



GOV. MSG. NO. **1003**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 29, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 29, 2007, the following bill was signed into law:

HB272 HD1 SD1

A BILL FOR AN ACT RELATING TO CAPTIVE
INSURANCE COMPANIES.
(ACT 232)

Sincerely,

LINDA LINGLE

Approved by the Governor

on JUN 29 2007

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

ACT 232
H.B. NO. 272
H.D. 1
S.D. 1

A BILL FOR AN ACT

RELATING TO CAPTIVE INSURANCE COMPANIES.

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

1 SECTION 1. Section 431:19-101, Hawaii Revised Statutes, is
2 amended by amending the definitions of "affiliated entity",
3 "association", "member organization", and "parent" to read as
4 follows:

5 "Affiliated entity" means any company, person, or other
6 [~~legal~~] entity in the same corporate system as a parent or a
7 member organization by virtue of common ownership, control,
8 operation, or management, or, in the case of a pure captive
9 insurance company, [~~that maintains a working relationship with,~~
10 ~~and~~] whose [~~business~~] risks insured by the pure captive insurance
11 company are [~~similar or related to the business risks of, the~~
12 ~~parent insured by the pure captive insurance company.~~] directly
13 or indirectly controlled by the parent or an affiliate of the
14 parent of a pure captive insurance company.

15 "Association" means any legal association of individuals,
16 corporations, limited liability companies, partnerships, [~~or~~]
17 associations, or other entities, except labor organizations, the
18 member organizations of which [~~collectively.~~] or which does



1 itself, whether or not in conjunction with some or all of the
2 member organizations:

3 (1) Own, control, or hold with power to vote all of the
4 outstanding voting securities of an association
5 captive insurance company incorporated as a stock
6 insurer; [~~or~~]

7 (2) Have complete voting control over an association
8 captive insurance company incorporated as a mutual
9 insurer[~~or~~]; or

10 (3) Constitute all of the subscribers of an association
11 captive insurance company formed as a reciprocal
12 insurer.

13 "Member organization" means any individual, corporation,
14 limited liability company, partnership, [~~or~~] association, or
15 other entity that belongs to an association.

16 "Parent" means a [~~company,~~] corporation, limited liability
17 company, partnership, [~~person,~~ ~~or~~] other [~~legal~~] entity, or
18 individual, that directly or indirectly owns, controls, or holds
19 with power to vote more than fifty per cent of the outstanding
20 voting [~~securities~~] interests of a pure captive insurance
21 company[~~or~~] organized as a stock corporation, nonprofit
22 corporation, or limited liability company."



1 SECTION 2. Section 431:19-101.5, Hawaii Revised Statutes,
2 is amended by amending subsection (a) to read as follows:

3 "(a) There shall be established within the office of the
4 commissioner, a captive insurance administrator, who shall be
5 solely responsible for assisting the commissioner in the
6 monitoring, regulation, and development of captive insurance
7 companies under this article. The commissioner, with the
8 approval of the director of commerce and consumer affairs, shall
9 appoint the administrator who shall be designated as a deputy
10 commissioner and shall be exempt from chapter 76[-]
11 notwithstanding section 431:2-105(b). The administrator shall
12 serve at the pleasure of the director of commerce and consumer
13 affairs and shall report directly to the commissioner."

14 SECTION 3. Section 431:19-102, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsections (a), (b), and (c) to read:

17 "(a) Any captive insurance company, when permitted by its
18 articles of association [~~or~~], articles of incorporation, articles
19 of organization, or other organizational document, may apply to
20 the commissioner for a certificate of authority to do any and all
21 insurance set forth in subsection (h); provided that:



