
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 or other analytical techniques to identify patterns, trends,
2 anomalies, or indicators 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 three new sections to part IV, subpart A, of
16 article 2 to be appropriately designated and to read as follows:

17 "§431:2- Claims harvesting and solicitation; prohibited.

18 (a) No person shall engage in claims harvesting.

19 (b) Prohibited conduct under this section includes:

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 runners, call centers, social media campaigns,
7 door-to-door solicitations, or disaster-response
8 canvassing to obtain insurance claims through deception
9 or coercion; and
- 10 (4) Misrepresenting licensure, qualifications,
11 affiliations, or authority to induce a person to file
12 or transfer an insurance claim.
- 13 (c) 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 (1) Is contingent upon the pursuit or maintenance of a
2 fraudulent or unverified claim;

3 (2) Encourages inflated damages, unnecessary medical
4 treatment, or manufactured injuries; or

5 (3) Obstructs disclosure of material information to an
6 insurer or tribunal.

7 (c) Participation in a litigation financing arrangement in
8 violation of this section shall constitute insurance fraud
9 pursuant to this part.

10 **§431:2- Confidentiality; centralized insurance fraud**

11 **database; interagency data sharing.** (a) Information obtained
12 during an insurance fraud investigation, including all reports,
13 data and information obtained pursuant to this part, shall be
14 confidential and not subject to disclosure, except as necessary
15 for enforcement, prosecution, or otherwise required by law. The
16 commissioner may share confidential information with prosecuting
17 authorities, law enforcement agencies, regulatory agencies, or
18 insurers for purposes of fraud detection and enforcement.
19 Disclosure executed pursuant to this section shall not waive any
20 privilege or confidentiality protection.



1 (b) The insurance commissioner may establish and maintain
2 a centralized insurance fraud database for the collection,
3 storage, analysis, and dissemination of information related to
4 insurance fraud. The database may include:

5 (1) Fraud reports submitted under this part;

6 (2) Claims data and loss information;

7 (3) Licensing and disciplinary records; and

8 (4) Referral and enforcement outcomes.

9 (c) Access to the database, if established pursuant to
10 subsection (b), shall be restricted to the commissioner, the
11 insurance fraud investigations branch, and the authorized
12 personnel of entities with whom the commissioner has entered
13 into agreements to share data pursuant to this section. These
14 entities may include:

15 (1) State and county agencies;

16 (2) Law enforcement entities;

17 (3) Prosecuting authorities;

18 (4) Other state insurance regulators; and

19 (5) The National Association of Insurance Commissioners.

20 (d) Data shared pursuant to this section shall be used



1 solely for insurance fraud prevention, detection, investigation,
2 prosecution, and development of enforcement strategies.

3 (e) The commissioner shall adopt reasonable policies for
4 the retention, security, and destruction of insurance fraud
5 data. Data management pursuant to this section shall comply
6 with applicable state and federal privacy and cybersecurity
7 standards.

8 (f) Nothing in this section shall be construed to require
9 disclosure of information in violation of chapter 92F."

10 PART IV

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

14 "B. Disaster Related Insurance Fraud

15 **§431:2- Post-loss assignment abuse; prohibited.** (a)

16 Post-loss assignment abuse is prohibited. A post-loss
17 assignment of insurance benefits or rights shall be void and
18 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 assignment;
- 4 (2) Require or induce execution of a post-loss assignment
- 5 as a condition of emergency or disaster-related
- 6 services; or
- 7 (3) Use a post-loss assignment to circumvent licensing,
- 8 bonding, or regulatory requirements.
- 9 (c) Any violation of this section shall constitute
- 10 insurance fraud pursuant to this part.

11 **§431:2- State-declared emergency fraud protections.**

12 Upon the issuance of a state or county emergency proclamation,
13 the provisions of this part shall apply to all disaster-related
14 insurance activity and shall be subject to heightened
15 enforcement standards pursuant to chapter 127A to prevent fraud,
16 abuse, and exploitation 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 assignment obtained in violation of this section



1 shall be deemed void and unenforceable. Each violation shall
2 constitute an act of fraud under this part.

