

A Bill for an Act Relating to Life and Disability Insurance.

*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:

**“CHAPTER  
HAWAII LIFE AND DISABILITY INSURANCE  
GUARANTY ASSOCIATION ACT**

**Sec. -1 Purpose.** The purpose of this chapter is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, disability insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment or insolvency of the insurer issuing such policies or contracts. To provide this protection:

- (1) An association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;
- (2) Members of the association are subject to assessment to provide funds to carry out the purpose of this chapter; and
- (3) The association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

**Sec. -2 Scope.** (a) This chapter shall apply to direct life insurance policies, disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies, issued by persons licensed to transact insurance in this State at any time.

(b) This chapter shall not apply to:

- (1) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer;
- (2) That portion or part of any policy or contract under which the risk is borne by the policy holder;
- (3) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;
- (4) Any such policy or contract issued by mutual and fraternal benefit societies;
- (5) Certificate holders under master group policies validly issued in other states.

**Sec. -3 Construction.** This chapter shall be liberally construed to effect the purpose under section -1.

**Sec. -4 Definitions.** As used in this chapter:

- (1) "Account" means either of the three accounts created under section -5.
- (2) "Association" means the Hawaii Life and Disability Insurance Guaranty Association created under section -5.
- (3) "Commissioner" means the insurance commissioner of this State.
- (4) "Contractual obligation" means any obligation under covered policies.
- (5) "Covered policy" means any policy or contract within the scope of this chapter.
- (6) "Impaired insurer" means a member insurer deemed by the commissioner after the effective date of this chapter to be potentially unable to fulfill its contractual obligations.
- (7) "Insolvent insurer" means a member insurer which after the effective date of this chapter, becomes insolvent and is placed under a final order of liquidation, rehabilitation or conservation by a court of competent jurisdiction.
- (8) "Member insurer" means any person licensed to transact in this State any kind of insurance to which this chapter applies.
- (9) "Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. "Premiums" do not include premiums and considerations on contracts between insurers and reinsurers.
- (10) "Person" means any individual, corporation, partnership, association or voluntary organization.
- (11) "Resident" means any person who resides in this State at the time a member insurer is determined to be an impaired or insolvent insurer and to whom contractual obligations are owed.

**Sec. -5 Creation of the association.** (a) There is created a nonprofit unincorporated legal entity to be known as the Hawaii Life and Disability Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this State. The association shall perform its functions under the plan of operation established and approved under section -9 and shall exercise its powers through a board of directors established under section -6. For purposes of administration and assessment, the association shall maintain three accounts:

- (1) The life insurance account;
- (2) The disability insurance account; and
- (3) The annuity account.

(b) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance law of this State.

**Sec. -6 Board of directors.** (a) The board of directors of the association shall consist of not less than five nor more than nine member insurers serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner. To select the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member insurer shall be entitled to one vote in person or by proxy. If the board of directors is not selected within sixty days after notice of the organizational meeting, the commissioner may appoint the initial members.

(b) In approving selections or in appointing members to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(c) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors but members of the board shall not otherwise be compensated by the association for their services.

**Sec. -7 Powers and duties of the association.** In addition to the powers and duties enumerated in other sections of this chapter:

- (1) If a domestic insurer is an impaired insurer, the association may, subject to any condition imposed by the association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the commissioner:
  - (A) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurer;
  - (B) Provide such monies, pledges, notes, guarantees, or other means as are proper to effectuate subparagraph (A), and assure payment of the contractual obligations of the impaired insurer pending action under subparagraph (A);
  - (C) Loan money to the impaired insurer.
- (2) If a domestic insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:

- (A) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of the insolvent insurer;
  - (B) Assure payment of the contractual obligations of the insolvent insurer; and
  - (C) Provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.
- (3) If a foreign or alien insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:
- (A) Guarantee, assume or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of residents;
  - (B) Assure payment of the contractual obligations of the insolvent insurer to residents; and
  - (C) Provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

Provided; however, that this paragraph (3) shall not apply where the commissioner has determined that the foreign or alien insurer's domiciliary jurisdiction or state of entry provides, by statute, protection substantially similar to that provided by this chapter for residents of this State.

- (4) In carrying out its duties under paragraphs (2) and (3), permanent policy liens, or contract liens may be imposed in connection with any guarantee, assumption or reinsurance agreement, if the court:
- (A) Finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, to be in the public interest, and
  - (B) Approves the specific policy liens to be used.