- 1 (1) No pure captive insurance company may insure any risks
2 other than those of its parent and affiliated
3 entities;
- 4 (2) No association captive insurance company may insure
5 any risks other than those of the member organizations
6 of its association and their affiliated entities;
- 7 (3) No captive insurance company may provide personal
8 motor vehicle or homeowner's insurance coverage or any
9 component thereof, other than as employee benefits for
10 the employees of a parent, association, or its
11 members, and their respective affiliated entities; or
12 as reinsurance as may be allowed under this article;
13 and
- 14 (4) No captive insurance company may accept or cede
15 insurance except as provided in section 431:19-111.
- 16 (b) No captive insurance company shall do any insurance
17 business in this State unless:
 - 18 (1) It first obtains from the commissioner a certificate
19 of authority authorizing it to do insurance business
20 in this State;



- 1 (2) Its board of directors, subscribers' advisory
- 2 committee, or other governing body holds at least one
- 3 meeting each year in this State;
- 4 (3) It maintains its principal place of business and
- 5 registered office in this State, except that a branch
- 6 captive insurance company need only maintain the
- 7 principal place of a business unit in this State; and
- 8 (4) It designates a registered resident agent in
- 9 accordance with chapter 414 [~~æ~~], 414D, or 428, as
- 10 applicable, to accept service of process and to
- 11 otherwise act on its behalf in this State. Whenever
- 12 the registered resident agent cannot, with reasonable
- 13 diligence, be found at the registered office of the
- 14 captive insurance company, the commissioner shall be
- 15 an agent of the captive insurance company upon whom
- 16 any process, notice, or demand may be served in
- 17 accordance with section 431:2-206.
- 18 (c) Before receiving a certificate of authority, a captive
- 19 insurance company shall file with the commissioner [~~a~~]:
- 20 (1) A certified copy of its organizational documents,
- 21 including but not limited to its articles of
- 22 incorporation [~~æ~~], articles of association [~~and~~],



1 bylaws, [a] subscribers' agreement, articles of
2 organization, and operating agreement, as applicable;

3 (2) A statement under oath of [any]:

4 (A) Any two of its principal officers[~~, or its~~];

5 (B) Its attorney-in-fact in the case of a captive
6 insurance company formed as a reciprocal
7 insurer[~~]~~; or

8 (C) The duly authorized representative of its
9 governing body,

10 showing its financial condition[~~, and any~~]; and

11 (3) Any other statements or documents required by the
12 commissioner."

13 2. By amending subsection (f) to read:

14 "(f) The commissioner may [~~establish a list of advisers to~~
15 ~~assist with the review of captive applications. The~~
16 ~~commissioner may appoint one adviser from the list] use
17 independent advisors and consultants to assist in the review and
18 analysis of a specific application[~~]~~ or business plan
19 amendment. The [adviser's] independent advisory and consulting
20 fee, to be paid by the captive applicant, shall be a reasonable
21 fee authorized by the commissioner pursuant to section
22 431:19-114."~~



1 SECTION 4. Section 431:19-102.3, Hawaii Revised Statutes,
2 is amended by amending subsection (a) to read as follows:

3 "(a) Any foreign or alien captive insurance company may
4 become a domestic captive insurance company by meeting the
5 following requirements:

6 (1) Compliance with all of the requirements relating to
7 the organization and licensing of a domestic captive
8 insurance company of the same type, and any
9 requirements that the commissioner may adopt by rule;

10 (2) The articles of incorporation or other organizational
11 document shall be amended in compliance with the laws
12 of this State and restated in its entirety before
13 submission to the commissioner. Before the amended
14 and restated articles of incorporation or other
15 organizational document is transmitted to the
16 department of commerce and consumer affairs, the
17 foreign or alien captive insurance company shall
18 petition the commissioner to issue a certificate
19 setting forth the commissioner's finding that the
20 redomestication and maintenance of the [~~corporation~~]
21 company will promote the general good of the State.