3 **§431:2- Advertising and solicitation restrictions during**
4 **emergencies.** (a) During a declared emergency, no person or
5 insurer shall advertise or solicit disaster-related insurance
6 services in a manner that is false, misleading, or deceptive,
7 including:

- 8 (1) Representing affiliation with an insurer, government
- 9 agency, or emergency authority without authorization;
- 10 (2) Guaranteeing claim approval or specific settlement
- 11 outcomes; or
- 12 (3) Using high-pressure tactics to obtain insurance
- 13 assignments or contracts.

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

16 **§431:2- Coordination with emergency management agencies.**
17 The commissioner may coordinate with state and county emergency
18 management agencies, law enforcement, and licensing boards to
19 monitor, investigate, and enforce compliance with this part
20 during declared emergencies."

21 PART V



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

3 **"§431:2-211 Annual report.** The commissioner[~~, as early~~
4 ~~each year as accurate preparation enables,~~] shall [~~prepare and~~]
5 submit a report of its findings and recommendations, including
6 any proposed legislation, to the legislature [~~a report which~~
7 ~~shall contain:~~] no later than twenty days prior to the convening
8 of each regular session, which shall include but not be limited
9 to:

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



1 [~~3~~] (4) Such additional information and comments relative
2 to insurance activities in this State as the
3 commissioner deems proper."

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

6 "**§431:2-402 Insurance fraud investigations branch.** (a)

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

10 (b) The branch shall:

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

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

20 (3) Promote public and industry-wide education about
21 insurance fraud.



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

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

20 (e) Notwithstanding any other law to the contrary, an
21 attorney employed or retained by the branch may represent the



1 State in any criminal, civil, or administrative proceeding to
2 enforce all applicable state laws relating to insurance fraud,
3 including criminal prosecutions, disciplinary actions, and
4 actions for declaratory and injunctive relief. The attorney
5 general may designate an attorney as a special deputy attorney
6 general for purposes of this subsection.

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

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

12 (h) The commissioner may adopt rules pursuant to chapter
13 91 to implement and administer this part, including rules
14 governing reporting thresholds, data submission standards, and
15 analytic methodologies."

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

18 "**§431:2-403 Insurance fraud.** (a) A person commits the
19 offense of insurance fraud if the person:

20 (1) Intentionally or knowingly misrepresents or conceals,
21 or attempts to misrepresent or conceal, material



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



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



- 1 information to obtain coverage or payment
2 otherwise available under an insurance policy;
- 3 (K) When presenting, or causing or permitting to be
4 presented, to a person or producer, information
5 about a person's status as a licensee that
6 induces a person or insurer to purchase an
7 insurance policy or reinsurance contract; ~~and~~
- 8 (L) When making, or causing or permitting to be made,
9 any statement, either typed, written, or through
10 audio or video tape or electronic media, or
11 claims by the person or on behalf of a person
12 with regard to obtaining legal recovery or
13 benefits; and
- 14 (M) When presenting, causing to be presented, or
15 preparing with knowledge or belief that it will
16 be presented, any statement, application,
17 estimate, invoice, record, or document containing
18 false, incomplete, misleading, or deceptive
19 information in support of an insurance claim,
20 policy application, premium calculation, or
21 benefit determination;



- 1 (2) Intentionally or knowingly aids, agrees, or attempts
2 to aid, solicit, or conspire with any person who
3 engages in an unlawful act as defined under this
4 section; ~~or~~
- 5 (3) Intentionally or knowingly makes, causes, or permits
6 to be presented, any false statements or claims by any
7 person or on behalf of any person during an official
8 proceeding as defined by section 710-1000~~[.]~~;
- 9 (4) Intentionally or knowingly offers or provides anything
10 of value, including cash, gifts, services, or fee
11 reductions, in exchange for the assignment of
12 insurance benefits, the referral of a claimant, or the
13 execution of a claim-related agreement;
- 14 (5) Intentionally or knowingly initiates, supports, or
15 benefits from a litigation financing arrangement
16 arising from an insurance claim using false, inflated,
17 or unverified information;
- 18 (6) Knowingly concealing, suppressing, or omitting any
19 material fact that affects an insurer's evaluation,
20 adjustment, settlement, or payment of a claim;
21 provided that an insurance professional who reasonably



1 relies on information from a third-party shall not be
2 found to have knowingly omitted material facts; or
3 (7) Knowingly benefiting directly or indirectly from the
4 proceeds of insurance fraud.

