

ACT 59

S.B. NO. 230

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 431-11, Hawaii Revised Statutes, is amended to read as follows:

“§431-11 General casualty insurance defined. General casualty insurance includes vehicle insurance as defined in section 431-10, disability insurance defined in section 431-7 and in addition is insurance:

- (1) Against legal liability for the death, injury, or disability of any human being, or from damage to property.
- (2) Of medical, hospital, surgical, and funeral benefits to persons injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of human beings.
- (3) Of the obligation accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury to employees.
- (4) Against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal or concealment, or from any attempt of any of the foregoing; also insurance against loss or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers or documents, resulting from any cause, except while in the mail.
- (5) Upon personal effects of individuals, by an all-risk type of policy commonly known as the personal property floater.
- (6) Against loss or damage to glass and its appurtenances resulting from any cause.

- (7) Against any liability and loss or damage to property resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus.
- (8) Against loss of or damage to any property of the insured resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire.
- (9) Against loss or damage to any property caused by the breakage or leakage of sprinklers, water pipes, and containers, or by water entering through leaks or openings in buildings.
- (10) Against loss or damage resulting from failure of debtors to pay their obligations to the insured (credit insurance).
- (11) Against loss of or damage to any domesticated or wild animal resulting from any cause (livestock insurance).
- (12) Against loss of or damage to any property of the insured resulting from collision of any other object with such property, but not including collision to or by vessels, craft, piers, or other instrumentalities of ocean or inland navigation (collision insurance).
- (13) Against legal liability of the insured, and against loss, damage, or expense incident to a claim of such liability, and including any obligation of the insured to pay medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death or injury of any person, or arising out of injury to the economic interest of any person as the result of negligence in rendering expert, fiduciary, or professional service (malpractice insurance).
- (14) Against any contract of warranty or guaranty which promises service maintenance, parts replacement, repair, money, or any other indemnity in the event of loss of or damage to a motor vehicle or any part thereof from any cause, including loss of or damage to or loss of use of the motor vehicle by reason of depreciation, deterioration, wear and tear, use, obsolescence, or breakage if made by a warrantor or guarantor who or which as such is doing an insurance business.

The making of a contract covering only defects in material and work in exchange for a separately stated charge where it is incidental to the business of selling or leasing motor vehicles, shall not be deemed insurance; provided the maker of the contract has an insurance policy, with an insurer as defined in section 294-2(6), providing coverage for the making of those contracts. The policy shall assume the legal liability created by each contract or, alternatively, the ultimate legal liability of all contracts made by the issuer. If the maker of the contract is unable to perform the duties imposed by the contract, the purchaser of the contract then shall be considered a policyholder of the insurer. The policy shall include a loss payee endorsement that provides coverage to any lending institution as their interest may appear. In addition, the contracts conspicuously shall state the name and address of the licensed underwriting insurer and contain a statement that the policyholder shall be entitled to make a direct claim against the insurer upon the failure of the issuer to pay any claim within sixty days after proof of loss has been filed with the issuer. The requirement that the maker of the contract have an insurance policy with a motor vehicle

insurer shall not apply if the maker is a manufacturer, distributor, or importer of automobiles.

The doing or proposing to do any business in substance equivalent to the business described in this subsection in a manner designed to evade the provisions of this subsection is the doing of an insurance business.

- [(14)] (15) Against any other kind of loss, damage, or liability properly the subject of insurance and not within any other class or classes of insurance as defined in sections 431-6 to 431-13, if such insurance is not contrary to law or public policy.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 1, 1985.)