
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new part to article 10E to be appropriately
3 designated and to read as follows:

4 **"PART . OMBUDSMAN'S OFFICE FOR HOMEOWNERS INSURANCE**

5 **§431:10E-A Definitions.** As used in this part:

6 "Complaints and enforcement officer" means the complaints
7 and enforcement officer established pursuant to section
8 431:10E-C.

9 "Intake specialist" means the intake specialist established
10 pursuant to section 431:10E-C.

11 "Ombudsman's office" means the ombudsman's office for
12 homeowners insurance established pursuant to section 431:10E-B.

13 **§431:10E-B Ombudsman's office for homeowners insurance**
14 **established; ombudsman; criteria for ombudsman.** (a) There is
15 established within the department of commerce and consumer
16 affairs' insurance division an ombudsman's office for homeowners
17 insurance. The ombudsman's office for homeowners insurance



1 shall be headed by the ombudsman, who shall be appointed by the
2 director of commerce and consumer affairs with the approval of
3 the governor. The ombudsman shall report to the insurance
4 commissioner.

5 (b) The ombudsman shall be admitted to practice law before
6 the Hawaii supreme court and shall have extensive experience in
7 Hawaii property and casualty insurance and conflict and
8 alternative dispute resolution. The ombudsman shall not:

- 9 (1) Engage or have been engaged within the past two years
10 in any other business or profession that directly or
11 indirectly relates to or conflicts with the work of
12 the ombudsman's office;
- 13 (2) Serve as the representative, executive, officer, or
14 employee of any political party, executive committee,
15 or other governing body of a political party;
- 16 (3) Receive remuneration for activities on behalf of any
17 candidate for public office;
- 18 (4) Engage in soliciting votes or other activities on
19 behalf of a candidate for public office; or



1 (5) Become a candidate for election to public office
2 unless the ombudsman first resigns from the
3 ombudsman's office.

4 The ombudsman shall be exempt from chapter 76.

5 **§431:10E-C Personnel; salary; benefits.** (a) The
6 ombudsman shall employ professional and clerical staff as
7 necessary for the efficient operation of the office. The
8 ombudsman may appoint persons who have been admitted to practice
9 law before the Hawaii supreme court as staff without regard to
10 chapter 76. All other employees shall be appointed by the
11 ombudsman in accordance with chapter 76.

12 (b) The ombudsman shall appoint complaints and enforcement
13 officers who are admitted to practice law before the Hawaii
14 supreme court and have extensive experience in Hawaii property
15 and casualty insurance and conflict and alternative dispute
16 resolution. The complaints and enforcement officers shall be
17 exempt from chapter 76.

18 (c) The ombudsman's office shall integrate the existing
19 insurance specialist positions in the department of commerce and
20 consumer affairs relating to property and casualty insurance



1 into the ombudsman's office as intake specialists for complaints
2 submitted to the ombudsman's office.

3 (d) The salary of the ombudsman shall be determined by the
4 director of commerce and consumer affairs. The ombudsman,
5 complaints and enforcement officers, intake specialists, and
6 other personnel shall be included in any benefits program
7 generally applicable to officers and employees of the State.

8 **§431:10E-D Ombudsman; powers and duties; immunity from**
9 **liability.** (a) The ombudsman shall:

10 (1) Have the power to establish rules and procedures for
11 the operation of the office that shall include
12 receiving and processing complaints and requests for
13 dispute intervention; conducting investigations;
14 enforcement, including fines and penalties; and
15 reporting the findings of the office; provided that
16 the ombudsman shall levy nominal filing fees not to
17 exceed \$100 to deter frivolous submissions or
18 investigations of complaints or requests for dispute
19 intervention;

20 (2) In conjunction with the department of commerce and
21 consumer affairs, educate the public and entities



- 1 required to be registered or certified under this
2 chapter;
- 3 (3) Have access to and use of all files and records of the
4 department of commerce and consumer affairs;
- 5 (4) Act as a neutral resource on the rights and
6 responsibilities of insurers, insurance businesses,
7 homeowners insurance policyholders, and any affected
8 parties;
- 9 (5) Act as a liaison between insurers, insurance
10 businesses, homeowners insurance policyholders, and
11 any affected parties and encourage and facilitate
12 voluntary meetings with and between these entities
13 when meetings may assist in resolving a dispute prior
14 to any party submitting a formal request for dispute
15 intervention;
- 16 (6) Respond to general inquiries, make recommendations, or
17 give guidance as necessary to insurers, insurance
18 businesses, homeowners insurance policyholders, and
19 any affected parties;
- 20 (7) Make available, either separately or through an
21 existing website, or both, information concerning



