

ACT 111

S.B. NO. 1098

A Bill for an Act Relating to the Regulatory Authority of the Insurance Commissioner.

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

SECTION 1. Section 431:7-101, Hawaii Revised Statutes, is amended to read as follows:

“§431:7-101 Fees. (a) The commissioner shall collect, in advance, the following fees:

- | | | |
|-------------------|---|--------------------|
| (1) | Certificate of authority: | |
| | (A) Application for certificate of authority | \$900 |
| | (B) Issuance of certificate of authority | \$600 |
| | (C) Application for motor vehicle self-insurance | \$300 |
| (2) | Organization of domestic insurers and affiliated corporations: | |
| | (A) Application for solicitation permit | \$1,500 |
| | (B) Issuance of solicitation permit | \$150 |
| (3) | Producer's Resident producer's license: | |
| | (A) Issuance of regular license | \$50 |
| | (B) Issuance of temporary license | \$50 |
| (4) | Nonresident producer's license: Issuance | \$75 |
| (5) | Independent adjuster's license: Issuance | \$75 |
| (6) | Public adjuster's license: Issuance | \$75 |
| (7) | Claims adjuster's limited license: Issuance | \$75 |
| (8) | Administrator's license: Issuance | \$150 |
| (9) | Independent bill reviewer's license: Issuance | \$80 |
| (10) | Limited producer's license: Issuance | \$60 |
| (11) | Managing general agent's license: Issuance | \$75 |
| (12) | Reinsurance intermediary's license: Issuance | \$75 |
| (13) | Surplus lines broker's license: Issuance | \$150 |
| (14) | Pharmacy benefit manager's registration: Issuance | \$140 |
| [(14)] | (15) Service contract provider's registration: Issuance | \$75 |
| [(15)] | (16) Approved course provider certificate: Issuance | \$100 |
| [(16)] | (17) Approved continuing education course
certificate: Issuance | \$30 |
| [(17)] | (18) Vehicle protection product warrantor's
registration: Issuance | \$75 |
| [(18)] | (19) Criminal history record check; fingerprinting:
For each criminal history record check and fingerprinting
check, a fee to be established by the commissioner. | |
| [(19)] | (20) Limited line motor vehicle rental company
producer's license: Issuance | \$1,000 |
| | (21) Limited lines portable electronics producer's
license: Issuance | \$5,000 |
| | (22) Limited lines self-service storage producer's license:
Issuance | \$60 |
| [(20)] | (23) Legal service plan certificate of authority:
Issuance before July 1, 2014 | \$1,000 |
| | Issuance on or after July 1, 2014 | \$500 |
| [(21)] | (24) Life settlement provider's license:
Issuance before July 1, 2014 | \$150 |
| | Issuance on or after July 1, 2014 | \$75 |
| [(22)] | (25) Life settlement broker's license:
Issuance before July 1, 2014 | \$150 |
| | Issuance on or after July 1, 2014 | \$75 |
| [(23)] | (26) Examination for license: For each examination, a
fee to be established by the commissioner. | |
| | (b) The fees for services of the department of commerce and consumer
affairs subsequent to the issuance of a certificate of authority, license, <u>registra-</u>
<u>tion</u> , or other certificate are as follows: | |
| | (1) \$600 per year for all services (including extension of the certificate
of authority) for an authorized insurer; | |
| | (2) \$50 per year for all services (including extension of the license) for a
regularly licensed <u>resident</u> producer; | |

