
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 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;

18 prohibited. (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.



- 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**

4 **during emergencies.** (a) During a declared emergency, no person
5 or 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**

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



1 PART V

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

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

- 11 (1) The condition of all insurers authorized to do
12 business in this State during the preceding year[~~-~~];
- 13 (2) A summary of abuses and deficiencies in benefit
14 payments, the complaints made to the commissioner and
15 their disposition, and the extent of compliance and
16 noncompliance by each insurer with the provisions of
17 this code[~~-~~];
- 18 (3) The number and types of insurance fraud
19 investigations, as well as referrals for prosecution
20 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 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 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 or predictive analytics and case flagging
8 systems to identify patterns, anomalies, and indicators of
9 insurance fraud; prioritize investigations; and allocate
10 enforcement resources; provided that the use of fraud analytics
11 or predictive analytics shall not create a presumption of
12 wrongdoing nor shall it be used as the sole basis for
13 enforcement action.

14 (d) The commissioner shall employ or retain, by contract
15 or otherwise, attorneys, investigators, investigator assistants,
16 auditors, accountants, physicians, health care professionals,
17 paralegals, consultants, experts, and other professional,
18 technical, and support staff as necessary to promote the
19 effective and efficient conduct of the branch's activities. The
20 commissioner may hire these employees without regard to
21 chapter[s] 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 to be presented, or
18 preparing with knowledge or belief that it will
19 be presented, any statement, application,
20 estimate, invoice, record, or document containing
21 false, incomplete, misleading, or deceptive



- 1 information in support of an insurance claim,
2 policy application, premium calculation, or
3 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 concealing, suppressing, or omitting any
2 material fact that affects an insurer's evaluation,
3 adjustment, settlement, or payment of a claim;
4 provided that an insurance professional who reasonably
5 relies on information from a third-party shall not be
6 found to have knowingly omitted material facts; or
7 (7) Knowingly benefiting directly or indirectly from the
8 proceeds of insurance fraud.

9 If a person commits or attempts to commit any of the foregoing
10 offenses at any stage of the insurance transaction, including
11 but not limited to policy issuance, underwriting, claims
12 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 of subsection (a) is a criminal offense and
17 shall constitute:

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



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

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

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

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

20 (d) A business entity shall be liable for insurance fraud
21 committed by an officer, employee, agent, or contractor acting



1 within the scope of the entity's business or for the benefit of
2 the entity. Lack of direct knowledge by the entity shall not
3 preclude liability if the entity failed to implement reasonable
4 compliance or oversight measures."

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

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

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

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

20 (2) A fine of not less than \$5,000 and not more than
21 [~~\$10,000~~] \$50,000 for each violation; [~~and~~]



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

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

8 (5) Disgorgement of profits obtained through insurance
9 fraud."

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

12 "[+]§431:2-409[+] **Mandatory reporting[-]; whistleblower**
13 **protection.** (a) Within sixty days of an insurer or other
14 licensee's employee or agent discovering credible information
15 indicating a violation of section 431:2-403, or as soon
16 thereafter as practicable, the insurer or licensee shall provide
17 to the branch information, including documents and other
18 evidence, regarding the alleged violation of section 431:2-403.
19 The insurance fraud investigations branch shall work with the
20 insurer or licensee to determine what information shall be
21 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 insurance fraud investigations
 12 branch or a law enforcement agency in good faith shall be immune
 13 from civil or administrative liability arising from the report.
 14 Any retaliation from an employer against an employee who makes a
 15 report of suspected insurance fraud in good faith shall
 16 constitute a violation of section 378-62. This subsection shall
 17 not apply to knowingly submitting false or malicious reports of
 18 suspected insurance fraud."

19 SECTION 11. 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 12. Section 431:13-103, Hawaii Revised Statutes,
11 is amended by amending subsection (a) to read as follows:

12 "(a) The following are defined as unfair methods of
13 competition and unfair or deceptive acts or practices in the
14 business of insurance:

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

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



- 1 (B) Misrepresents the dividends or share of the
- 2 surplus to be received on any insurance policy;
- 3 (C) Makes any false or misleading statement as to the
- 4 dividends or share of surplus previously paid on
- 5 any insurance policy;
- 6 (D) Is misleading or is a misrepresentation as to the
- 7 financial condition of any insurer, or as to the
- 8 legal reserve system upon which any life insurer
- 9 operates;
- 10 (E) Uses any name or title of any insurance policy or
- 11 class of insurance policies misrepresenting the
- 12 true nature thereof;
- 13 (F) Is a misrepresentation for the purpose of
- 14 inducing or tending to induce the lapse,
- 15 forfeiture, exchange, conversion, or surrender of
- 16 any insurance policy;
- 17 (G) Is a misrepresentation for the purpose of
- 18 effecting a pledge or assignment of or effecting
- 19 a loan against any insurance policy;
- 20 (H) Misrepresents any insurance policy as being
- 21 shares of stock;



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



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

10 (4) Boycott, coercion, and intimidation.

