
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
18 cross-agency coordination, standardized reporting, fraud
19 analytics, and strong enforcement authority as essential
20 components of effective insurance fraud prevention.



1 techniques to identify anomalies, indicators, patterns, or
2 trends of insurance fraud.

3 "Litigation financing arrangement" means any agreement
4 under which a person or entity that is not a party to an
5 insurance claim or legal action provides funding or financial
6 assistance to a party in exchange for a contingent interest in
7 the proceeds of a claim or settlement. "Litigation financing
8 agreement" does not include:

9 (1) An agreement under which an attorney provides legal
10 services on a contingency fee basis or advances a
11 party's legal costs; or

12 (2) Funds intended for use by a party for personal or
13 familial expenses.

14 "Unverified information" means information that a person
15 knows lacks a reasonable factual basis at the time it is used."

16 PART III

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

21 "A. General Provisions"



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

5 "§431:2- Prohibited solicitations and inducements. (a)

6 No person shall engage in the following conduct:

7 (1) Soliciting insurance claims or potential claims
8 through false or misleading representations;

9 (2) Offering or providing anything of value, including
10 cash, gifts, services, fee reductions, or other
11 consideration, in exchange for the assignment of
12 insurance benefits, the referral of a claimant, or the
13 execution of a claim-related agreement;

14 (3) Using call centers, door-to-door solicitations,
15 disaster-response canvassing, runners, or social media
16 campaigns to obtain insurance claims through deception
17 or coercion; or

18 (4) Misrepresenting licensure, qualifications,
19 affiliations, or authority to induce a person to file
20 or transfer an insurance claim.



1 (b) 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 court.

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

18 (d) For the purposes of this section:

19 "Encourages" means knowingly and intentionally induces,
20 directs, or incentivizes conduct that results in inflated



1 damages, unnecessary medical treatment, or manufactured
2 injuries.

3 "Inflated damages" means damages that a person knows or
4 reasonably should know are materially false, fabricated, or
5 grossly exaggerated beyond what is supported by a reasonable
6 factual basis and the law.

7 §431:2- Application; practice of law. This article
8 shall not apply to the practice of law consistent with the
9 Hawaii rules of professional conduct maintained and enforced by
10 the supreme court."

11 PART IV

12 SECTION 5. Chapter 431, Hawaii Revised Statutes, is
13 amended by adding a new subpart to article 2, part IV, to be
14 appropriately designated and to read as follows:

15 " . Disaster-Related Insurance Fraud

16 **§431:2- Post-loss assignment; prohibited.** (a) A post-
17 loss assignment of insurance benefits or rights shall be void
18 and unenforceable if obtained through fraud, misrepresentation,
19 coercion, or material nondisclosure.

20 (b) No person or insurer shall:



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

5 (2) Use a post-loss assignment to circumvent licensing,
6 bonding, or regulatory requirements.

7 (c) Any violation of this section shall constitute
8 insurance fraud pursuant to this part.

9 **§431:2- State of emergency fraud protections.** Upon the
10 issuance of a proclamation declaring a state of emergency or
11 local state of emergency, the provisions of this part shall
12 apply to all disaster-related insurance activity and shall be
13 subject to enhanced enforcement and penalty provisions pursuant
14 to chapter 127A, if applicable, to prevent fraud, abuse, and
15 exploitation of policyholders.

16 **§431:2- Prohibition on emergency assignment coercion.**
17 No person or insurer shall require or induce execution of a
18 post-loss assignment of insurance benefits or rights as a
19 condition of receiving disaster-related services. Any post-loss
20 assignment obtained in violation of this section shall be deemed



1 void and unenforceable. Each violation shall constitute
2 insurance fraud under this part.

3 **§431:2- Advertising and solicitation restrictions**

4 **during emergencies.** (a) During a state of emergency or local
5 state of emergency declared pursuant to chapter 127A, no person
6 or insurer shall advertise or solicit disaster-related services
7 in a manner that is false, misleading, deceptive, or coercive,
8 including:

9 (1) Representing affiliation with an insurer, government
10 agency, or emergency management agency without
11 authorization;

12 (2) Guaranteeing claim approval or specific settlement
13 outcomes; or

14 (3) Using high-pressure tactics to obtain insurance
15 assignments or contracts.

16 (b) Any violation of this section shall constitute
17 insurance fraud pursuant to this part. Each prohibited
18 advertisement or solicitation shall constitute a separate
19 violation.

20 **§431:2- Coordination with emergency management**
21 **agencies, law enforcement agencies, and licensing boards.** The



1 commissioner may coordinate with state and county emergency
2 management agencies, law enforcement agencies, and licensing
3 boards to monitor, investigate, and enforce compliance with this
4 part during declared states of emergency or local states of
5 emergency."