Before being obligated under paragraphs (2) and (3), the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans in addition to contractual provisions for deferral of cash or policy loan values, and such temporary moratoriums and liens may be imposed if they are approved by the court.

- (5) If the association fails to act within a reasonable period of time as provided in paragraphs (2) and (3) of this section, the commissioner shall have the powers and duties of the association under this chapter with respect to insolvent insurers.
- (6) The association may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.
- (7) The association shall have standing to appear before any court in this State with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring or

guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.

- (8) Any person receiving benefits under this chapter shall be deemed to have assigned the rights under the covered policy to the association to the extent of the benefits received because of this chapter whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any right or benefit conferred by this chapter upon such person. The association shall be subrogated to these rights against the assets of any insolvent insurer.

The subrogation rights of the association under this paragraph (8) shall have the same priority against the assets of the insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

- (9) The contractual obligations of the insolvent insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the insolvent insurer would have been in the absence of any insolvency unless such obligations are reduced as permitted by paragraph (4) but the aggregate liability of the association shall not exceed \$100,000 in cash values, or \$300,000 for all benefits, including cash values, with respect to any one life.
- (10) The association may:
- (A) Enter into such contracts as are necessary or proper to carry out the provisions and purpose of this chapter;
  - (B) Sue or be sued, including taking any legal action necessary or proper for recovery of any unpaid assessment under paragraph (9);
  - (C) Borrow money to effect the purpose of this chapter; any note or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;
  - (D) Employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this chapter;
  - (E) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;
  - (F) Take such legal action as may be necessary to avoid payment of improper claims;
  - (G) Exercise, for the purpose of this chapter and to the extent approved by the commissioner, the powers of a domestic life or disability insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer.

**Sec. -8 Assessments.** (a) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such

amounts as the board finds necessary. Assessments shall be due not less than thirty days after prior written notice to the member insurers and shall accrue interest at eighteen per cent a year on and after the due date.

(b) There shall be three classes of assessments, as follows:

- (1) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses and examinations conducted under the authority of section 11(5) not related to a particular impaired or insolvent insurer.
- (2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 7 with regard to an impaired or insolvent domestic insurer.
- (3) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 7 with regard to an insolvent foreign or alien insurer.

(c) The amount of any Class A assessment shall be determined by the board and may be made on a non-pro rata basis. Such assessment shall be credited against future insolvency assessments and shall not exceed \$50 per company in any one calendar year. The amount of any Class B or C assessment shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies.

Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this State by each assessed member insurer on policies covered by each account for the calendar year preceding the assessments bears to such premiums received on business in this State for the calendar year preceding the assessment by all assessed member insurers.

Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers.

Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purpose of this chapter. Classification of assessments under subsection (b) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(d) The association may abate or defer, in whole or in part, the assessment of a

member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated or deferred, in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(e) The total of all assessments upon a member insurer for each account shall not in any calendar year exceed two per cent of such insurer's premiums received in this State during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

(f) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(g) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this chapter, to consider the amount reasonably necessary to meet its assessment obligations under this chapter.

(h) The association shall issue to each insurer paying an assessment under this chapter, other than a Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

**Sec. -9 Plan of operation.** (a) The association shall submit to the commissioner a plan of operation and any amendment thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendment thereto shall become effective upon approval in writing by the commissioner.

If the association fails to submit a suitable plan of operation within 180 days following the effective date of this chapter or, if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(b) All member insurers shall comply with the plan of operation.

(c) The plan of operation shall, in addition to requirements enumerated elsewhere in this chapter:

- (1) Establish procedures for handling the assets of the association.
- (2) Establish the amount and method of reimbursing members of the board of directors under section -6.
- (3) Establish regular places and times for meetings of the board of directors.
- (4) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors.
- (5) Establish the procedures whereby selections for the board of directors will be made and submitted to the commissioner.
- (6) Establish any additional procedures for assessments under section -8.
- (7) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(d) The plan of operation may provide that any or all powers and duties of the association, except those under sections -7(10) (E) and -8, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this chapter.

**Sec. -10 Duties and powers of the commissioner.** In addition to the duties and powers enumerated elsewhere in this chapter,

- (1) The commissioner shall:
  - (A) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer.
  - (B) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this chapter.
  - (C) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner shall be appointed conservator.
- (2) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five per cent of the unpaid assessment per month, but no forfeiture shall be less than \$100 per month.



