

---

---

# 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 in exchange for a contingent interest in the proceeds  
7 of a claim or settlement."

8 PART III

9 SECTION 3. Chapter 431, Hawaii Revised Statutes, is  
10 amended by designating sections 431:2-401 to 431:2-410, as  
11 subpart A and inserting a title before section 431:2-401, to  
12 read as follows:

13 "A. General Provisions"

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

18 "§431:2- Prohibited solicitations and inducements. (a)

19 No person shall engage in the following conduct:

- 20 (1) Soliciting insurance claims or potential claims  
21 through false or misleading representations;



1       (2) Offering or providing anything of value, including  
2       cash, gifts, services, fee reductions, or other  
3       consideration, in exchange for the assignment of  
4       insurance benefits, the referral of a claimant, or the  
5       execution of a claim-related agreement;

6       (3) Using call centers, door-to-door solicitations,  
7       disaster-response canvassing, runners, or social media  
8       campaigns to obtain insurance claims through deception  
9       or coercion; or

10       (4) Misrepresenting licensure, qualifications,  
11       affiliations, or authority to induce a person to file  
12       or transfer an insurance claim.

13       (b) Each prohibited solicitation or inducement made in  
14 violation of this section shall constitute a separate violation.

15       §431:2-       Litigation-related insurance fraud. (a) No  
16 person shall initiate, finance, support, or maintain litigation  
17 arising from an insurance claim using false, inflated, or  
18 unverified information.

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





1 duration, and financial impact of the post-loss  
2 assignment;

3 (2) Require or induce execution of a post-loss assignment  
4 as a condition of emergency or disaster-related  
5 services; or

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

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

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

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



1 this section shall be deemed void and unenforceable. Each  
2 violation shall constitute 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, or deceptive, including:

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

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

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

15 (b) Each prohibited advertisement or solicitation shall  
16 constitute a separate violation.

17 **§431:2- Coordination with emergency management**

18 **agencies, law enforcement agencies, and licensing boards.** The

19 commissioner may coordinate with state and county emergency

20 management agencies, law enforcement agencies, and licensing

21 boards to monitor, investigate, and enforce compliance with this



1 part during declared states of emergency or local states of  
2 emergency."

3 PART V

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

6 "**§431:2-211 Annual report.** The commissioner [~~, as early~~  
7 ~~each year as accurate preparation enables,~~] shall [~~prepare and~~]  
8 submit a report of findings and recommendations, including any  
9 proposed legislation, to the legislature [a report which shall  
10 contain:] no later than twenty days prior to the convening of  
11 each regular session, which shall include but not be limited to:

- 12 (1) The condition of all insurers authorized to do  
13 business in this State during the preceding year~~[-]~~;
- 14 (2) A summary of abuses and deficiencies in benefit  
15 payments, the complaints made to the commissioner and  
16 their disposition, and the extent of compliance and  
17 noncompliance by each insurer with the provisions of  
18 this code~~[-]~~;
- 19 (3) The number and types of insurance fraud  
20 investigations, as well as referrals for prosecution  
21 of insurance fraud, enforcement outcomes for insurance



1           fraud prosecutions, amounts recovered from insurance  
2           fraud, and emerging fraud trends; and

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

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

8           "**§431:2-402 Insurance fraud investigations branch.** (a)

9       There is established in the insurance division the insurance  
10       fraud investigations branch for the purposes set forth in this  
11       part.

12           (b) The branch shall:

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

18           (2) Notwithstanding any other law to the contrary,  
19           investigate and prosecute in administrative hearings  
20           and courts of competent jurisdiction all persons  
21           involved in insurance fraud violations; and



1 (3) Promote public and industry-wide education about  
2 insurance fraud.

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

13 (d) The commissioner shall employ or retain, by contract  
14 or otherwise, attorneys, investigators, investigator assistants,  
15 auditors, accountants, physicians, health care professionals,  
16 paralegals, consultants, experts, and other professional,  
17 technical, and support staff as necessary to promote the  
18 effective and efficient conduct of the branch's activities. The  
19 commissioner may hire these employees without regard to  
20 [~~chapters~~] chapter 76 or 89.



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

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

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

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

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

20 "**§431:2-403 Insurance fraud.** (a) A person commits the  
21 offense of insurance fraud if the person:



- 1           (1) Intentionally or knowingly misrepresents or conceals,  
2           or attempts to misrepresent or conceal, material  
3           facts, opinions, intention, or law to obtain or  
4           attempt to obtain coverage, benefits, recovery, or  
5           compensation:
- 6           (A) When presenting, or causing or permitting to be  
7           presented, an application, whether written,  
8           typed, or transmitted through electronic media,  
9           for the issuance or renewal of an insurance  
10          policy or reinsurance contract;
- 11          (B) When presenting, or causing or permitting to be  
12          presented, false information on a claim for  
13          payment;
- 14          (C) When presenting, or causing or permitting to be  
15          presented, a claim for the payment of a loss;
- 16          (D) When presenting, or causing or permitting to be  
17          presented, multiple claims for the same loss or  
18          injury, including knowingly presenting [~~such~~]  
19          multiple and duplicative claims to more than one  
20          insurer;



- 1 (E) When presenting, or causing or permitting to be  
2 presented, any claim for payment of a health care  
3 benefit;
- 4 (F) When presenting, or causing or permitting to be  
5 presented, a claim for a health care benefit that  
6 was not used by, or provided on behalf of, the  
7 claimant;
- 8 (G) When presenting, or causing or permitting to be  
9 presented, improper multiple and duplicative  
10 claims for payment of the same health care  
11 benefit;
- 12 (H) When presenting, or causing or permitting to be  
13 presented, for payment any undercharges for  
14 benefits on behalf of a specific claimant unless  
15 any known overcharges for benefits under this  
16 article for that claimant are presented for  
17 reconciliation at the same time;
- 18 (I) When fabricating, altering, concealing, making an  
19 entry in, or destroying a document whether typed,  
20 written, or through an audio or video tape or  
21 electronic media;



