

ACT 89

S.B. NO. 2481-86

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 431-693, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) All rates shall be made in accordance with the following provisions:
- (1) Due consideration shall be given to past and prospective loss experience within and outside this State; provided that if the claim does not exceed the selected deductible amount pursuant to section 386-100, and the employer reimburses the insurer for that amount, such claims shall not be calculated in the employer’s experience rating or risk category. Due consideration shall also be given to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses both countrywide and those specially applicable to this State, and to all other relevant factors within and outside this State. [; including, without limitation of the foregoing, that in the case of workers’ compensation insurance, due] Due consideration shall also be given to investment income earned or realized by insurers, including investment income earned from unearned premium and loss reserve funds.
 - (2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
 - (3) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
 - (4) Rates shall not be excessive, inadequate, or unfairly discriminatory.

- (5) No insurer authorized to do business in this State shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms, or corporations by way of membership, license, franchise, contract, agreement, or any other method or means, other than common majority ownership of such risks, or except where:
 - (A) A common stock ownership in and management control of such risks are held by the same person, corporation, or firm;
 - (B) Permitted or authorized by filings in existence as of January 1, 1957, under sections 431-691 to 431-707, as such filings may be amended from time to time;
 - (C) Health care providers, as defined in section 671-1 who could have joined the patients' compensation fund as it existed in chapter 671, part III, prior to May 31, 1984, join together in one or more groups of related or unrelated health care providers; or
 - (D) Otherwise expressly provided by law."

SECTION 2. Section 431-694, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the casualty rating law. The commissioner shall calculate the investment income and accuracy of loss reserves upon which filings are based and the insurer shall provide the information necessary to make the calculation."

SECTION 3. Section 431-713, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- (a) Rates shall be made in accordance with the following provisions:
 - (1) Manual, minimum, class rates, rating schedules, or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specifically rated.
 - (2) Rates shall not be excessive, inadequate, or unfairly discriminatory.
 - (3) Due consideration shall be given to past and prospective loss experience within and outside this State, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, saving, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses both countrywide and those specially applicable to this State, to investment income, and to all other relevant factors within and outside this State; and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available.
 - (4) No insurer authorized to do business in this State shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms, or corporations by way of membership, license, franchise, contract, agreement, or any other method or means, other than common majority ownership of such risks, or except where a common stock ownership in and agreement control of such risks are held by the same person,

corporation, or firm, or except where permitted or authorized by filings in existence as of January 1, 1957, under sections 431-711 to 431-726, as such filings may be amended from time to time, or except where otherwise expressly provided by law.”

SECTION 4. Section 431-714, Hawaii Revised Statutes, is amended by amending subsections (a) and (e) to read as follows:

“(a) Every insurer shall file with the insurance commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rate or rating plans, every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. The filing shall also include a report on investment income. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of the fire rating law, he shall require the insurer to furnish the information upon which it supports the filing and in such event the waiting period shall commence as of the date the information is furnished. The information furnished in support of a filing may include:

- (1) The experience or judgment of the insurer or rating organization making the filing,
- (2) Its interpretation of any statistical data it relies upon,
- (3) The experience of other insurers or rating organizations, or
- (4) Any other relevant factors.

(e) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the fire rating law. The commissioner shall calculate the investment income and accuracy of loss reserves upon which filings are based and the insurer shall provide the information necessary to make the calculation.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 22, 1986.)