- (3) \$75 per year for all services (including extension of the license) for a regularly licensed nonresident producer;
- (4) \$45 per year for all services (including extension of the license) for a regularly licensed independent adjuster;
- (5) \$45 per year for all services (including extension of the license) for a regularly licensed public adjuster;
- (6) \$45 per year for all services (including extension of the license) for a claims adjuster's limited license;
- (7) \$150 per year for all services (including extension of the license) for an administrator's license;
- (8) \$60 per year for all services (including extension of the license) for a regularly licensed independent bill reviewer;
- (9) \$45 per year for all services (including extension of the license) for a producer's limited license;
- (10) \$75 per year for all services (including extension of the license) for a regularly licensed managing general agent;
- (11) \$75 per year for all services (including extension of the license) for a regularly licensed reinsurance intermediary;
- (12) \$45 per year for all services (including extension of the license) for a licensed surplus lines broker;
- (13) \$140 per year for all services (including renewal of registration) for a pharmacy benefit manager;
- [~~(13)~~] (14) \$75 per year for all services (including renewal of registration) for a service contract provider;
- [~~(14)~~] (15) \$65 per year for all services (including extension of the certificate) for an approved course provider;
- [~~(15)~~] (16) \$20 per year for all services (including extension of the certificate) for an approved continuing education course;
- [~~(16)~~] (17) \$75 per year for all services (including renewal of registration) for a vehicle protection product warrantor;
- [~~(17)~~] (18) A fee to be established by the commissioner for each criminal history record check and fingerprinting;
- [~~(18)~~] (19) \$600 per year for all services (including extension of the license) for a regularly licensed limited line motor vehicle rental company producer;
- (20) \$2,500 per year for all services (including extension of the license) for a regularly licensed limited lines portable electronics producer;
- (21) \$45 per year for all services (including extension of the license) for a regularly licensed limited lines self-service storage producer;
- [~~(19)~~] (22) \$1,000 per year for all services provided before July 1, 2014, (including extension of the certificate) for an authorized legal service plan;
- [~~(20)~~] (23) \$500 per year for all services provided on or after July 1, 2014, (including extension of the certificate) for an authorized legal service plan;
- [~~(21)~~] (24) \$1,200 per year for all services (including extension of the license) for a regularly licensed life settlement provider; and
- [~~(22)~~] (25) \$150 per year for all services (including extension of the license) for a regularly licensed life settlement broker.

The services referred to in paragraphs (1) to [~~(22)~~] (25) shall not include services in connection with examinations, investigations, hearings, appeals, and deposits with a depository other than the department of commerce and consumer affairs.

(c) The commissioner shall notify the holder of a certificate of authority issued under article 3 by written notice at least thirty days prior to the ex-

tension date of the certificate of authority~~[-license,]~~ or other certificate. The annual fee for all services shall be due and payable by electronic payment via the National Association of Insurance Commissioners' Online Premium Tax for Insurance or an equivalent service approved by the commissioner. If the fee is not paid before or on the extension date, the fee shall be increased by a penalty in the amount of fifty per cent of the fee. The commissioner shall provide notice in writing of the delinquency of extension and the imposition of the authorized penalty. If the fee and the penalty are not paid within thirty days immediately following the date of notice of delinquency, the commissioner may revoke, suspend, or inactivate the certificate of authority~~[-license,]~~ or other certificate, and may not reissue, remove the suspension of, or reactivate the certificate of authority~~[-license,]~~ or other certificate until the fee and penalty have been paid.

(d) The commissioner shall notify licensees and registrants by written notice at least thirty days prior to the extension date of the license or registration. If the fee is not paid before or on the renewal date for a license or registration, the fee shall be increased by a penalty in the amount of double the unpaid renewal fee.

~~[(d)] (e)~~ Failure to pay the fee before or on the renewal or extension date for a license, registration, or other certificate ~~[issued under article 9 or 9A]~~ shall cause the automatic inactivation of the license, registration, or other certificate ~~[effective as of the extension date].~~

~~[(e)] (f)~~ All fees and penalties are nonrefundable and shall be deposited to the credit of the compliance resolution fund.”

SECTION 2. Section 431:8-102, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “business entity” to read:
 ““Business entity” means an association, corporation, ~~[individual,]~~ limited liability company, limited liability partnership, partnership, ~~[person,]~~ or other legal entity.”