5 If a person commits or attempts to commit any of the foregoing
6 offenses at any stage of the insurance transaction, including
7 but not limited to policy issuance, underwriting, claims
8 solicitation, claims adjustment, payment, litigation, or
9 settlement, each offense, omission, transaction, or claim
10 submitted in furtherance thereof shall constitute a separate
11 offense.

12 (b) Violation of subsection (a) is a criminal offense and
13 shall constitute:

14 (1) A class B felony if the value of the benefits,
15 recovery, or compensation obtained or attempted to be
16 obtained exceeds \$20,000; or if the offense involves a
17 pattern or practice of insurance fraud;

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



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

4 Each violation of this section shall constitute a separate
5 offense regardless of whether an insurer sustains a financial
6 loss. A pattern or practice of insurance fraud exists when a
7 person commits two or more violations of this section within
8 five years. A pattern or practice of insurance fraud shall
9 constitute an aggravating factor for purposes of penalties,
10 enforcement actions, and prosecutorial discretion.

11 (c) This section shall not supersede any other law
12 relating to theft, fraud, or deception. Insurance fraud may be
13 prosecuted under this part, or any other applicable statute or
14 common law, or through civil actions or administrative
15 enforcement, and all [~~such~~] applicable remedies shall be
16 cumulative.

17 (d) A business entity shall be liable for insurance fraud
18 committed by an officer, employee, agent, or contractor acting
19 within the scope of the entity's business or for the benefit of
20 the entity. Lack of direct knowledge by the entity shall not



1 preclude liability if the entity failed to implement reasonable
2 compliance or oversight measures."

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

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

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

13 (1) Restitution to any insurer, policyholder, or any other
14 person, including the State or county for costs
15 incurred related to investigation or enforcement, of
16 benefits or payments fraudulently received or other
17 damages or costs incurred;

18 (2) A fine of not less than \$5,000 and not more than
19 ~~[\$10,000]~~ \$50,000 for each violation; ~~and]~~

20 (3) Reimbursement of attorneys' fees and costs of the
21 party sustaining a loss under this part; provided that



1 the State shall be exempt from paying attorneys' fees
2 and costs to other parties[-];

3 (4) Sanctions, including but not limited to license
4 suspension, license revocation, or probationary
5 licensing conditions; and

6 (5) Disgorgement of profits obtained through insurance
7 fraud."

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

10 "[+]§431:2-409[+] **Mandatory reporting[-]; whistleblower**
11 **protection.** (a) Within sixty days of an insurer or other

12 licensee's employee or agent discovering credible information
13 indicating a violation of section 431:2-403, or as soon
14 thereafter as practicable, the insurer or licensee shall provide
15 to the branch information, including documents and other
16 evidence, regarding the alleged violation of section 431:2-403.
17 The insurance fraud investigations branch shall work with the
18 insurer or licensee to determine what information shall be
19 provided.

20 (b) Information provided pursuant to this section shall be
21 protected from public disclosure to the extent authorized by



1 chapter 92F and section 431:2-209; provided that the branch may
2 release the information in an administrative or judicial
3 proceeding to enforce this part to federal, state, or local law
4 enforcement or regulatory authorities, the National Association
5 of Insurance Commissioners, the National Insurance Crime Bureau,
6 or an insurer or other licensee aggrieved by the alleged
7 violation of section 431:2-403.

