
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 from examination.** (a)

5 The 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 current
12 certificate of exemption. After the expiration of a renewed
13 certificate of exemption, and if required by the commissioner, a
14 captive insurance company shall complete at least one
15 examination to the satisfaction of the commissioner before the
16 captive insurance company may apply for another certificate of
17 exemption from 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 January 1, 3000.



Report Title:

Insurance Commissioner; Insurance; Captive Insurance Companies; 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 1/1/3000. (SD1)

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