2. By amending the definition of “individual” to read:
 ““Individual” means a natural person ~~[or a business entity].”~~

SECTION 3. Section 431:8-310, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) A surplus lines broker license shall be inactivated if the licensee fails to pay any required fee or penalty. A surplus lines broker who allows the surplus lines broker’s license to become inactive for nonpayment of the renewal fee may reinstate that license without the necessity of a written examination; provided that the surplus lines broker:

(1) Pays the fee and a penalty in the amount of ~~[fifty per cent of] dou-~~ ble the [then-unpaid] then-unpaid fees within ~~[twenty-four]~~ twelve months from the inactivation date; and

(2) Is in compliance with all the requirements of chapter 431.

~~[The license shall automatically expire if the surplus lines broker does not reinstate the surplus lines broker’s license within the twenty-four month period.]”~~

SECTION 4. Section 431:8-327, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) To qualify for a license renewal, a licensee shall:

(1) ~~[During the twenty-four months preceding]~~ Preceding a license renewal, complete the required number of credit hours specified in subsection (b) in approved continuing education courses; and

(2) Pay the fees as required under section 431:7-101.”

2. By amending subsection (h) to read:

“(h) A licensee need not retake the surplus lines broker license examination; provided that all renewal requirements in this section are met or reactivation occurs within ~~[two years]~~ twelve months of the date of inactivation.”

SECTION 5. Section 431:9-206, Hawaii Revised Statutes, is amended to read as follows:

“~~§431:9-206~~ **Examinations for license.** ~~[(a) Each]~~ Prior to the issuance of the license, each applicant for license as an adjuster or independent bill reviewer shall ~~[prior to the issuance of any such license,]~~ personally take and pass to the satisfaction of the commissioner an examination given by the commissioner as a test of the applicant’s qualifications and competence.

~~[(b) This requirement shall not apply to applicants who at any time within the three-year period next preceding date of application held a license in this State which conferred powers comparable to those being applied for.~~

~~[(c) Applicants who held a license on December 31, 1987, shall not, for the purpose of qualifying for the issuance or extension of such license after January 1, 1988, be required to take an examination.]”~~

SECTION 6. Section 431:9-232, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Prior to the renewal or extension of a license, each licensee shall ~~[annually]~~ pay the fee required in section 431:7-101.

(b) A license for an adjuster or independent bill reviewer shall be inactivated if a licensee fails to pay any required fees or penalties.

An adjuster or independent bill reviewer who allows the adjuster’s or independent bill reviewer’s license to become inactive for nonpayment of the renewal fee may reinstate that license without the necessity of a written examination; provided that the adjuster or independent bill reviewer:

(1) Pays the fee and a penalty in the amount of ~~[fifty per cent of]~~ double the ~~[then-unpaid]~~ then-unpaid fees within ~~[twenty-four]~~ twelve months from the inactivation date; and

(2) Is in compliance with all the requirements of chapter 431.

~~[The license shall automatically expire if the adjuster or independent bill reviewer does not reinstate the license within the twenty-four month period.]”~~

SECTION 7. Section 431:9A-102, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “business entity” to read:

““Business entity” means an association, corporation, ~~[individual,]~~ limited liability company, limited liability partnership, partnership, ~~[person,]~~ or other legal entity.”

2. By amending the definition of “individual” to read:

““Individual” means a natural person ~~[or a business entity].”~~

SECTION 8. Section 431:9A-106, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A person applying for an insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of denial, suspension, or revocation of the license that the statements made in the application are true, accurate, and complete to the best of the applicant’s knowledge and belief. Before approving the application, the commissioner shall find that the applicant:

- (1) Is at least eighteen years of age;
- (2) Has not committed any act that is a ground for a licensure sanction set forth in section 431:9A-112;
- (3) Has paid the applicable fees set forth in section 431:7-101;
- (4) Has passed, within the two years immediately preceding the [date of the examination or] issuance of the license, [whichever is later,] the applicable examination for each line of authority for which the applicant has applied; and
- (5) Has submitted a full set of fingerprints, including a scanned file from a hard copy fingerprint, for the commissioner to obtain and receive national and state criminal history [[record[]] checks from the Federal Bureau of Investigation and the Hawaii criminal justice data center, pursuant to section 846-2.7.”