6 PART V

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

9 "~~§431:2-211~~ **Annual report.** The commissioner [~~, as early~~
10 ~~each year as accurate preparation enables,~~] shall [~~prepare and~~]
11 submit a report of findings and recommendations, including any
12 proposed legislation, to the legislature [a report which shall
13 contain:] no later than twenty days prior to the convening of
14 each regular session, which shall include but not be limited to:

- 15 (1) The condition of all insurers authorized to do
16 business in this State during the preceding year[~~-~~];
- 17 (2) A summary of abuses and deficiencies in benefit
18 payments, the complaints made to the commissioner and
19 their disposition, and the extent of compliance and
20 noncompliance by each insurer with the provisions of
21 this code[~~-~~];



1 (3) The number and types of insurance fraud
 2 investigations, as well as referrals for prosecution
 3 of insurance fraud, enforcement outcomes for insurance
 4 fraud prosecutions, amounts recovered from insurance
 5 fraud, and emerging fraud trends; and
 6 [~~3~~] (4) [Such] Any additional information and comments
 7 [~~relative~~] relating to insurance activities in this
 8 State [~~as~~] that the commissioner deems proper."

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

11 "**§431:2-402 Insurance fraud investigations branch.** (a)

12 There is established in the insurance division the insurance
 13 fraud investigations branch for the purposes set forth in this
 14 part.

15 (b) The branch shall:

16 (1) Conduct a statewide program for the prevention of
 17 insurance fraud under this title [24], including
 18 chapters 431, 432, and 432D; provided that the branch
 19 shall not have jurisdiction over workers' compensation
 20 under chapter 386;



1 (2) Notwithstanding any other law to the contrary,
2 investigate and prosecute, in administrative hearings
3 and courts of competent jurisdiction [~~all~~], persons
4 involved in insurance fraud violations; and

5 (3) Promote public and industry-wide education about
6 insurance fraud.

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

17 (d) The commissioner shall employ or retain, by contract
18 or otherwise, attorneys, investigators, investigator assistants,
19 auditors, accountants, physicians, health care professionals,
20 paralegals, consultants, experts, and other professional,
21 technical, and support staff as necessary to promote the



1 effective and efficient conduct of the branch's activities. The
2 commissioner may hire these employees without regard to
3 [~~chapters~~] chapter 76 or 89.

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

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

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

17 (h) The commissioner may adopt rules pursuant to
18 chapter 91 to implement and administer this part, including
19 rules governing reporting thresholds, data submission standards,
20 and analytic methodologies."



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

3 "§431:2-403 Insurance fraud. (a) A person commits the
4 offense of insurance fraud if the person:

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

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

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

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

20 (D) When presenting, or causing or permitting to be
21 presented, multiple claims for the same loss or



1 injury, including knowingly presenting [~~such~~]
2 multiple and duplicative claims to more than one
3 insurer;

4 (E) When presenting, or causing or permitting to be
5 presented, any claim for payment of a health care
6 benefit;

7 (F) When presenting, or causing or permitting to be
8 presented, a claim for a health care benefit that
9 was not used by, or provided on behalf of, the
10 claimant;

11 (G) When presenting, or causing or permitting to be
12 presented, improper multiple and duplicative
13 claims for payment of the same health care
14 benefit;

15 (H) When presenting, or causing or permitting to be
16 presented, for payment, any undercharges for
17 benefits on behalf of a specific claimant unless
18 any known overcharges for benefits under this
19 article for that claimant are presented for
20 reconciliation at the same time;



- 1 (I) When fabricating, altering, concealing, making an
2 entry in, or destroying a document, whether
3 typed, written, or through an audio or video tape
4 or electronic media;
- 5 (J) When presenting, or causing or permitting to be
6 presented, to a person, insurer, or other
7 licensee, false, incomplete, or misleading
8 information to obtain coverage or payment
9 otherwise available under an insurance policy;
- 10 (K) When presenting, or causing or permitting to be
11 presented, to a person or producer, information
12 about a person's status as a licensee that
13 induces a person or insurer to purchase an
14 insurance policy or reinsurance contract; ~~and~~
- 15 (L) When making, or causing or permitting to be made,
16 any statement, either typed, written, or through
17 audio or video tape or electronic media, or
18 claims by the person or on behalf of a person
19 with regard to obtaining legal recovery or
20 benefits; and



- 1 (M) When presenting, causing or permitting to be
2 presented, or preparing with knowledge or belief
3 that it will be presented, any statement,
4 application, estimate, invoice, record, or
5 document containing false, incomplete,
6 misleading, or deceptive information in support
7 of an insurance claim, policy application,
8 premium calculation, or benefit determination;
- 9 (2) Intentionally or knowingly aids, agrees, or attempts
10 to aid, solicit, or conspire with any person who
11 engages in an unlawful act as defined under this
12 section; [~~o~~]
- 13 (3) Intentionally or knowingly makes, causes, or permits
14 to be presented[~~r~~] any false statements or claims by
15 any person or on behalf of any person during an
16 official proceeding as defined by section 710-1000[~~r~~];
- 17 (4) Intentionally or knowingly offers or provides anything
18 of value, including cash, gifts, services, or fee
19 reductions, in exchange for the assignment of
20 insurance benefits, the referral of a claimant, or the
21 execution of a claim-related agreement;



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

5 (6) Knowingly conceals, suppresses, or omits any material
6 fact that affects an insurer's evaluation, adjustment,
7 settlement, or payment of a claim; provided that an
8 insurance professional who reasonably relies on
9 information from a third party shall not be found to
10 have knowingly omitted material facts; or

11 (7) Knowingly benefits directly or indirectly from the
12 proceeds of insurance fraud.