1 In arriving at the finding, the commissioner shall
2 consider[+
3 ~~(A) The character, reputation, financial standing, and~~
4 ~~purposes of the foreign or alien captive insurance~~
5 ~~company;~~
6 ~~(B) The character, reputation, financial~~
7 ~~responsibility, insurance experience, and business~~
8 ~~qualifications of the officers and directors; and~~
9 ~~(C) Any other aspects as the commissioner deems~~
10 ~~advisable,] the factors set forth in section~~
11 ~~431:19-106(b);~~
12 (3) The following shall be transmitted to the department
13 of commerce and consumer affairs for filing:
14 (A) Articles of redomestication;
15 (B) Certificate of general good issued by the
16 commissioner;
17 (C) Certificate of good standing or comparable
18 documentation duly authenticated by the proper
19 officer of the state or country under the laws of
20 which the foreign or alien captive insurance
21 company is incorporated; provided that ~~[the]~~;



1 (i) The certificate or documentation shall be
2 dated not earlier than thirty days prior to
3 the filing of the articles of
4 redomestication; and [~~provided further that~~
5 ~~if~~]

6 (ii) If the certificate of good standing or
7 documentation is in a foreign language, a
8 translation under oath of the translator
9 shall accompany the certificate[+] or
10 documentation;

11 (D) Amendments to the articles of incorporation or
12 other organizational document in compliance with
13 the laws of this State;

14 (E) Restatement of the articles of incorporation or
15 other organizational document in its entirety;
16 and

17 (F) Organization fee; and

18 (4) The articles of redomestication shall set forth the
19 following:

20 (A) Name of the [~~corporation~~] company;

21 (B) Date and location of incorporation [~~and state or~~
22 ~~country of incorporation~~] or organization;



- 1 (C) Street address of the principal office in this
- 2 State;
- 3 (D) Names and titles of the [~~officers~~]:
- 4 (i) Officers and directors of the [~~corporation~~]
- 5 company; or
- 6 (ii) Members of the governing body;
- 7 (E) A statement that the [~~corporation~~] company is
- 8 moving its domicile from its present state or
- 9 country to this State;
- 10 (F) A statement that redomestication will occur upon
- 11 filing the articles of redomestication and that
- 12 the [~~corporation~~] company shall be subject to the
- 13 laws of this State; and
- 14 (G) A statement that copies of the articles of
- 15 incorporation or other organizational document
- 16 and any amendments certified by the proper
- 17 officer of the state or country under the laws of
- 18 which the [~~corporation~~] company is incorporated
- 19 or organized are attached; provided that if any
- 20 of these documents are in a foreign language, a
- 21 translation under oath of the translator shall
- 22 accompany these documents."



1 SECTION 5. Section 431:19-102.4, Hawaii Revised Statutes,
2 is amended by amending subsection (c) to read as follows:

3 "(c) The notice of change in domicile, the certificate of
4 transfer issued by the commissioner, the proof of
5 redomestication, and the filing fee shall be transmitted to the
6 department of commerce and consumer affairs. The notice of
7 change in domicile shall set forth the following:

8 (1) Name of the [~~corporation,~~] company;

9 (2) Dates that notice of the [~~corporation's~~] company's
10 intent to transfer domicile from this State was
11 published[~~, once in each of four successive weeks~~
12 ~~(four publications) in a newspaper of general~~
13 ~~circulation published in this State,~~] pursuant to the
14 publication requirements of section 1-28.5;

15 (3) Date of the transfer of its domicile; and

16 (4) State or country to which its domicile will be
17 transferred."

18 SECTION 6. Section 431:19-104, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§431:19-104 Minimum capital**[~~, letter of credit,~~
21 ~~security.~~] and surplus. [~~(a) Subject to subsection (c), no~~
22 ~~captive insurance company incorporated as a stock insurer shall~~



1 ~~be issued a certificate of authority unless it shall possess and~~
2 ~~thereafter maintain unimpaired paid in capital of an amount~~
3 ~~established and deemed appropriate by the commissioner.~~