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

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

19 "[+]§431:2-410[+] **Deposit into the compliance resolution**
20 **fund.** All moneys that have been recovered by the department of
21 commerce and consumer affairs as a result of prosecuting



1 insurance fraud violations pursuant to this part, including
2 civil fines, criminal fines, administrative fines, forfeitures,
3 disgorged funds, and settlements, but not including restitution
4 made pursuant to section 431:2-404, 431:2-405(b)(1), or 431:2-
5 408, shall be deposited into the compliance resolution fund
6 established pursuant to section 26-9(o)."

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

9 "(a) The following are defined as unfair methods of
10 competition and unfair or deceptive acts or practices in the
11 business of insurance:

12 (1) Misrepresentations and false advertising of insurance
13 policies. Making, issuing, circulating, or causing to
14 be made, issued, or circulated, any estimate,
15 illustration, circular, statement, sales presentation,
16 omission, or comparison that:

17 (A) Misrepresents the benefits, advantages,
18 conditions, or terms of any insurance policy;
19 (B) Misrepresents the dividends or share of the
20 surplus to be received on any insurance policy;



- 1 (C) Makes any false or misleading statement as to the
- 2 dividends or share of surplus previously paid on
- 3 any insurance policy;
- 4 (D) Is misleading or is a misrepresentation as to the
- 5 financial condition of any insurer, or as to the
- 6 legal reserve system upon which any life insurer
- 7 operates;
- 8 (E) Uses any name or title of any insurance policy or
- 9 class of insurance policies misrepresenting the
- 10 true nature thereof;
- 11 (F) Is a misrepresentation for the purpose of
- 12 inducing or tending to induce the lapse,
- 13 forfeiture, exchange, conversion, or surrender of
- 14 any insurance policy;
- 15 (G) Is a misrepresentation for the purpose of
- 16 effecting a pledge or assignment of or effecting
- 17 a loan against any insurance policy;
- 18 (H) Misrepresents any insurance policy as being
- 19 shares of stock;
- 20 (I) Publishes or advertises the assets of any insurer
- 21 without publishing or advertising with equal



1 conspicuousness the liabilities of the insurer,
2 both as shown by its last annual statement; or
3 (J) Publishes or advertises the capital of any
4 insurer without stating specifically the amount
5 of paid-in and subscribed capital;
6 (2) False information and advertising generally. Making,
7 publishing, disseminating, circulating, or placing
8 before the public, or causing, directly or indirectly,
9 to be made, published, disseminated, circulated, or
10 placed before the public, in a newspaper, magazine, or
11 other publication, or in the form of a notice,
12 circular, pamphlet, letter, or poster, or over any
13 radio or television station, or in any other way, an
14 advertisement, announcement, or statement containing
15 any assertion, representation, or statement with
16 respect to the business of insurance or with respect
17 to any person in the conduct of the person's insurance
18 business, which is untrue, deceptive, or misleading;
19 (3) Defamation. Making, publishing, disseminating, or
20 circulating, directly or indirectly, or aiding,
21 abetting, or encouraging the making, publishing,



1 disseminating, or circulating of any oral or written
2 statement or any pamphlet, circular, article, or
3 literature which is false, or maliciously critical of
4 or derogatory to the financial condition of an
5 insurer, and which is calculated to injure any person
6 engaged in the business of insurance;

7 (4) Boycott, coercion, and intimidation.

8 (A) Entering into any agreement to commit, or by any
9 action committing, any act of boycott, coercion,
10 or intimidation resulting in or tending to result
11 in unreasonable restraint of, or monopoly in, the
12 business of insurance; or

13 (B) Entering into any agreement on the condition,
14 agreement, or understanding that a policy will
15 not be issued or renewed unless the prospective
16 insured contracts for another class or an
17 additional policy of the same class of insurance
18 with the same insurer;

19 (5) False financial statements.

