

ACT 72

S.B. NO. 2840

A Bill for an Act Relating to Captive Insurance.

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

SECTION 1. Section 431:19-107, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Each association captive and risk retention captive shall annually file with the commissioner [an annual statement on or before March 1 each year, using the National Association of Insurance Commissioners’ annual statement blank plus any additional information required by the commissioner, which shall be a true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31. In addition to the annual statement, annually on or before June 1, or such later date as the commissioner upon request or for cause may specify, each association captive and risk retention captive shall file an audit by a designated independent certified public accountant or accounting firm of the financial statements reporting the financial condition and results of the operation of the captive. The annual statement and audit shall be prepared in accordance with the National Association of Insurance Commissioners’ annual statement instructions, following the practices and procedures prescribed by the National Association of Insurance Commissioners’ practices and procedures manuals. The reported information shall be verified by oaths of at least two of the captive’s principal officers. Each risk retention group shall also comply with section 431:3-302.] the following:

- (1) Annual statement and audit:
 - (A) On or before March 1, or such day subsequent thereto as the commissioner upon request and for cause may specify, an annual statement using the National Association of Insurance Commissioners’ annual statement blank plus any additional information required by the commissioner, which shall be a true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31. The reported information shall be verified by oaths of at least two of the captive’s principal officers;
 - (B) On or before June 1, or such day subsequent thereto as the commissioner upon request and for cause may specify, an audit by a designated independent certified public accountant or accounting firm of the financial statements reporting the financial condition and results of the operation of the captive;
 - (C) The annual statement and audit shall be prepared in accordance with the National Association of Insurance Commissioners’ annual statement instructions, following the practice and procedures prescribed by the National Association of Insurance Com-

missioners' practices and procedures manuals. Each risk retention group shall also comply with section 431:3-302; and

- (2) On or before each March 1, or such day subsequent thereto as the commissioner upon request and for cause may specify, a risk-based capital report in accordance with section 431:3-402.

(c) The statements required to be filed in subsections (a) and (b) shall include, but not be limited to, actuarially appropriate reserves for:

- (1) Known claims and expenses associated therewith;
- (2) Claims incurred but not reported and expenses associated therewith;
- (3) Unearned premiums; and
- (4) Bad debts, reserves for which shall be shown as liabilities.

An actuarial opinion regarding reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith shall be included in the audited statements[.], except that the actuarial opinion for association captive insurance companies and risk retention captive insurance companies shall be filed with the annual statement required under subsection (b), on or before March 1 each year. The actuarial opinion shall be given by a member of the American Academy of Actuaries or other qualified loss reserve specialist as defined in the annual statement adopted by the National Association of Insurance Commissioners.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)