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

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



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



- 1 pertaining to the business of the insurer in any
2 book, report, or statement of the insurer;
- 3 (6) Stock operations and advisory board contracts.
4 Issuing or delivering or permitting agents, officers,
5 or employees to issue or deliver, agency company stock
6 or other capital stock, or benefit certificates or
7 shares in any common-law corporation, or securities or
8 any special or advisory board contracts or other
9 contracts of any kind promising returns and profits as
10 an inducement to insurance;
- 11 (7) Unfair discrimination.
12 (A) Making or permitting any unfair discrimination
13 between individuals of the same class and equal
14 expectation of life in the rates charged for any
15 policy of life insurance or annuity contract or
16 in the dividends or other benefits payable
17 thereon, or in any other of the terms and
18 conditions of the contract;
- 19 (B) Making or permitting any unfair discrimination in
20 favor of particular individuals or persons, or
21 between insureds or subjects of insurance having



1 substantially like insuring, risk, and exposure
2 factors, or expense elements, in the terms or
3 conditions of any insurance contract, or in the
4 rate or amount of premium charge therefor, or in
5 the benefits payable or in any other rights or
6 privilege accruing thereunder;

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

14 (i) The refusal, cancellation, or limitation is
15 for a business purpose which is not a mere
16 pretext for unfair discrimination; or

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

19 (D) Making or permitting any unfair discrimination
20 between individuals or risks of the same class
21 and of essentially the same hazards by refusing



1 to issue, refusing to renew, canceling, or
2 limiting the amount of insurance coverage on a
3 residential property risk, or the personal
4 property contained therein, because of the age of
5 the residential property, unless:

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

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

19 (F) Terminating or modifying coverage, or refusing to
20 issue or renew any property or casualty policy or
21 contract of insurance solely because the



1 applicant or insured or any employee of either is
2 mentally or physically impaired; provided that
3 this subparagraph shall not apply to accident and
4 health or sickness insurance sold by a casualty
5 insurer; provided further that this subparagraph
6 shall not be interpreted to modify any other
7 provision of law relating to the termination,
8 modification, issuance, or renewal of any
9 insurance policy or contract;

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

16 (H) Refusing to insure, refusing to continue to
17 insure, or limiting the amount of coverage
18 available to an individual because the individual
19 refuses to consent to the release of information
20 which is confidential as provided in
21 section 325-101; provided that nothing in this



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

12 (8) Rebates. Except as otherwise expressly provided by
13 law:

14 (A) Knowingly permitting or offering to make or
15 making any contract of insurance, or agreement as
16 to the contract other than as plainly expressed
17 in the contract, or paying or allowing, or giving
18 or offering to pay, allow, or give, directly or
19 indirectly, as inducement to the insurance, any
20 rebate of premiums payable on the contract, or
21 any special favor or advantage in the dividends



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

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

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



1 (B) In the case of life insurance policies issued on
2 the industrial debit plan, making allowance to
3 policyholders who have continuously for a
4 specified period made premium payments directly
5 to an office of the insurer in an amount which
6 fairly represents the saving in collection
7 expense;

8 (C) Readjustment of the rate of premium for a group
9 insurance policy based on the loss or expense
10 experience thereunder, at the end of the first or
11 any subsequent policy year of insurance
12 thereunder, which may be made retroactive only
13 for the policy year;

14 (D) In the case of any contract of insurance, the
15 distribution of savings, earnings, or surplus
16 equitably among a class of policyholders, all in
17 accordance with this article; and

18 (E) A reward under a wellness program established
19 under a health care plan that favors an
20 individual if the wellness program meets the
21 following requirements:



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



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



1 the entity documents to secure the lien and
2 reimbursement rights of the entity and
3 providing information reasonably related to
4 the entity's investigation of its liability
5 for coverage.