- 1 insurance and any additional information the ombudsman
2 may deem appropriate and non-confidential;
- 3 (8) Coordinate and assist in the preparation and adoption
4 of educational and reference material and endeavor to
5 make known to the largest possible audience the
6 availability of these resources;
- 7 (9) Receive written requests for dispute intervention;
- 8 (10) Investigate and assist in resolving disputes brought
9 by insurers, insurance businesses, homeowners
10 insurance policyholders, and any affected parties,
11 pursuant to section 431:10E-E;
- 12 (11) Investigate acts that may be:
- 13 (A) Contrary to law;
- 14 (B) Unreasonable, unfair, or discriminatory as
15 administered or under the circumstances;
- 16 (C) Based on a mistake of fact;
- 17 (D) Based on improper or irrelevant grounds;
- 18 (E) Unaccompanied by an adequate statement of
19 reasons; or
- 20 (F) Otherwise erroneous;



- 1 (12) Subject to the privileges that witnesses have in the
2 courts of the State, have the authority to:
- 3 (A) Compel at a specified time and place, by a
4 subpoena, the appearance and sworn testimony of
5 any person whom the ombudsman reasonably believes
6 may have information relating to a matter under
7 investigation; and
- 8 (B) Compel any person to produce documents, records,
9 and information the ombudsman reasonably believes
10 may relate to a matter under investigation;
- 11 (13) Be authorized to bring suit in an appropriate state
12 court to enforce the powers in paragraph (12);
- 13 (14) Provide advisory opinions upon request from insurers,
14 insurance businesses, homeowners insurance
15 policyholders, and any affected parties;
- 16 (15) Provide recommendations to the director of commerce
17 and consumer affairs if the ombudsman finds that:
- 18 (A) The matter should be further considered by the
19 department of commerce and consumer affairs;
- 20 (B) A statute or rule should be amended or repealed;
- 21 or



- 1 (C) Other action should be taken by the department of
2 commerce and consumer affairs;
- 3 (16) Within a reasonable time after providing
4 recommendations to the director of commerce and
5 consumer affairs pursuant to paragraph (15), the
6 ombudsman may submit a report to the governor or the
7 legislature or publish the report, including any reply
8 by the department of commerce and consumer affairs,
9 and notify the complainant of the actions taken by the
10 ombudsman and the department;
- 11 (17) Maintain publicly available data on inquiries and
12 complaints received, types of assistance requested,
13 notices of final decisions and actions taken, and
14 disposition of matters;
- 15 (18) Monitor changes in federal and state laws relating to
16 insurance;
- 17 (19) Provide to the governor and the public an annual
18 report that includes the number and types of requests
19 for dispute intervention submitted to the ombudsman's
20 office and their disposition, and any suggestions for
21 policy or legislation the ombudsman's office deems



1 necessary to more quickly and efficiently resolve
2 disputes; and

3 (20) Adopt rules pursuant to chapter 91 necessary to carry
4 out the purposes of this part.

5 (b) No proceeding or decision of the ombudsman may be
6 reviewed by any court unless the proceeding or decision
7 contravenes this chapter. The ombudsman shall have the same
8 immunities from civil and criminal liability as a judge of the
9 State. The ombudsman and the staff of the ombudsman's office
10 shall not testify in any court concerning matters coming to
11 their attention in the exercise of their official duties except
12 as may be necessary to enforce this part.

13 **§431:10E-E Request for dispute intervention.** (a) Except
14 as otherwise provided in this section, insurers, insurance
15 businesses, homeowners insurance policyholders, and any affected
16 parties, who are party to an insurance-related dispute, may
17 submit to the ombudsman's office a written request for dispute
18 intervention setting forth the facts forming the basis of the
19 dispute. The request shall specify in reasonable detail:

20 (1) The nature of the dispute;



1 (2) Any alleged violations of this article, or any other
2 law or regulation;

3 (3) Any alleged damages that resulted from the dispute;
4 and

5 (4) Any proposed corrective action to resolve the dispute.

6 (b) A dispute intervention request submitted to the
7 ombudsman's office pursuant to this section shall be on a form
8 prescribed by the ombudsman's office and accompanied by evidence
9 that reasonable efforts to resolve the dispute have failed.

10 (c) The ombudsman may impose a minimum fine of \$250
11 against any person who knowingly submits a false or fraudulent
12 dispute intervention request with the ombudsman's office.

13 (d) Legal representation shall not be required for dispute
14 intervention by the ombudsman's office. A party to a dispute
15 shall not be liable for any legal fees incurred as a result of a
16 dispute intervention request submitted to the ombudsman's
17 office.

18 **§431:10E-F Enforcement by complaints and enforcement**
19 **officers; dispute resolution assistance.** (a) Upon receipt of a
20 dispute intervention request pursuant to section 431:10E-E, the



1 complaints and enforcement officer shall open an investigation
2 into the dispute.