1 (J) When presenting, or causing or permitting to be  
2 presented, to a person, insurer, or other  
3 licensee false, incomplete, or misleading  
4 information to obtain coverage or payment  
5 otherwise available under an insurance policy;

6 (K) When presenting, or causing or permitting to be  
7 presented, to a person or producer, information  
8 about a person's status as a licensee that  
9 induces a person or insurer to purchase an  
10 insurance policy or reinsurance contract; ~~and~~

11 (L) When making, or causing or permitting to be made,  
12 any statement, either typed, written, or through  
13 audio or video tape or electronic media, or  
14 claims by the person or on behalf of a person  
15 with regard to obtaining legal recovery or  
16 benefits; and

17 (M) When presenting, causing or permitting to be  
18 presented, or preparing with knowledge or belief  
19 that it will be presented, any statement,  
20 application, estimate, invoice, record, or  
21 document containing false, incomplete,



- 1                   misleading, or deceptive information in support  
2                   of an insurance claim, policy application,  
3                   premium calculation, or benefit determination;
- 4           (2)   Intentionally or knowingly aids, agrees, or attempts  
5                   to aid, solicit, or conspire with any person who  
6                   engages in an unlawful act as defined under this  
7                   section; [~~or~~]
- 8           (3)   Intentionally or knowingly makes, causes, or permits  
9                   to be presented, any false statements or claims by any  
10                  person or on behalf of any person during an official  
11                  proceeding as defined by section 710-1000[~~-~~];
- 12           (4)   Intentionally or knowingly offers or provides anything  
13                   of value, including cash, gifts, services, or fee  
14                   reductions, in exchange for the assignment of  
15                   insurance benefits, the referral of a claimant, or the  
16                   execution of a claim-related agreement;
- 17           (5)   Intentionally or knowingly initiates, supports, or  
18                   benefits from a litigation financing arrangement  
19                   arising from an insurance claim using false, inflated,  
20                   or unverified information;



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

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

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

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

19       (1) A class B felony if the value of the benefits,  
20       recovery, or compensation obtained or attempted to be



1           obtained exceeds \$20,000[+] or if the offense involves  
2           a pattern or practice of insurance fraud;

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

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

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

16           (c) This section shall not supersede any other law  
17 relating to theft, fraud, or deception. Insurance fraud may be  
18 prosecuted under this part, or any other applicable statute or  
19 common law, or through civil actions or administrative  
20 enforcement, and all [~~sueh~~] applicable remedies shall be  
21 cumulative.



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

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

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

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

17       (1) Restitution to any insurer, policyholder, or any other  
18       person, including the State or county for costs  
19       incurred related to investigation or enforcement, of  
20       benefits or payments fraudulently received or other  
21       damages or costs incurred;



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

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

7 (4) Sanctions, including but not limited to license  
8 suspension, license revocation, or probationary  
9 licensing conditions; and

10 (5) Disgorgement of profits obtained through insurance  
11 fraud."

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

14 "(a) An insurer or other licensee shall have a civil cause  
15 of action to recover payments or benefits from any person who  
16 has [~~violated section 431:2-403;~~] committed insurance fraud  
17 under this part; provided that no recovery shall be allowed if  
18 the person has made restitution pursuant to section 431:2-404 or  
19 431:2-405 (b) (1) ."

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



1           "~~[+]~~§431:2-409~~[+]~~ **Mandatory reporting~~-~~; whistleblower**  
2 **protection.** (a) Within sixty days of an insurer or other  
3 licensee's employee or agent discovering credible information  
4 indicating a violation of section 431:2-403, or as soon  
5 thereafter as practicable, the insurer or licensee shall provide  
6 to the branch information, including documents and other  
7 evidence, regarding the alleged violation of section 431:2-403.  
8 The [~~insurance fraud investigations~~] branch shall work with the  
9 insurer or licensee to determine what information shall be  
10 provided.

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

20           (c) An insurer or a person that submits a report of  
21 suspected insurance fraud to the branch or a law enforcement



1 agency in good faith shall be immune from civil or  
2 administrative liability arising from the report. Any  
3 retaliation from an employer against an employee who makes a  
4 report of suspected insurance fraud in good faith shall  
5 constitute a violation of section 378-62. This subsection shall  
6 not apply to knowingly submitting false or malicious reports of  
7 suspected insurance fraud."

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

10 "[+]§431:2-410[+] **Deposit into the compliance resolution**  
11 **fund.** All moneys that have been recovered by the department of  
12 commerce and consumer affairs as a result of prosecuting  
13 insurance fraud violations pursuant to this part, including  
14 civil fines, criminal fines, administrative fines, forfeitures,  
15 disgorged funds, and settlements, but not including restitution  
16 made pursuant to section 431:2-404, 431:2-405(b)(1), or  
17 431:2-408, shall be deposited into the compliance resolution  
18 fund established pursuant to section 26-9(o)."

19 SECTION 13. There is appropriated out of the compliance  
20 resolution fund the sum of \$ \_\_\_\_\_ or so much thereof as may



1 be necessary for fiscal year 2026-2027 to support insurance  
2 fraud investigations.

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

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

11 SECTION 15. This Act does not affect rights and duties  
12 that matured, penalties that were incurred, and proceedings that  
13 were begun before its effective date.

14 SECTION 16. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 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. Broadens the scope of the offense of insurance fraud and the acts that constitute insurance fraud. Establishes disaster-related insurance fraud offenses. 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. (HD1)

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