SECTION 9. Section 431:9A-107, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) An insurance producer who allows the producer’s license to become inactive for nonpayment of the renewal fee may reinstate that license without the necessity of passing a written examination, if the fee payable and a penalty in the amount of [~~fifty per cent of then unpaid~~] double the then-unpaid renewal fees are paid within [~~twenty-four~~] twelve months from the inactivation date and the producer is in compliance with all the requirements of chapter 431. [~~If the license is not reinstated within the twenty-four-month period, the license shall automatically expire.~~”

SECTION 10. Section 431:9A-124, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) To qualify for a license renewal, a licensee shall:

- (1) [~~During the twenty-four months preceding~~] Preceding a license renewal, complete the required number of credit hours as set forth in subsection (b) in approved continuing education courses; and
- (2) Pay the fees as required under section 431:7-101.”

2. By amending subsection (h) to read:

“(h) A licensee need not retake the producer license examination; provided that renewal requirements in this section are met or reactivation occurs within [~~two years~~] twelve months of the date of inactivation.”

SECTION 11. Section 431:9A-176, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Each owner licensed under this part shall pay to the commissioner the limited lines producer’s [~~application fee and license~~] fee pursuant to section 431:7-101.”

SECTION 12. Section 431:9B-102, Hawaii Revised Statutes, is amended by amending subsections (a) through (f) to read as follows:

“(a) [~~Persons, firms, associations, and corporations acting as a reinsurance intermediary broker in this State shall maintain a license as a reinsurance intermediary broker in this State. The reinsurance intermediary broker shall maintain a license in every state where it maintains an office, either directly, as a member or employee of a firm or association, or as an officer, director, or employee of a corporation.~~] No person, firm, association, or corporation shall act as a reinsurance intermediary broker in this State if the reinsurance intermediary-

broker maintains an office either directly or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation:

- (1) In this State, unless the reinsurance intermediary-broker is a licensed producer or reinsurance intermediary in this State; or
- (2) In another state, unless the reinsurance intermediary-broker is a licensed producer in this State or another state having a law substantially similar to this article.

~~(b) [Persons, firms, associations, and corporations acting as a reinsurance intermediary manager for a reinsurer domiciled in this State shall maintain a license as a reinsurance intermediary manager in this State. A reinsurance intermediary manager license shall be required to act as a reinsurance intermediary manager in this State for a nondomestic reinsurer.]~~ No person, firm, association, or corporation shall act as a reinsurance intermediary manager in this State unless:

- (1) In the case of a reinsurer domiciled in this State, the reinsurance intermediary manager is a licensed producer in this State; or
- (2) The reinsurance intermediary manager maintains an office either directly or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation in this State, and is a licensed producer or reinsurance intermediary in this State.

(c) The commissioner may require a reinsurance intermediary manager subject to subsection (b) to:

- (1) File a bond from an insurance company licensed to do business within the State or with an insurance company approved by the commissioner, in an amount equal to \$500,000 or ten per cent of the annual reinsurance premiums managed by the reinsurance intermediary manager, whichever is greater, except that the bond amount under this paragraph shall not exceed \$10,000,000, for the protection of the reinsurer;
- (2) Maintain an errors and omissions policy[-] with an insurance company licensed to do business within the State or with an insurance company approved by the commissioner, in an amount equal to \$250,000 or twenty-five per cent of the annual reinsurance premiums managed by the reinsurance intermediary manager, whichever is greater, except that the policy limits under this paragraph shall not exceed \$10,000,000; and
- (3) Provide any other report required by the commissioner.

At the commissioner's request, the reinsurance intermediary manager shall provide the commissioner with proof of the bond and [the] policy[-] and appropriate documentation to show that the bond and [the] policy continue to be in effect, or that a new bond and [a] new policy have been secured.