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



1 (b) [~~Violation~~] Insurance fraud under this part, including
2 a violation of subsection (a) [~~is~~], shall be a criminal offense
3 and shall constitute:

4 (1) A class B felony if the value of the benefits,
5 recovery, or compensation obtained or attempted to be
6 obtained exceeds \$20,000[~~+~~], or if the offense
7 involves a pattern or practice of insurance fraud;

8 (2) A class C felony if the value of the benefits,
9 recovery, or compensation obtained or attempted to be
10 obtained exceeds \$750; or

11 (3) A misdemeanor if the value of the benefits, recovery,
12 or compensation obtained or attempted to be obtained
13 is not in excess of \$750.

14 Each act of insurance fraud under this part shall constitute a
15 separate offense regardless of whether an insurer sustains a
16 financial loss. A pattern or practice of insurance fraud exists
17 when a person commits two or more acts of insurance fraud within
18 five years. A pattern or practice of insurance fraud shall
19 constitute an aggravating factor for purposes of penalties,
20 enforcement actions, and prosecutorial discretion.



1 (c) This section shall not supersede any other law
2 relating to theft, fraud, or deception. Insurance fraud may be
3 prosecuted under this part, or any other applicable statute or
4 common law, or through civil actions or administrative
5 enforcement, and all [~~such~~] applicable remedies shall be
6 cumulative.

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

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

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



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

4 (1) Restitution to any insurer, policyholder, or [any]
5 other person [~~of~~] for benefits or payments
6 fraudulently received or [~~other~~] damages or costs
7 incurred[+], including restitution to the State or
8 county for costs incurred related to investigation or
9 enforcement;

10 (2) A fine of [~~not~~] no less than \$5,000 and no more than
11 [\$10,000] \$50,000 for each violation; [~~and~~]

12 (3) Reimbursement of attorneys' fees and costs of the
13 party sustaining a loss under this part; provided that
14 the State shall be exempt from paying attorneys' fees
15 and costs to other parties[-];

16 (4) Sanctions, including but not limited to license
17 suspension, license revocation, or probationary
18 licensing conditions; and

19 (5) Disgorgement of profits obtained through insurance
20 fraud."



1 SECTION 10. Section 431:2-408, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) An insurer or other licensee shall have a civil cause
4 of action to recover payments or benefits from any person who
5 has [~~violated section 431:2-403,~~] committed insurance fraud
6 under this part; provided that no recovery shall be allowed if
7 the person has made restitution pursuant to section 431:2-404 or
8 431:2-405 (b) (1)."

9 SECTION 11. Section 431:2-409, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§431:2-409[+] **Mandatory reporting[-]; whistleblower**
12 **protection.** (a) Within sixty days of an insurer or other
13 licensee's employee or agent discovering credible information
14 indicating a violation of section 431:2-403, or as soon
15 thereafter as practicable, the insurer or licensee shall provide
16 to the branch information, including documents and other
17 evidence, regarding the alleged violation of section 431:2-403.
18 The [~~insurance fraud investigations~~] branch shall work with the
19 insurer or licensee to determine what information shall be
20 provided.



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

10 (c) An insurer or a person that submits a report of
11 suspected insurance fraud to the branch or a law enforcement
12 agency in good faith shall be immune from civil or
13 administrative liability arising from the act of making the
14 report. Any retaliation from an employer against an employee
15 who makes a report of suspected insurance fraud in good faith
16 shall constitute a violation of section 378-62. This subsection
17 shall not apply to knowingly submitting false or malicious
18 reports of suspected insurance fraud."

19 SECTION 12. Section 431:2-410, Hawaii Revised Statutes, is
20 amended to read as follows:



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

10 SECTION 13. There is appropriated out of the compliance
11 resolution fund the sum of \$ or so much thereof as may
12 be necessary for fiscal year 2026-2027 to support insurance
13 fraud investigations.

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

16 SECTION 14. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



1 SECTION 15. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 16. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 17. This Act shall take effect on July 1, 3000.



Report Title:

DCCA; Insurance Division; Insurance Fraud Investigations Branch; Insurance Commissioner; Insurance Fraud; Declarations of States of Emergency; Whistleblower Protection; Penalties; Reports; Appropriation

Description:

Prohibits certain solicitation and inducement practices relating to insurance claims. Establishes disaster-related insurance fraud offenses. Broadens the scope of the offense of insurance fraud and the acts that constitute insurance fraud. 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 use of fraud analytics. Reiterates protections for insurance fraud whistleblowers. Appropriates funds. Effective 7/1/3000. (HD2)

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