20 (A) Knowingly filing with any supervisory or other
21 public official, or knowingly making, publishing,



1 disseminating, circulating, or delivering to any
2 person, or placing before the public, or
3 knowingly causing, directly or indirectly, to be
4 made, published, disseminated, circulated,
5 delivered to any person, or placed before the
6 public, any false statement of a material fact as
7 to the financial condition of an insurer; or
8 (B) Knowingly making any false entry of a material
9 fact in any book, report, or statement of any
10 insurer with intent to deceive any agent or
11 examiner lawfully appointed to examine into its
12 condition or into any of its affairs, or any
13 public official to whom the insurer is required
14 by law to report, or who has authority by law to
15 examine into its condition or into any of its
16 affairs, or, with like intent, knowingly omitting
17 to make a true entry of any material fact
18 pertaining to the business of the insurer in any
19 book, report, or statement of the insurer;
20 (6) Stock operations and advisory board contracts.
21 Issuing or delivering or permitting agents, officers,



1 or employees to issue or deliver, agency company stock
2 or other capital stock, or benefit certificates or
3 shares in any common-law corporation, or securities or
4 any special or advisory board contracts or other
5 contracts of any kind promising returns and profits as
6 an inducement to insurance;

7 (7) Unfair discrimination.

8 (A) Making or permitting any unfair discrimination
9 between individuals of the same class and equal
10 expectation of life in the rates charged for any
11 policy of life insurance or annuity contract or
12 in the dividends or other benefits payable
13 thereon, or in any other of the terms and
14 conditions of the contract;

15 (B) Making or permitting any unfair discrimination in
16 favor of particular individuals or persons, or
17 between insureds or subjects of insurance having
18 substantially like insuring, risk, and exposure
19 factors, or expense elements, in the terms or
20 conditions of any insurance contract, or in the
21 rate or amount of premium charge therefor, or in



1 the benefits payable or in any other rights or
2 privilege accruing thereunder;

3 (C) Making or permitting any unfair discrimination
4 between individuals or risks of the same class
5 and of essentially the same hazards by refusing
6 to issue, refusing to renew, canceling, or
7 limiting the amount of insurance coverage on a
8 property or casualty risk because of the
9 geographic location of the risk, unless:

10 (i) The refusal, cancellation, or limitation is
11 for a business purpose which is not a mere
12 pretext for unfair discrimination; or

13 (ii) The refusal, cancellation, or limitation is
14 required by law or regulatory mandate;

15 (D) Making or permitting any unfair discrimination
16 between individuals or risks of the same class
17 and of essentially the same hazards by refusing
18 to issue, refusing to renew, canceling, or
19 limiting the amount of insurance coverage on a
20 residential property risk, or the personal



1 property contained therein, because of the age of
2 the residential property, unless:
3 (i) The refusal, cancellation, or limitation is
4 for a business purpose which is not a mere
5 pretext for unfair discrimination; or
6 (ii) The refusal, cancellation, or limitation is
7 required by law or regulatory mandate;
8 (E) Refusing to insure, refusing to continue to
9 insure, or limiting the amount of coverage
10 available to an individual because of the sex or
11 marital status of the individual; however,
12 nothing in this subsection shall prohibit an
13 insurer from taking marital status into account
14 for the purpose of defining persons eligible for
15 dependent benefits;
16 (F) Terminating or modifying coverage, or refusing to
17 issue or renew any property or casualty policy or
18 contract of insurance solely because the
19 applicant or insured or any employee of either is
20 mentally or physically impaired; provided that
21 this subparagraph shall not apply to accident and



1 health or sickness insurance sold by a casualty
2 insurer; provided further that this subparagraph
3 shall not be interpreted to modify any other
4 provision of law relating to the termination,
5 modification, issuance, or renewal of any
6 insurance policy or contract;

7 (G) Refusing to insure, refusing to continue to
8 insure, or limiting the amount of coverage
9 available to an individual based solely upon the
10 individual's having taken a human
11 immunodeficiency virus (HIV) test prior to
12 applying for insurance; or

13 (H) Refusing to insure, refusing to continue to
14 insure, or limiting the amount of coverage
15 available to an individual because the individual
16 refuses to consent to the release of information
17 which is confidential as provided in section
18 325-101; provided that nothing in this
19 subparagraph shall prohibit an insurer from
20 obtaining and using the results of a test
21 satisfying the requirements of the commissioner,