4 ~~(b) The capital may be in the form of cash, in the form of~~
5 ~~an irrevocable letter of credit issued by a bank chartered by~~
6 ~~this State or a member bank of the Federal Reserve System, or~~
7 ~~other security approved by the commissioner.~~

8 ~~(c) The minimum capital or surplus requirements for~~
9 ~~captive insurance companies are as follows:~~

10 ~~(1) Class 1: \$100,000;~~

11 ~~(2) Class 2: \$250,000;~~

12 ~~(3) Class 3: \$500,000 for risk retention captive~~
13 ~~insurance companies, and \$750,000 for association~~
14 ~~captive insurance companies;~~

15 ~~(4) Class 4: \$1,000,000; and~~

16 ~~(5) Class 5: An amount as determined by the commissioner~~
17 ~~on a case by case basis, after giving due regard to~~
18 ~~the company's business plan, including the nature of~~
19 ~~the risks insured.~~

20 ~~The foregoing requirements do not limit the commissioner's~~
21 ~~discretionary authority to require a captive insurance company~~
22 ~~to possess and maintain a greater amount of capital or surplus~~



1 ~~in order to preserve the solvency of the company, nor do the~~
2 ~~requirements limit or diminish any other applicable provision of~~
3 ~~law that may require a captive insurance company to maintain a~~
4 ~~particular level of capital, surplus, assets, or investments.]~~

5 (a) Each captive insurance company licensed pursuant to this
6 article shall possess and thereafter maintain unimpaired capital
7 and surplus in the amount established by the commissioner;
8 provided that:

9 (1) The commissioner shall take into account the nature
10 and volume of business transacted by each captive
11 insurance company, and any other factors deemed
12 appropriate by the commissioner;

13 (2) Class 3 captive insurance companies shall be subject
14 to other applicable provisions of this chapter that
15 may require capital and surplus in excess of those
16 established by the commissioner;

17 (3) Minimum capital and surplus established by the
18 commissioner shall be no less than the following
19 amounts:

20 (A) Class 1: \$100,000;

21 (B) Class 2: \$250,000;

22 (C) Class 3: \$500,000;



1 (D) Class 4: \$1,000,000; and

2 (E) Class 5: An amount as determined by the
3 commissioner on a case by case basis.

4 (b) Minimum required capital and surplus established by
5 the commissioner pursuant to subsection (a) shall be in any one
6 or combination of the following forms: cash, irrevocable letter
7 of credit issued by a bank chartered by this State or a member
8 bank of the Federal Reserve System, public obligations as
9 defined in section 431:6-301, or other form approved by the
10 commissioner; provided that minimum required capital and surplus
11 in excess of the amounts listed in subsection(a)(3) shall be
12 allowed to be invested in accordance with a strategic investment
13 policy adopted and monitored by the captive insurance company's
14 governing body, and approved by the commissioner.

15 [~~(d)~~] (c) In the case of a branch captive insurance
16 company, and in lieu of minimum capital [~~or~~] and surplus under
17 this section [~~or section 431:19-105~~], the commissioner shall
18 determine the amount and form of security to be maintained by
19 the branch captive insurance company in this State after taking
20 into consideration:



- 1 (1) The amount and nature of risk written through and
2 retained by the branch captive insurance company in
3 this State;
- 4 (2) The financial condition of the outside captive
5 insurance company whose branch office is located in
6 this State;
- 7 (3) Trusts or other security posted for ceding insurers;
8 and
- 9 (4) Any other factors the commissioner deems appropriate.
- 10 The security required by the commissioner may be in the form of
11 cash [~~or investments~~], an irrevocable letter of credit issued by
12 a bank chartered in this State or a member bank of the Federal
13 Reserve System, a trust, public obligations as defined in
14 section 431:6-301, or any other forms of security deemed
15 appropriate by the commissioner."

