common-law corporation, or securities or
11 any special or advisory board contracts or other
12 contracts of any kind promising returns and profits as
13 an inducement to insurance;

14 (7) Unfair discrimination.
15 (A) Making or permitting any unfair discrimination
16 between individuals of the same class and equal
17 expectation of life in the rates charged for any
18 policy of life insurance or annuity contract or
19 in the dividends or other benefits payable
20 thereon, or in any other of the terms and
21 conditions of the contract;



- (B) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charge therefor, or in the benefits payable or in any other rights or privilege accruing thereunder;
- (C) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:
 - (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or
 - (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate;

(D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:

- (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or
- (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate;

14 (E) Refusing to insure, refusing to continue to
15 insure, or limiting the amount of coverage
16 available to an individual because of the sex or
17 marital status of the individual; however,
18 nothing in this subsection shall prohibit an
19 insurer from taking marital status into account
20 for the purpose of defining persons eligible for
21 dependent benefits;



1 (F) Terminating or modifying coverage, or refusing to
2 issue or renew any property or casualty policy or
3 contract of insurance solely because the
4 applicant or insured or any employee of either is
5 mentally or physically impaired; provided that
6 this subparagraph shall not apply to accident and
7 health or sickness insurance sold by a casualty
8 insurer; provided further that this subparagraph
9 shall not be interpreted to modify any other
10 provision of law relating to the termination,
11 modification, issuance, or renewal of any
12 insurance policy or contract;

13 (G) Refusing to insure, refusing to continue to
14 insure, or limiting the amount of coverage
15 available to an individual based solely upon the
16 individual's having taken a human
17 immunodeficiency virus (HIV) test prior to
18 applying for insurance; or

19 (H) Refusing to insure, refusing to continue to
20 insure, or limiting the amount of coverage
21 available to an individual because the individual



1 refuses to consent to the release of information
2 which is confidential as provided in section
3 325-101; provided that nothing in this
4 subparagraph shall prohibit an insurer from
5 obtaining and using the results of a test
6 satisfying the requirements of the commissioner,
7 which was taken with the consent of an applicant
8 for insurance; provided further that any
9 applicant for insurance who is tested for HIV
10 infection shall be afforded the opportunity to
11 obtain the test results, within a reasonable time
12 after being tested, and that the confidentiality
13 of the test results shall be maintained as
14 provided by section 325-101;

15 (8) Rebates. Except as otherwise expressly provided by
16 law:

17 (A) Knowingly permitting or offering to make or
18 making any contract of insurance, or agreement as
19 to the contract other than as plainly expressed
20 in the contract, or paying or allowing, or giving
21 or offering to pay, allow, or give, directly or



1 indirectly, as inducement to the insurance, any
2 rebate of premiums payable on the contract, or
3 any special favor or advantage in the dividends
4 or other benefits, or any valuable consideration
5 or inducement not specified in the contract; or
6 (B) Giving, selling, or purchasing, or offering to
7 give, sell, or purchase as inducement to the
8 insurance or in connection therewith, any stocks,
9 bonds, or other securities of any insurance
10 company or other corporation, association, or
11 partnership, or any dividends or profits accrued
12 thereon, or anything of value not specified in
13 the contract;

14 (9) Nothing in paragraph (7) or (8) shall be construed as
15 including within the definition of discrimination or
16 rebates any of the following practices:

17 (A) In the case of any life insurance policy or
18 annuity contract, paying bonuses to policyholders
19 or otherwise abating their premiums in whole or
20 in part out of surplus accumulated from
21 nonparticipating insurance; provided that any



bonus or abatement of premiums shall be fair and equitable to policyholders and in the best interests of the insurer and its policyholders;

- (B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;
- (C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for the policy year;
- (D) In the case of any contract of insurance, the distribution of savings, earnings, or surplus equitably among a class of policyholders, all in accordance with this article; and



1 (E) A reward under a wellness program established
2 under a health care plan that favors an
3 individual if the wellness program meets the
4 following requirements:

5 (i) The wellness program is reasonably designed
6 to promote health or prevent disease;

7 (ii) An individual has an opportunity to qualify
8 for the reward at least once a year;

9 (iii) The reward is available for all similarly
10 situated individuals;

11 (iv) The wellness program has alternative
12 standards for individuals who are unable to
13 obtain the reward because of a health
14 factor;

15 (v) Alternative standards are available for an
16 individual who is unable to participate in a
17 reward program because of a health
18 condition;

19 (vi) The insurer provides information explaining
20 the standard for achieving the reward and
21 discloses the alternative standards; and



(vii) The total rewards for all wellness programs under the health care plan do not exceed twenty per cent of the cost of coverage;

(10) Refusing to provide or limiting coverage available to an individual because the individual may have a third-party claim for recovery of damages; provided that:

(A) Where damages are recovered by judgment or settlement of a third-party claim, reimbursement of past benefits paid shall be allowed pursuant to section 663-10;

(B) This paragraph shall not apply to entities licensed under chapter 386 or 431:10C; and

(C) For entities licensed under chapter 432 or 432D:

(i) It shall not be a violation of this section to refuse to provide or limit coverage available to an individual because the entity determines that the individual reasonably appears to have coverage.