1 which was taken with the consent of an applicant
2 for insurance; provided further that any
3 applicant for insurance who is tested for HIV
4 infection shall be afforded the opportunity to
5 obtain the test results, within a reasonable time
6 after being tested, and that the confidentiality
7 of the test results shall be maintained as
8 provided by section 325-101;

9 (8) Rebates. Except as otherwise expressly provided by
10 law:

11 (A) Knowingly permitting or offering to make or
12 making any contract of insurance, or agreement as
13 to the contract other than as plainly expressed
14 in the contract, or paying or allowing, or giving
15 or offering to pay, allow, or give, directly or
16 indirectly, as inducement to the insurance, any
17 rebate of premiums payable on the contract, or
18 any special favor or advantage in the dividends
19 or other benefits, or any valuable consideration
20 or inducement not specified in the contract; or



1 (B) Giving, selling, or purchasing, or offering to
2 give, sell, or purchase as inducement to the
3 insurance or in connection therewith, any stocks,
4 bonds, or other securities of any insurance
5 company or other corporation, association, or
6 partnership, or any dividends or profits accrued
7 thereon, or anything of value not specified in
8 the contract;

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

12 (A) In the case of any life insurance policy or
13 annuity contract, paying bonuses to policyholders
14 or otherwise abating their premiums in whole or
15 in part out of surplus accumulated from
16 nonparticipating insurance; provided that any
17 bonus or abatement of premiums shall be fair and
18 equitable to policyholders and in the best
19 interests of the insurer and its policyholders;

20 (B) In the case of life insurance policies issued on
21 the industrial debit plan, making allowance to



- 1 policyholders who have continuously for a
2 specified period made premium payments directly
3 to an office of the insurer in an amount which
4 fairly represents the saving in collection
5 expense;
- 6 (C) Readjustment of the rate of premium for a group
7 insurance policy based on the loss or expense
8 experience thereunder, at the end of the first or
9 any subsequent policy year of insurance
10 thereunder, which may be made retroactive only
11 for the policy year;
- 12 (D) In the case of any contract of insurance, the
13 distribution of savings, earnings, or surplus
14 equitably among a class of policyholders, all in
15 accordance with this article; and
- 16 (E) A reward under a wellness program established
17 under a health care plan that favors an
18 individual if the wellness program meets the
19 following requirements:
- 20 (i) The wellness program is reasonably designed
21 to promote health or prevent disease;



- 1 (ii) An individual has an opportunity to qualify
- 2 for the reward at least once a year;
- 3 (iii) The reward is available for all similarly
- 4 situated individuals;
- 5 (iv) The wellness program has alternative
- 6 standards for individuals who are unable to
- 7 obtain the reward because of a health
- 8 factor;
- 9 (v) Alternative standards are available for an
- 10 individual who is unable to participate in a
- 11 reward program because of a health
- 12 condition;
- 13 (vi) The insurer provides information explaining
- 14 the standard for achieving the reward and
- 15 discloses the alternative standards; and
- 16 (vii) The total rewards for all wellness programs
- 17 under the health care plan do not exceed
- 18 twenty per cent of the cost of coverage;
- 19 (10) Refusing to provide or limiting coverage available to
- 20 an individual because the individual may have a third-
- 21 party claim for recovery of damages; provided that:



- 1 (A) Where damages are recovered by judgment or
- 2 settlement of a third-party claim, reimbursement
- 3 of past benefits paid shall be allowed pursuant
- 4 to section 663-10;
- 5 (B) This paragraph shall not apply to entities
- 6 licensed under chapter 386 or 431:10C; and
- 7 (C) For entities licensed under chapter 432 or 432D:
- 8 (i) It shall not be a violation of this section
- 9 to refuse to provide or limit coverage
- 10 available to an individual because the
- 11 entity determines that the individual
- 12 reasonably appears to have coverage
- 13 available under chapter 386 or 431:10C; and
- 14 (ii) Payment of claims to an individual who may
- 15 have a third-party claim for recovery of
- 16 damages may be conditioned upon the
- 17 individual first signing and submitting to
- 18 the entity documents to secure the lien and
- 19 reimbursement rights of the entity and
- 20 providing information reasonably related to



1 the entity's investigation of its liability
2 for coverage.