- (3) Any action of the board of directors or the association may be appealed to the commissioner by any member insurer, if such appeal is taken within thirty days of the action being appealed. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction.
- (4) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this chapter.

**Sec. -11 Prevention of insolvencies.** To aid in the detection and prevention of insurer insolvencies or impairments:

- (1) It shall be the duty of the commissioner:
  - (A) To notify the commissioners of all the other states, territories of the United States and the District of Columbia when he takes any of the following actions against a member insurer:
    - (i) Revocation of license;
    - (ii) Suspension of license;
    - (iii) Makes any formal order that such company restricts its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders or creditors.Such notice shall be mailed to all commissioners within thirty days following the action taken or the date on which such action occurs.
  - (B) To report to the board of directors when he has taken any of the actions set forth in subparagraph (A) of this section or has received a report from any other commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.
  - (C) To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member company that such company may be an impaired or insolvent insurer.
  - (D) To furnish to the board of directors the NAIC Early Warning Tests developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.
- (2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this State.
- (3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or ger-

mane to the solvency of any company seeking to do an insurance business in this State. Such reports and recommendations shall not be considered public documents.

- (4) It shall be the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating any member insurer may be an impaired insurer or insolvent insurer.
- (5) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within thirty days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not excuse the commissioner from complying with paragraph (1). The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.
- (6) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.
- (7) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the commissioner containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer, and may adopt by reference any report prepared by such other associations.

**Sec. -12 Credits for assessments paid.** (a) A member insurer may offset against its premium tax liability (or liabilities) to this State an assessment described in section -8(h) to the extent of twenty per cent of the amount of such assessment for each of the five calendar years following the year in which such assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against its premium tax liability (or liabilities) for the year it ceases doing business.

(b) Any sum acquired by refund, pursuant to section -8(f), from the association which has theretofore been written off by contributing insurers and offset against its premium taxes as provided in subsection (a) above, and are not then needed for purposes of this chapter, shall be paid by the association to the commissioner and by him deposited with the state director of finance for credit to the general fund of this State.

**Sec. -13 Miscellaneous provisions.** (a) Nothing in this chapter shall be construed to reduce the liability for unpaid assessments of the insureds on an impaired

or insolvent insurer operating under a plan with assessment liability.

(b) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under section -7. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities under section -14.

(c) For the purpose of carrying out its obligations under this chapter, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amount to which the association is entitled as subrogee pursuant to section -7(9). Assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. Assets attributable to covered policies, as used in this subsection, is that proportion of the assets which the reserves that should have been established for such policies bear to the reserve that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(d) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policyowners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such insolvent insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the association for funds expended in carrying out its powers and duties under section -7, with respect to such insurer have been fully recovered by the association.

(e) If an order for liquidation or rehabilitation of an insurer domiciled in this State has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations provided in this subsection.

No such dividend shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

Any person who was an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two persons are liable with respect to the same distributions, they shall be jointly and severally liable.

The maximum amount recoverable under this subsection shall be the amount

needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

If any person liable under this subsection is insolvent, all its affiliates that controlled it at the time the dividend was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

**Sec. -14 Examination of the association; annual report.** The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner, not later than May 1 of each year, a financial report for the preceding calendar year in a form approved by the commissioner and a report of its activities during the preceding calendar year.

**Sec. -15 Tax exemptions.** The association shall be exempt from payment of all fees and all taxes levied by this State or any of its subdivisions, except taxes levied on real property.

**Sec. -16 Immunity.** There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or his representatives, for any action taken by them in the performance of their powers and duties under this chapter.

**Sec. -17 Stay of proceedings; reopening default judgments.** All proceedings in which the insolvent insurer is a party in any court in this State shall be stayed sixty days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on any matter germane to its powers or duties. As to judgment under any decision, order, verdict, or finding based on default the association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

**Sec. -18 Prohibited advertisement of insurance guaranty association act in sale of insurance.** No person, including an insurer, agent or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement which uses the existence of the Life and Disability Insurance Guaranty Association of this State for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Hawaii Life and Disability Insurance Guaranty Association Act. However, this section shall not apply to the Hawaii Life and Disability Insurance Guaranty Association or any other entity which does not sell or solicit insurance.”

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

(Approved April 23, 1979.)