

ACT 157

S.B. NO. 3040

A Bill for an Act Relating to Captive Insurance.

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

SECTION 1. Section 431:19-101.2, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§431:19-101.2[}] Confidential treatment. (a) [A] Except as otherwise provided in subsection (b), all nonpublic [financial] information [of] in a captive insurance [company,] company’s application for licensure, its business plan, or of its parent[,], or the parent’s member organizations, [or a risk retention captive insurancee company,] and all other nonpublic information disclosed to the commissioner pursuant to this article, shall be given confidential treatment and shall not be made public by the commissioner. [without the prior written consent of the captive insurer, its parent company, or the member organization, or risk retention captive insurer to which it pertains.~~

~~(b) The commissioner may disclose nonpublic financial information of a captive insurance company, its parent, or the parent’s member organizations, or a risk retention captive insurance company, to insurance departments of other states without prior consent of the captive insurer, its parent company, or the parent’s member organization, or the risk retention captive insurer to which it pertains.~~

~~(e) In the event] (b) If the commissioner determines that the interest of the policyholders, shareholders, or the public will be served by making the information public, then after giving the captive insurance company and its parent or the parent’s member organizations[, or the risk retention captive insurer] that would be affected thereby, three days written notice of intent, and unless otherwise contrary to law, the~~

commissioner may make public all or any part of the nonpublic ~~[financial]~~ information in a manner that the commissioner deems appropriate; provided that the commissioner may disclose nonpublic information to courts of competent jurisdiction, and insurance departments or regulatory agencies of other competent jurisdictions without prior notification to the person to whom the information pertains.

~~[(d)]~~ (c) For purposes of this section:

“Equity securities” means:

- (1) A share in a corporation, whether or not transferable or denominated a “stock”, or similar security evidencing an ownership interest in the person;
- (2) The interest of a limited partner in a limited partnership;
- (3) The interest of a partner in a partnership, including a joint venture; or
- (4) A warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in paragraph (1), (2), or (3).

“Nonpublic ~~[financial]~~ information” means information ~~[regarding a person’s financial condition]~~ that, prior to disclosure to the commissioner pursuant to this article is not, or was:

(1) Not a public record as defined in rule 1001(5) of section 626-1; or

(2) Not a government record that must be disclosed under section 92F-12; provided that in the case of a person whose equity securities are collectively owned and held by thirty-six or more persons, “nonpublic ~~[financial]~~ information” does not include financial information disclosed to owners and holders of equity securities.”

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

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

(Approved June 7, 2002.)