3 (b) The complaints and enforcement officer may interview
4 parties and witnesses involved in the dispute and request the
5 production of documents, records, or other evidence that would
6 be reasonably helpful in resolving the dispute. Participation
7 by all parties to the dispute shall be mandatory. A party who
8 refuses to participate shall be subject to penalties and fines
9 to be predetermined and published by the ombudsman.

10 (c) The complaints and enforcement officer shall make
11 recommendations, give guidance, or issue an advisory opinion or
12 decision as the complaints and enforcement officer deems
13 necessary.

14 (d) The complaints and enforcement officer may impose a
15 fine in the amount of not less than \$250 against any person who
16 knowingly submits false or fraudulent information to the
17 ombudsman's office, willingly hinders the lawful actions of the
18 ombudsman or the staff of the ombudsman's office, or willingly
19 refuses to comply with the lawful demands of the ombudsman or
20 the staff of the ombudsman's office.



1 (e) If the parties are unable to reach an agreement under
2 this section or if a party does not agree with the decision of
3 the complaints and enforcement officer, a party may request a
4 contested case hearing with the ombudsman's office that shall be
5 presided over by the ombudsman. Participation in a contested
6 case hearing by all parties to the dispute shall be mandatory.

7 (f) Any party who wishes to request a contested case
8 hearing shall submit a written request to the ombudsman's office
9 within thirty days after receipt of a copy of the complaints and
10 enforcement officer's decision.

11 **§431:10E-G Contested case hearing.** (a) A contested case
12 hearing shall be conducted by the ombudsman pursuant to chapter
13 91 and any rules adopted by the ombudsman's office; provided
14 that if there is no dispute as to the facts involved in a
15 particular matter, the ombudsman may permit the parties to
16 proceed by memoranda of law in lieu of a hearing, unless the
17 procedure would unduly burden any party or would otherwise not
18 serve the ends of justice.

19 (b) The ombudsman shall not be bound by the rules of
20 evidence when conducting a hearing to determine whether a



1 violation of this part has occurred. The standard of proof
2 required shall be a preponderance of the evidence.

3 (c) A record shall be made of the proceeding.

4 (d) All parties shall be afforded a full opportunity to
5 engage in discovery and present evidence and argument on the
6 issues involved.

7 (e) If a hearing is held or a review by memoranda of law
8 is conducted, a decision shall be rendered by the ombudsman's
9 office and promptly delivered to each party by certified mail.
10 Any party adversely affected by the decision may submit written
11 exceptions to the ombudsman's office within fifteen days after
12 receipt of the decision.

13 (f) As expeditiously as possible after the close of the
14 hearing but not before any party adversely affected has had the
15 opportunity to submit a written exception, the ombudsman shall
16 issue a decision together with separate findings of fact and
17 conclusions of law regarding whether a violation of this part
18 has occurred. Any final decision made by the ombudsman shall be
19 binding on all parties.



1 **§431:10E-H Fines; fees.** Any fine or fee collected
2 pursuant to this part shall be deposited into the ombudsman's
3 office for homeowners insurance special fund.

4 **§431:10E-I Ombudsman's office for homeowners insurance**
5 **special fund.** (a) There is established in the state treasury
6 an ombudsman's office for homeowners insurance special fund into
7 which shall be deposited the following moneys:

8 (1) Administrative penalties, fines, and other charges
9 collected under this part or any rule adopted pursuant
10 to this part; and

11 (2) All interest earned or accrued on moneys deposited
12 into the ombudsman's office for homeowners insurance
13 special fund shall become a part of the fund.

14 (b) The ombudsman's office shall adopt rules in accordance
15 with chapter 91 for the purposes of this section."

16 SECTION 2. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2026-2027 for
19 the administrative costs associated with the establishment of
20 the ombudsman's office for homeowners insurance within the



1 department of commerce and consumer affairs, including the
2 hiring of necessary staff.

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

5 SECTION 3. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2026-2027 to be
8 deposited into the ombudsman's office for homeowners insurance
9 special fund.

10 SECTION 4. There is appropriated out of the ombudsman's
11 office for homeowners insurance special fund the sum of
12 \$ or so much thereof as may be necessary for fiscal
13 year 2026-2027 for purposes consistent with the special fund.

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

16 SECTION 5. In codifying the new sections added by section
17 1 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 6. This Act shall take effect on July 1, 2050.



S.B. NO. 2949
S.D. 1

Report Title:

DCCA; Insurance; Ombudsman's Office for Homeowners Insurance;
Dispute Intervention; Complaints and Enforcement Officers;
Intake Specialists; Special Fund; Appropriation

Description:

Establishes the Ombudsman's Office for Homeowners Insurance
within the Department of Commerce and Consumer Affairs.
Establishes the Ombudsman's Office for Homeowners Insurance
Special Fund. Appropriates funds. Effective 7/1/2050. (SD1)

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not legislation or evidence of legislative intent.*