16 SECTION 7. Section 431:19-106, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§431:19-106 Formation of captive insurance companies in**
19 **this State.** (a) [~~A pure captive insurance company shall be~~
20 ~~incorporated as a stock insurer with its capital divided into~~
21 ~~shares and held by the stockholders.~~



1 ~~(b)~~] A captive insurance company [~~, which is other than a~~
2 ~~pure captive insurance company, may~~] shall be:

3 (1) Incorporated pursuant to chapter 414 as a stock
4 insurer with its capital divided into shares and held
5 by the stockholders;

6 (2) Incorporated pursuant to chapter 414D as a nonprofit
7 insurer;

8 ~~(+2)~~] (3) Incorporated pursuant to chapter 414 as a mutual
9 insurer without capital stock, the governing body of
10 which is elected by the member organization of its
11 association; [~~ex~~

12 ~~(+3)~~] (4) Organized in the State as a reciprocal insurer [~~,~~
13 ~~for other than credit life and credit disability~~
14 ~~insurance and group term life insurance, without~~
15 ~~capital stock, whose affairs shall be coordinated~~
16 ~~through an attorney in fact as provided in the power~~
17 ~~of attorney or other agreement given to the attorney~~
18 ~~in fact by the subscribers.] in accordance with
19 sections 431:3-107, 431:3-108, 431:4-404, 431:4-405
20 (provided that the principal office of the attorney-
21 in-fact for the domestic reciprocal insurer shall not
22 be required to be maintained in this State), 431:4-406~~



1 (excluding 431:4-406(b)(3)), 431:4-407, and
2 431:4-415(a); or
3 (5) Organized pursuant to chapter 428 as a member-managed
4 or manager-managed limited liability company.

5 ~~[(c) A captive insurance company other than one that is~~
6 ~~formed as a reciprocal insurer shall have no fewer than three~~
7 ~~incorporators of whom no fewer than two shall be residents of~~
8 ~~this State.~~

9 ~~(d)]~~ (b) Before the ~~[articles of incorporation]~~ required
10 organizational documents are transmitted to the department of
11 commerce and consumer affairs, the incorporators or organizers
12 shall petition the commissioner to issue a certificate setting
13 forth the commissioner's finding that the establishment and
14 maintenance of the proposed ~~[corporation]~~ company will promote
15 the general good of the State. In arriving at such a finding,
16 the commissioner shall consider:

17 (1) The character, reputation, financial standing, and
18 ~~[purposes]~~ objectives of the ~~[incorporators,]~~
19 organizers;

20 (2) The character, reputation, financial responsibility,
21 insurance experience, and business qualifications of
22 the captive insurance company's officers and



1 directors[+], or members of its governing body, and
2 its service providers; and

3 (3) Other aspects as the commissioner deems advisable.

4 [~~e~~] (c) The [~~articles of incorporation, certificate, and~~
5 ~~the organization fees~~] required organizational documents and
6 fees shall be transmitted to the department of commerce and
7 consumer affairs[~~, which shall record both the articles of~~
8 ~~incorporation and the certificate.~~] for filing and recordation,
9 as may be necessary.

10 [~~f~~] (d) The capital stock of a captive insurance company
11 incorporated as a stock insurer shall be issued at not less than
12 par value.

13 [~~g~~] ~~At least one of the members of the board of directors~~
14 ~~of a captive insurance company incorporated in this State shall~~
15 ~~be a resident of this State.~~

16 [~~h~~] ~~Captive insurance companies formed under this article,~~
17 ~~except for pure nonprofit captive insurance companies, shall~~
18 ~~have the privileges and be subject to the general corporation~~
19 ~~law as well as this article. In the event of conflict between~~
20 ~~the general corporation law and this article, the latter shall~~
21 ~~control.~~



1 ~~(i) Pure nonprofit captive insurance companies formed~~
2 ~~under this article shall have the privileges and be subject to~~
3 ~~the nonprofit corporation law as well as this article. In the~~
4 ~~event of conflict between the nonprofit corporation law and this~~
5 ~~article, the latter shall control.]~~

6 (e) Captive insurance companies formed under this article
7 shall have the privileges and be subject to the general
8 corporation law, nonprofit corporation law, or limited liability
9 law of this State as may be applicable, as well as this article.
10 In the event of conflict between any of the foregoing applicable
11 laws of this State and this article, this article shall
12 control."