- (d)(1) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation that has complied with the requirements of this article. Any [~~such~~] reinsurance intermediary license issued to a firm or an association shall authorize all the members of that firm or association and any designated employees to act as reinsurance intermediaries under the license, and all those persons shall be named in the application and any supplements thereto. Any [~~such~~] reinsurance intermediary license issued to a corporation shall authorize all of the officers, and any designated employees and directors thereof, to act as reinsurance intermediaries on behalf of the corporation, and all those persons shall be named in the application and any supplements thereto.

- (2) If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process in the manner[;] and with the same legal effect[;] provided for by this article for service of process upon unauthorized insurers[; and]. The applicant also shall furnish the commissioner with the name and address of a resident of this State upon whom notices or orders of the commissioner or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and [such] the change shall not become effective until acknowledged by the commissioner.
- (3) The commissioner shall issue a nonresident reinsurance intermediary license if:
- (A) The applicant is currently licensed as a resident reinsurance intermediary or an insurance producer pursuant to article 9A and in good standing in the applicant's home state;
 - (B) The applicant has submitted the proper request for licensure and paid the fees required by section 431:7-101;
 - (C) The applicant has submitted or transmitted to the commissioner the application for licensure that the applicant submitted to the applicant's home state[;] or, in lieu of the same, a completed uniform application; and
 - (D) The person's home state awards nonresident licenses to residents of this State on the same basis.
- (e) The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, is not trustworthy, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of [such] the license, or has failed to comply with any prerequisite for the issuance of the license. Upon written request therefor, the commissioner shall furnish a summary of the basis for refusal to issue a license, which document shall be privileged and not subject to disclosure pursuant to chapter 92F.
- (f) Licensed attorneys at law of this State, when acting in their professional capacity as such, shall be exempt from this section."

SECTION 13. Section 431:9J-102, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The license shall be renewable or extendable biennially. [~~The renewal or extension date for a license issued to a natural person shall be the sixteenth day of the licensee's birth month. The renewal or extension date for a license issued to an artificial person shall be the sixteenth day of April for a nonresident licensee, and the sixteenth day of July for a resident licensee.~~] The license shall remain in effect so long as the fees set forth in section 431:7-101 are paid."

SECTION 14. Section 431:31-107, Hawaii Revised Statutes, is amended to read as follows:

"**§431:31-107 Application for license and fees.** (a) A sworn application for a license under this article shall be filed with the commissioner on forms prescribed and furnished by the commissioner.

- (b) The application for a license shall provide the:

- (1) Name, residence address, ~~[electronic-mail]~~ electronic mail address, and other information required by the commissioner for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of this article; provided that[;] if the vendor derives more than fifty per cent of its revenue from the sale of portable electronics insurance, the information in this paragraph shall be provided for all officers, directors, and shareholders of record having beneficial ownership of ten per cent or more of any class of securities registered under the federal securities law; and

- (2) Location of the applicant's home office.

(c) Any vendor engaging in portable electronics insurance transactions on or before ~~[[January 1, 2013,]]~~ shall apply for licensure within ninety days of the application's being made available by the commissioner. Any applicant commencing operations after ~~[[January 1, 2013,]]~~ shall obtain a license prior to offering portable electronics insurance.

(d) ~~[Initial licenses issued pursuant to this article shall be valid for a period of not less than twenty-four months. Renewed licenses shall be valid for a period of twenty-four months.]~~ The license shall be renewable biennially. Licensing fees shall be governed by section 431:7-101.

~~[(e) Each vendor licensed under this article shall pay to the commissioner a fee of \$5,000 for the issuance of the initial portable electronics limited lines license, plus a license fee of \$2,500 per year for the initial or renewal term. A pro rata portion of the license fee may be applied for a partial year of the initial term.]~~

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect on January 1, 2022.

(Approved June 28, 2021.)