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

- 15 (11) Unfair claim settlement practices. Committing or
16 performing with such frequency as to indicate a
17 general business practice any of the following:
- 18 (A) Misrepresenting pertinent facts or insurance
19 policy provisions relating to coverages at issue;
 - 20 (B) With respect to claims arising under its
21 policies, failing to respond with reasonable



1 promptness, in no case more than fifteen working
2 days, to communications received from:
3 (i) The insurer's policyholder;
4 (ii) Any other persons, including the
5 commissioner; or
6 (iii) The insurer of a person involved in an
7 incident in which the insurer's policyholder
8 is also involved.
9 The response shall be more than an acknowledgment
10 that such person's communication has been
11 received and shall adequately address the
12 concerns stated in the communication;
13 (C) Failing to adopt and implement reasonable
14 standards for the prompt investigation of claims
15 arising under insurance policies;
16 (D) Refusing to pay claims without conducting a
17 reasonable investigation based upon all available
18 information;
19 (E) Failing to affirm or deny coverage of claims
20 within a reasonable time after proof of loss
21 statements have been completed;



- 1 (F) Failing to offer payment within thirty calendar
2 days of affirmation of liability, if the amount
3 of the claim has been determined and is not in
4 dispute;
- 5 (G) Failing to provide the insured, or when
6 applicable the insured's beneficiary, with a
7 reasonable written explanation for any delay, on
8 every claim remaining unresolved for thirty
9 calendar days from the date it was reported;
- 10 (H) Not attempting in good faith to effectuate
11 prompt, fair, and equitable settlements of claims
12 in which liability has become reasonably clear;
- 13 (I) Compelling insureds to institute litigation to
14 recover amounts due under an insurance policy by
15 offering substantially less than the amounts
16 ultimately recovered in actions brought by the
17 insureds;
- 18 (J) Attempting to settle a claim for less than the
19 amount to which a reasonable person would have
20 believed the person was entitled by reference to



- 1 written or printed advertising material
2 accompanying or made part of an application;
- 3 (K) Attempting to settle claims on the basis of an
4 application that was altered without notice,
5 knowledge, or consent of the insured;
- 6 (L) Making claims payments to insureds or
7 beneficiaries not accompanied by a statement
8 setting forth the coverage under which the
9 payments are being made;
- 10 (M) Making known to insureds or claimants a policy of
11 appealing from arbitration awards in favor of
12 insureds or claimants for the purpose of
13 compelling them to accept settlements or
14 compromises less than the amount awarded in
15 arbitration;
- 16 (N) Delaying the investigation or payment of claims
17 by requiring an insured, claimant, or the
18 physician or advanced practice registered nurse
19 of either to submit a preliminary claim report
20 and then requiring the subsequent submission of
21 formal proof of loss forms, both of which



1 submissions contain substantially the same
2 information;
3 (O) Failing to promptly settle claims, where
4 liability has become reasonably clear, under one
5 portion of the insurance policy coverage to
6 influence settlements under other portions of the
7 insurance policy coverage;
8 (P) Failing to promptly provide a reasonable
9 explanation of the basis in the insurance policy
10 in relation to the facts or applicable law for
11 denial of a claim or for the offer of a
12 compromise settlement; and
13 (Q) Indicating to the insured on any payment draft,
14 check, or in any accompanying letter that the
15 payment is "final" or is "a release" of any claim
16 if additional benefits relating to the claim are
17 probable under coverages afforded by the policy;
18 unless the policy limit has been paid or there is
19 a bona fide dispute over either the coverage or
20 the amount payable under the policy;