(ii) Payment of claims to an individual who may have a third-party claim for recovery of



1 damages may be conditioned upon the
2 individual first signing and submitting to
3 the entity documents to secure the lien and
4 reimbursement rights of the entity and
5 providing information reasonably related to
6 the entity's investigation of its liability
7 for coverage.

8 Any individual who knows or reasonably should
9 know that the individual may have a third-party
10 claim for recovery of damages and who fails to
11 provide timely notice of the potential claim to
12 the entity, shall be deemed to have waived the
13 prohibition of this paragraph against refusal or
14 limitation of coverage. "Third-party claim" for
15 purposes of this paragraph means any tort claim
16 for monetary recovery or damages that the
17 individual has against any person, entity, or
18 insurer, other than the entity licensed under
19 chapter 432 or 432D;



1 (11) Unfair claim settlement practices. Committing or
2 performing with such frequency as to indicate a
3 general business practice any of the following:
4 (A) Misrepresenting pertinent facts or insurance
5 policy provisions relating to coverages at issue;
6 (B) With respect to claims arising under its
7 policies, failing to respond with reasonable
8 promptness, in no case more than fifteen working
9 days, to communications received from:
10 (i) The insurer's policyholder;
11 (ii) Any other persons, including the
12 commissioner; or
13 (iii) The insurer of a person involved in an
14 incident in which the insurer's policyholder
15 is also involved.
16 The response shall be more than an acknowledgment
17 that such person's communication has been
18 received and shall adequately address the
19 concerns stated in the communication;

- 1 (C) Failing to adopt and implement reasonable
2 standards for the prompt investigation of claims
3 arising under insurance policies;
- 4 (D) Refusing to pay claims without conducting a
5 reasonable investigation based upon all available
6 information;
- 7 (E) Failing to affirm or deny coverage of claims
8 within a reasonable time after proof of loss
9 statements have been completed;
- 10 (F) Failing to offer payment within thirty calendar
11 days of affirmation of liability, if the amount
12 of the claim has been determined and is not in
13 dispute;
- 14 (G) Failing to provide the insured, or when
15 applicable the insured's beneficiary, with a
16 reasonable written explanation for any delay, on
17 every claim remaining unresolved for thirty
18 calendar days from the date it was reported;
- 19 (H) Not attempting in good faith to effectuate
20 prompt, fair, and equitable settlements of claims
21 in which liability has become reasonably clear;



- (I) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds;
- (J) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (K) Attempting to settle claims on the basis of an application that was altered without notice, knowledge, or consent of the insured;
- (L) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
- (M) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or



- (N) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician or advanced practice registered nurse of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (O) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage to influence settlements under other portions of the insurance policy coverage;
- (P) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; and



1 (Q) Indicating to the insured on any payment draft,
2 check, or in any accompanying letter that the
3 payment is "final" or is "a release" of any claim
4 if additional benefits relating to the claim are
5 probable under coverages afforded by the policy;
6 unless the policy limit has been paid or there is
7 a bona fide dispute over either the coverage or
8 the amount payable under the policy;

9 (12) Failure to maintain complaint handling procedures.
10 Failure of any insurer to maintain a complete record
11 of all the complaints that it has received since the
12 date of its last examination under section 431:2-302.
13 This record shall indicate the total number of
14 complaints, their classification by line of insurance,
15 the nature of each complaint, the disposition of the
16 complaints, and the time it took to process each
17 complaint. For purposes of this section, "complaint"
18 means any written communication primarily expressing a
19 grievance;

20 (13) Misrepresentation in insurance applications. Making
21 false or fraudulent statements or representations on



1 or relative to an application for an insurance policy,
2 for the purpose of obtaining a fee, commission, money,
3 or other benefit from any insurer, producer, or
4 individual; ~~[and]~~

5 (14) Failure to obtain information. Failure of any
6 insurance producer, or an insurer where no producer is
7 involved, to comply with section 431:10D-623(a), (b),
8 or (c) by making reasonable efforts to obtain
9 information about a consumer before making a
10 recommendation to the consumer to purchase or exchange
11 an annuity~~[.]~~; and

12 (15) Failure to comply with timelines during a declared
13 emergency. Failure of any insurer to ensure timely
14 and accurate handling of claims in compliance with
15 reasonable inspection and documentation timelines
16 established by the commissioner during a state of
17 emergency or local emergency duly declared by the
18 governor or a mayor pursuant to chapter 127A."

