

ACT 89

H.B. NO. 14

A Bill for an Act Relating to Insurance Contracts.

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

SECTION 1. The purpose of this Act is to establish minimum readability standards for life, disability, credit life, credit disability, and homeowners insurance contracts and motor vehicle no-fault insurance contracts covering personally-owned private passenger motor vehicles delivered or issued for delivery in this State.

This Act is not intended to alter the risks assumed by insurers subject to the Act, nor to change their obligation to comply with the provisions of other insurance laws relating to life, disability, credit life, credit disability, homeowners, and motor vehicle no-fault insurance. This Act is not intended to prevent flexibility and innovation in the development of contract forms or content nor to require standard contract forms or content.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
READABILITY OF INSURANCE CONTRACTS**

§ -1 **Definitions.** As used in this chapter:

- (1) “Commissioner” means the state insurance commissioner.
- (2) “Contract” means any policy of life, disability, credit life, credit disability, and homeowners insurance, and motor vehicle no-fault insurance covering personally owned or personally leased private passenger motor vehicles prepared for delivery by an insurer.
- (3) “Flesch reading ease test” means the test set forth in section -4.

- (4) "Insurer" means any company, corporation, exchange, society, or association organized on the stock, mutual, assessment, or fraternal plan of insurance and authorized under the insurance laws of this State to issue life, disability, credit life, credit disability, homeowners, and motor vehicle no-fault insurance, including but not limited to fraternal benefit societies, nonprofit health service corporations, nonprofit hospital service corporations, and health maintenance organizations.
- (5) "Text" includes all printed material in the contract except:
 - (A) The insurer's name and address;
 - (B) The name, number, or title of the contract;
 - (C) The table of contents or index;
 - (D) Any captions or subcaptions;
 - (E) Any specification pages, schedules, or tables;
 - (F) Any language required by federal law, regulation, or agency interpretation or any written certification to exclude such language;
 - (G) Any language required by any collective bargaining agreement;
 - (H) Any medical terminology; and
 - (I) Any definitions.

§ -2 **General readability requirements.** Notwithstanding any other law to the contrary, no contract shall be delivered or issued for delivery in this State unless:

- (1) The text achieves a minimum score of forty on the Flesch reading ease test or an equivalent score on any other comparable test prescribed by the commissioner under section -3(a);
- (2) The contract is printed, except for specification pages, schedules, and tables, in not less than ten point type, one point leaded;
- (3) The style, arrangement, and general appearance of the contract gives no undue prominence to any endorsements, riders, or other portions of the text; and
- (4) A table of contents or index of principal sections is provided with the contract when the text consists of more than three thousand words printed on three or less pages or when the text has more than three pages regardless of the total number of printed words.

§ -3 **Required reading test; authorization and availability.** (a) Every insurer shall use the Flesch reading ease test to determine the readability of any contract required by section -2(1). Whenever the commissioner determines that the Flesch reading ease test is inappropriate for the purposes of section -2(1), the commissioner shall prescribe an alternative comparable test to be used by the insurer.

(b) The commissioner shall provide each insurer with a copy of the Flesch reading ease test. Whenever an alternative test is prescribed, the commissioner shall provide a copy of the test, accompanied by a set of instructions explaining the manner in which such test shall be conducted, to each insurer.

§ -4 **Flesch reading ease test; procedures.** (a) Whenever the Flesch reading ease test is used, its reading score shall be computed as follows:

- (1) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences; and
- (2) The resulting figure shall be multiplied by a factor of 1.015; then

- (3) The total number of syllables shall be counted and then divided by the total number of words; and
- (4) The resulting figure shall be multiplied by a factor of 84.6; then
- (5) The figures computed in paragraphs (2) and (4) shall be added together and the resulting sum subtracted from 206.835 to yield the Flesch reading ease score.
- (b) For the purpose of subsection (a), the following procedures shall be used:
 - (1) Each contract consisting of ten thousand words or less shall be analyzed in its entirety by the method prescribed in subsection (a);
 - (2) Each contract consisting of more than ten thousand words may be analyzed by applying the method prescribed in subsection (a) to two, two-hundred word samples separated by a minimum of ten printed lines on each page of the contract;
 - (3) All riders, endorsements, applications, and other forms may be scored with the contract or scored as separate forms;
 - (4) Numbers and letters, when separated by spaces, a contraction, or a hyphenated word shall be counted as one word;
 - (5) A unit of words ending with a period, semicolon, or colon, excluding headings and captions, shall be counted as one sentence;
 - (6) Whenever an accepted dictionary indicates that a word has two or more acceptable pronunciations, the pronunciation having the fewer number of syllables may be used. Syllable, as used in this paragraph, means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary.

§ -5 Flesch reading ease score; lower score authorized; when. The commissioner may authorize a score lower than the minimum Flesch reading ease score required in section -2(1) when the commissioner determines that the lower score:

- (1) Will provide a more accurate indication of the readability of the contract;
- (2) Is warranted by the nature of a particular contract form, type, or class of contract forms; or
- (3) Is the result of any language required by state law, regulation, or agency interpretation.

§ -6 Filing and certification of contracts. Every insurer shall file a copy of the contract with the commissioner. The contract shall be accompanied by a certificate signed by an officer of the insurer stating that the contract meets the minimum Flesch reading ease score required in section -2(1). Whenever the score is lower than the minimum Flesch reading ease score required in section -2(1), the certificate shall indicate the lower score and request the contract to be approved under section -5. In determining the accuracy of any certificate, the commissioner may require the insurer to submit any additional information.

§ -7 Approval of contracts. Any contract meeting the requirements of sections -2 and -6 shall be approved for delivery, notwithstanding the provision of any other laws specifying the content of contracts, whenever the contract provides protection not less favorable than that required by such laws.

§ -8 Exemptions of certain contracts. The provisions of this chapter shall not apply to:

- (1) Any contract which is a security subject to federal jurisdiction;
- (2) Any group contract covering a group of one thousand or more lives at date of issue, other than a group credit life or credit disability contract, but any individual certificate issued under a group contract delivered or issued for delivery in this State shall not be exempt;
- (3) Any group annuity contract which funds a pension, profit-sharing, or deferred compensation plan;
- (4) Any form used in connection with, as a conversion from, as an addition to, or in exchange under, a contractual provision for a contract delivered or issued for delivery on a form approved or permitted to be issued prior to the dates required in section -9; or
- (5) The renewal of a contract delivered or issued for delivery prior to the dates required in section -9.

§ -9 **Applicability of chapter; effective dates.** This chapter shall apply to all contracts filed after June 30, 1983. No contract shall be delivered or issued for delivery in this State after June 30, 1984, unless the contract meets the requirements of this chapter or has been approved by the commissioner. Any contract approved or permitted to be issued prior to July 1, 1984 is exempt from refileing for approval and may continue to be lawfully delivered or issued for delivery in this State; provided a list of such contracts identified by contract number and accompanied by a signed certificate in the manner prescribed in section -6 is filed with the commissioner.”

SECTION 3. Chapter 487A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§487A- **Exempt transactions.** This chapter shall not apply to any contract of insurance issued in this State.”

SECTION 4. New statutory material is underscored.*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 2, 1981.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.