13 SECTION 8. Section 431:19-106.5, Hawaii Revised Statutes,
14 is amended by amending subsections (b) and (c) to read as
15 follows:

16 "(b) A plan of conversion or merger shall be submitted to
17 and be approved by the commissioner in advance of the proposed
18 conversion or merger. The commissioner shall not approve the
19 plan unless:

20 (1) The commissioner finds that it is fair, equitable, and
21 consistent with law;

22 (2) The plan has been approved:



- 1 (A) In the case of a stock corporation, by at least
2 two-thirds of the shares entitled to vote at a
3 duly called regular or special meeting of the
4 shareholders at which a quorum is present, or by
5 unanimous written consent of the shareholders;
6 [~~or~~]
- 7 (B) In the case of a mutual insurer, by at least
8 two-thirds of the voting interest of the members
9 of the mutual insurer at a duly called regular or
10 special meeting of the membership at which a
11 quorum is present, or by unanimous written
12 consent of the members of the mutual insurer;
13 [~~or~~]
- 14 (C) In the case of a reciprocal insurer, by at least
15 two-thirds of the voting interest of the
16 subscribers of the reciprocal insurer at a duly
17 called meeting of the subscribers of the
18 reciprocal insurer, or by unanimous written
19 consent of the subscribers;
- 20 (D) In the case of a nonprofit corporation, by at
21 least two-thirds of the voting interest of the
22 members at a duly called meeting of the members



1 of the corporation, or by unanimous written
2 consent of the members; or

3 (E) In the case of a limited liability company, by at
4 least two-thirds of the voting interest of the
5 members at a duly called meeting of the members
6 of the limited liability company, or by unanimous
7 written consent of the members;

8 (3) The plan provides for:

9 (A) The conversion of existing stockholder, member,
10 or subscriber interests into equal or
11 proportionate interests in the new converted or
12 merged insurer, or such other method and basis
13 for the conversion of the stockholder, member, or
14 subscriber interests that is fair and equitable;

15 (B) The purchase or other disposition of the shares
16 of any nonconsenting shareholder of a stock
17 insurer [~~or the~~], policyholder interest of any
18 nonconsenting member of a mutual insurer,
19 membership interest of a limited liability
20 company, or [the] subscriber surplus account
21 interest, if any, of a subscriber of a reciprocal
22 insurer, in accordance with either an agreement



1 with any nonconsenting stockholder, member, or
2 subscriber or with the existing articles or
3 bylaws of the insurer relating to the buyback
4 buyout, or the termination of the stockholder,
5 member, or subscriber interests, if any, or if no
6 such provisions exist, then in accordance with
7 the laws of this State relating to the rights of
8 dissenting shareholders; and

9 (C) The novation, assignment, transfer, run-off, or
10 other disposition of in force policies insuring
11 any nonconsenting shareholder, member, or
12 subscriber;

13 (4) The conversion or merger will leave the resulting
14 converted insurer or surviving insurer of the merger
15 with capital or surplus funds reasonably adequate to
16 preserve the security of its policyholders and an
17 ability to continue to transact business in the
18 classes of insurance in which it is then authorized to
19 transact; and

20 (5) The commissioner finds that the conversion or merger
21 will promote the general good of the State.