19 SECTION 13. Section 444-10.6, Hawaii Revised Statutes, is
20 amended to read as follows:

1 "§444-10.6 State of emergency or disaster; emergency
2 licensure; penalties. (a) Notwithstanding any other provision
3 of law to the contrary, the board may issue emergency
4 contractor's licenses during a local or state of emergency or
5 disaster duly declared by the governor under chapter 209 or a
6 mayor pursuant to chapter 127A or 209 upon a determination by
7 the board that a shortage of Hawaii licensed contractors exists.

8 (b) To qualify for an emergency contractor's license, an
9 applicant shall:

10 (1) Provide proof of licensure as a contractor in another
11 state with similar contractor licensing requirements
12 as those in this State, that the license is current,
13 and that it has been in good standing for the past two
14 years;

15 (2) Provide proof of liability and property damage
16 insurance, obtained through an insurer authorized to
17 do business in this State or other insurer acceptable
18 to the board;

19 (3) Submit proof of workers' compensation insurance as
20 specified in the board's rules;



- (4) Submit a current financial statement prepared by a certified public accountant and applicable credit reports as specified in the board's rules;
- (5) Pay all applicable application and license fees, including recovery fund and education fund fees;
- (6) Submit a state tax clearance statement; and
- (7) Provide proof of bond in the amount and in such form as set forth in section 444-16.5.

(c) The classifications of emergency contractor's licenses and the duration of the emergency contractor's licenses be determined by the board based on the nature and ion of the state of emergency or disaster, and the needs est interests of the public.

(d) The board may delegate the issuance of emergency actor's licenses to its administrative staff; provided that plicant shall be required to meet all of the requirements fied in this section before the issuance of the license.

(e) Any person who violates section 444-9, in connection the offer or performance of repairs to a residential or sidential structure for damage caused by a natural disaster political subdivision for which a state of emergency or



1 disaster is proclaimed by the governor, may be punished by a
2 fine of up to \$10,000, imprisonment up to one year, or both, in
3 addition to all other remedies or penalties.

4 (f) During a state of emergency or a local state of
5 emergency duly declared by the governor or a mayor pursuant to
6 either chapter 127A or 209, the insurance commissioner may
7 require all licensed contractors and licensed emergency
8 contractors to maintain proof of bonding or financial
9 responsibility as a condition of engaging in insured contracting
10 activity. Failure to comply with bonding requirements imposed
11 under this subsection shall constitute grounds for
12 administrative penalties established in section 431:2-405. No
13 contractor shall:

14 (1) Misrepresent the necessity, cost, or scope of repairs
15 or remediation;
16 (2) Perform or bill for services not rendered;
17 (3) Represent that the contractor is affiliated with an
18 insurer, government agency, or emergency response
19 authority; or
20 (4) Solicit insurance proceeds directly from an insured
21 claimant for services not yet performed.



1 The insurance commissioner may coordinate with state and county
2 emergency management agencies, law enforcement, and the
3 contractors license board to monitor, investigate, and enforce
4 compliance with this subsection pursuant to part IV of chapter
5 431, article 2."

6 SECTION 14. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 15. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2026-2027 to be
15 deposited into the compliance resolution fund to support
16 insurance fraud investigations.

17 The sum appropriated shall be expended by the department of
18 commerce and consumer affairs for the purposes of this Act.

19 SECTION 16. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 17. This Act shall take effect on July 1, 2026.

2

INTRODUCED BY:

Mark H.

JAN 27 2026



H.B. NO. 2379

Report Title:

DCCA; Insurance Division; Insurance Fraud Investigations Branch; Insurance Commissioner; Insurance Fraud; Declarations of Emergency; Centralized Database; Whistleblower Protection; Data Security; Contractors; Penalties; Reports; Appropriation

Description:

Increases the scope of insurance fraud and certain offenses. Augments offenses by contractors and insurers during a declared emergency. Clarifies the penalties for the offense of insurance fraud and the capabilities and operations of the Insurance Fraud Investigations Branch, including the annual report to the Legislature and the protection of sensitive information. Adds protection for insurance fraud whistleblowers. Authorizes the Insurance Commissioner to establish a centralized database for authorized agencies to track insurance fraud data. Appropriates funds.

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