- 1 (12) Failure to maintain complaint handling procedures.
2 Failure of any insurer to maintain a complete record
3 of all the complaints that it has received since the
4 date of its last examination under section 431:2-302.
5 This record shall indicate the total number of
6 complaints, their classification by line of insurance,
7 the nature of each complaint, the disposition of the
8 complaints, and the time it took to process each
9 complaint. For purposes of this section, "complaint"
10 means any written communication primarily expressing a
11 grievance;
- 12 (13) Misrepresentation in insurance applications. Making
13 false or fraudulent statements or representations on
14 or relative to an application for an insurance policy,
15 for the purpose of obtaining a fee, commission, money,
16 or other benefit from any insurer, producer, or
17 individual; [~~and~~]
- 18 (14) Failure to obtain information. Failure of any
19 insurance producer, or an insurer where no producer is
20 involved, to comply with section 431:10D-623(a), (b),
21 or (c) by making reasonable efforts to obtain



1 information about a consumer before making a
2 recommendation to the consumer to purchase or exchange
3 an annuity[~~+~~]; and

4 (15) Failure to comply with timelines during a declared
5 emergency. Failure of any insurer to ensure timely
6 and accurate handling of claims in compliance with
7 reasonable inspection and documentation timelines
8 established by the commissioner during a state of
9 emergency or local emergency duly declared by the
10 governor or a mayor pursuant to chapter 127A."

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

13 **"§444-10.6 State of emergency or disaster; emergency**
14 **licensure; penalties.** (a) Notwithstanding any other provision
15 of law to the contrary, the board may issue emergency
16 contractor's licenses during a local or state of emergency or
17 disaster duly declared by the governor under chapter 209 or a
18 mayor pursuant to chapter 127A or 209 upon a determination by
19 the board that a shortage of Hawaii licensed contractors exists.

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



- 1 (1) Provide proof of licensure as a contractor in another
2 state with similar contractor licensing requirements
3 as those in this State, that the license is current,
4 and that it has been in good standing for the past two
5 years;
- 6 (2) Provide proof of liability and property damage
7 insurance, obtained through an insurer authorized to
8 do business in this State or other insurer acceptable
9 to the board;
- 10 (3) Submit proof of workers' compensation insurance as
11 specified in the board's rules;
- 12 (4) Submit a current financial statement prepared by a
13 certified public accountant and applicable credit
14 reports as specified in the board's rules;
- 15 (5) Pay all applicable application and license fees,
16 including recovery fund and education fund fees;
- 17 (6) Submit a state tax clearance statement; and
- 18 (7) Provide proof of bond in the amount and in such form
19 as set forth in section 444-16.5.
- 20 (c) The classifications of emergency contractor's licenses
21 issued and the duration of the emergency contractor's licenses



1 shall be determined by the board based on the nature and
2 duration of the state of emergency or disaster, and the needs
3 and best interests of the public.

4 (d) The board may delegate the issuance of emergency
5 contractor's licenses to its administrative staff; provided that
6 the applicant shall be required to meet all of the requirements
7 specified in this section before the issuance of the license.

8 (e) Any person who violates section 444-9, in connection
9 with the offer or performance of repairs to a residential or
10 nonresidential structure for damage caused by a natural disaster
11 in a political subdivision for which a state of emergency or
12 disaster is proclaimed by the governor, may be punished by a
13 fine of up to \$10,000, imprisonment up to one year, or both, in
14 addition to all other remedies or penalties.

15 (f) During a state of emergency or a local state of
16 emergency duly declared by the governor or a mayor pursuant to
17 either chapter 127A or 209, the insurance commissioner
18 may coordinate with appropriate state and county emergency
19 management agencies, law enforcement, and the contractors
20 license board to ensure all licensed contractors and licensed
21 emergency contractors maintain proof of bonding or financial



1 responsibility as a condition of engaging in insured contracting
2 activity."

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

9 SECTION 15. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2026-2027 to be
12 deposited into the compliance resolution fund to support
13 insurance 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 16. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 17. This Act shall take effect on July 1, 2050.



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. Effective 7/1/2050. (SD1)

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