1 (c) After approval of the plan of conversion or merger by
2 the commissioner, the converting or merging insurer shall file
3 with the director of commerce and consumer affairs, appropriate
4 articles of amendment, articles of conversion, or articles of
5 merger, as the case may be; provided that in the case of the
6 conversion of a reciprocal insurer or limited liability company
7 insurer to a stock or mutual insurer, the existing reciprocal or
8 limited liability company insurer shall file articles of
9 incorporation [~~in order~~] to commence the corporate existence of
10 the company in the form of a stock or mutual insurer. Documents
11 filed with the director of commerce and consumer affairs
12 pursuant to this subsection shall comply with all applicable
13 requirements for such documents as may be contained in this
14 article and chapter 414 [~~or~~], 414D[-], or 428, as to the extent
15 that these laws are applicable to the conversion or merger."

16 SECTION 9. Section 431:19-110, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~§431:19-110 [Legal investments. Each captive insurance~~
19 ~~company shall be subject to the restrictions on allowable~~
20 ~~investments provided under sections 431:6-101 to 431:6-501,~~
21 ~~provided that the commissioner may approve other investments and~~
22 ~~investment provisions as the commissioner deems appropriate for~~



1 ~~each captive insurance company licensed under this article.]~~

2 Investments. (a) Except for class 3 risk retention captive
3 insurance companies, captive insurance companies licensed under
4 this article shall be allowed to maintain investments in
5 accordance with a strategic investment policy adopted and
6 monitored by the captive insurance company's governing body, and
7 approved by the commissioner; provided that in addition to the
8 minimum capital and surplus requirements prescribed in section
9 431:19-104(b), and the requirements prescribed in subsection
10 (b), each captive insurance company shall maintain investments
11 in one or more of the following forms, which aggregate not less
12 than one hundred per cent of reserves as required by this code
13 or the commissioner:

14 (1) Cash;

15 (2) Irrevocable letter of credit issued by a bank
16 chartered by this State or a member bank of the
17 Federal Reserve System;

18 (3) Investments in accordance with a strategic investment
19 policy adopted and monitored by the captive insurance
20 company's governing body, and approved by the
21 commissioner;

22 (4) Premiums in the course of collection; or



1 (5) Other forms approved by the commissioner.

2 (b) Each captive insurance company that does not maintain
3 a strategic investment policy as described in subsection (a) and
4 class 3 risk retention captive insurance companies shall be
5 subject to the restrictions on allowable investments provided
6 under sections 431:6-101 to 431:6-501; provided that the
7 commissioner may approve other assets, investments, and
8 investment provisions as the commissioner deems appropriate.

9 (c) The commissioner may require a captive insurance
10 company to file a complete disclosure of the identity,
11 background, and experience of the key individuals or staff that
12 are involved with its investment activities and administration,
13 if deemed necessary.

14 (d) Each captive insurance company shall maintain in its
15 principal office in this State a written record documenting its
16 investment transactions, as well as documents evidencing the
17 authorization or approval of the investments by the captive
18 insurance company's governing body or its designated
19 representative.

20 (e) The commissioner may prohibit or limit any investments
21 or investible assets if the captive insurance company is not in
22 compliance with this article or applicable rules."



1 SECTION 10. Section 431:19-105, Hawaii Revised Statutes,
2 is repealed.

3 ~~["5431:19-105 Minimum surplus, letter of credit, security,~~

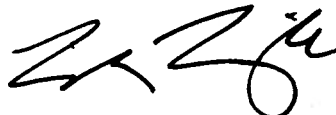
4 ~~(a) Subject to section 431:19-104(c), no captive insurance~~
5 ~~company formed other than as a stock insurer shall be issued a~~
6 ~~certificate of authority unless it shall possess and thereafter~~
7 ~~maintain a free surplus of an amount established and deemed~~
8 ~~appropriate by the commissioner.~~

9 ~~(b) The surplus may be in the form of cash, in the form of~~
10 ~~an irrevocable letter of credit issued by a bank chartered by~~
11 ~~this State or member bank of the Federal Reserve System, or other~~
12 ~~security approved by the commissioner."]~~

13 SECTION 11. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 12. This Act shall take effect on July 1, 2007.

APPROVED this 29 day of JUN , 2007



GOVERNOR OF THE STATE OF HAWAII

