

ACT 104

H.B. NO. 2245-74

A Bill for an Act Relating to the Protection of Insurance Information.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
INSURANCE INFORMATION PROTECTION ACT**

Sec. -1 Disclosure of information; when allowed. No corporation, co-partnership, association, individual, or group of individuals, which has made a loan in connection with which insurance is required to be carried by the borrower, shall disclose any information contained in or relating to the required insurance policy to third parties, unless the disclosure is:

- (1) Consented to by the borrower in writing in a separate document after the loan has been granted;
- (2) Expressly authorized by state or federal law;
- (3) An ordinary and necessary part of the process of effectuating and servicing the loan agreement;
- (4) Pursuant to court order;
- (5) Made to the borrower’s insurance company, agent, or solicitor; or
- (6) Made necessary by the borrower’s failure to maintain or renew insurance pursuant to the terms of a loan or similar agreement.

Sec. -2 Receipt of information; use; when allowed. No person shall receive or use for any purpose information contained in or relating to a required insurance policy from any corporation, copartnership, association, individual, or group of individuals, which has made a loan in connection with which insurance is required to be carried by the borrower, unless such receipt and use is:

- (1) Consented to by the borrower in writing in a separate document after the loan has been granted;
- (2) Expressly authorized by state or federal law;
- (3) An ordinary and necessary part of the process of effectuating and servicing the loan agreement;
- (4) Pursuant to court order; or
- (5) By the borrower, the borrower's insurance company, agent, or solicitor, in connection with the policy.

Sec. -3 Freedom of choice of insurance companies. No corporation, copartnership, association, individual, or group of individuals, which has made a loan in connection with which insurance is required to be carried by the borrower, shall recommend the placing of insurance with a specified insurer or through a specified insurance agent or broker once an insurance policy has been supplied by the borrower and accepted by the corporation, copartnership, association, individual, or group of individuals which has made the loan.

Sec. -4 Written disclosure; request for; result. Contact of the borrower by the corporation, copartnership, association, individual, or group of individuals, which has made the loan, to obtain his written consent to disclosure does not constitute a violation of this chapter.

Sec. -5 Violation; penalties. Violation of any provision of this chapter shall constitute a bar to the recovery of any part of the interest in any proceeding at law. Violation of any provision of this chapter shall also be a misdemeanor. The commissioner of insurance, after a hearing under chapter 91, may revoke or suspend the license of any person licensed pursuant to chapter 431 who is guilty of a violation of any provision of this chapter.

Sec. -6 Violation; injunction. The attorney general, the corporation counsel or county attorney of any county may bring suit in any court of competent jurisdiction to enjoin any violation or threatened violation of this chapter on his own complaint or on the complaint of any person. The borrower or the borrower's insurance broker, agent, or solicitor may bring a private action to have the acts enjoined. The borrower's insurance agent or solicitor may sue to recover any commission lost as a result of another person's unlawful use of policy information. The court may award reasonable attorney's fees in any action brought by a private party."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1974.)