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

- 18 (11) Unfair claim settlement practices. Committing or
19 performing with such frequency as to indicate a
20 general business practice any of the following:



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



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



- 1 ultimately recovered in actions brought by the
2 insureds;
- 3 (J) Attempting to settle a claim for less than the
4 amount to which a reasonable person would have
5 believed the person was entitled by reference to
6 written or printed advertising material
7 accompanying or made part of an application;
- 8 (K) Attempting to settle claims on the basis of an
9 application that was altered without notice,
10 knowledge, or consent of the insured;
- 11 (L) Making claims payments to insureds or
12 beneficiaries not accompanied by a statement
13 setting forth the coverage under which the
14 payments are being made;
- 15 (M) Making known to insureds or claimants a policy of
16 appealing from arbitration awards in favor of
17 insureds or claimants for the purpose of
18 compelling them to accept settlements or
19 compromises less than the amount awarded in
20 arbitration;



- 1 (N) Delaying the investigation or payment of claims
2 by requiring an insured, claimant, or the
3 physician or advanced practice registered nurse
4 of either to submit a preliminary claim report
5 and then requiring the subsequent submission of
6 formal proof of loss forms, both of which
7 submissions contain substantially the same
8 information;
- 9 (O) Failing to promptly settle claims, where
10 liability has become reasonably clear, under one
11 portion of the insurance policy coverage to
12 influence settlements under other portions of the
13 insurance policy coverage;
- 14 (P) Failing to promptly provide a reasonable
15 explanation of the basis in the insurance policy
16 in relation to the facts or applicable law for
17 denial of a claim or for the offer of a
18 compromise settlement; and
- 19 (Q) Indicating to the insured on any payment draft,
20 check, or in any accompanying letter that the
21 payment is "final" or is "a release" of any claim



1 if additional benefits relating to the claim are
2 probable under coverages afforded by the policy;
3 unless the policy limit has been paid or there is
4 a bona fide dispute over either the coverage or
5 the amount payable under the policy;

6 (12) Failure to maintain complaint handling procedures.

7 Failure of any insurer to maintain a complete record
8 of all the complaints that it has received since the
9 date of its last examination under section 431:2-302.

10 This record shall indicate the total number of
11 complaints, their classification by line of insurance,
12 the nature of each complaint, the disposition of the
13 complaints, and the time it took to process each
14 complaint. For purposes of this section, "complaint"
15 means any written communication primarily expressing a
16 grievance;

17 (13) Misrepresentation in insurance applications. Making
18 false or fraudulent statements or representations on
19 or relative to an application for an insurance policy,
20 for the purpose of obtaining a fee, commission, money,



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

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

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

19 "**§444-10.6 State of emergency or disaster; emergency**
20 **licensure; penalties.** (a) Notwithstanding any other provision
21 of law to the contrary, the board may issue emergency



1 contractor's licenses during a local or state of emergency or
2 disaster duly declared by the governor under chapter 209 or a
3 mayor pursuant to chapter 127A or 209 upon a determination by
4 the board that a shortage of Hawaii licensed contractors exists.

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

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

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

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

18 (4) Submit a current financial statement prepared by a
19 certified public accountant and applicable credit
20 reports as specified in the board's rules;



- 1 (5) Pay all applicable application and license fees,
2 including recovery fund and education fund fees;
3 (6) Submit a state tax clearance statement; and
4 (7) Provide proof of bond in the amount and in such form
5 as set forth in section 444-16.5.

6 (c) The classifications of emergency contractor's licenses
7 issued and the duration of the emergency contractor's licenses
8 shall be determined by the board based on the nature and
9 duration of the state of emergency or disaster, and the needs
10 and best interests of the public.

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

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



1 (f) During a state of emergency or a local state of
2 emergency duly declared by the governor or a mayor pursuant to
3 either chapter 127A or 209, the insurance commissioner
4 may coordinate with appropriate state and county emergency
5 management agencies, law enforcement, and the contractors
6 license board to ensure all licensed contractors and licensed
7 emergency contractors maintain proof of bonding or financial
8 responsibility as a condition of engaging in insured contracting
9 activity."

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

16 SECTION 15. There is appropriated out of the compliance
17 resolution fund the sum of \$ or so much thereof as may
18 be necessary for fiscal year 2026-2027 to support insurance
19 fraud investigations.

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



1 SECTION 16. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 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 from the compliance resolution fund. Effective 7/1/2050. (SD2)

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