

ACT 269

S.B. NO. 191

A Bill for an Act Relating to Volunteer Firefighters.

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

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§663- Volunteer firefighters; limited liability. Any volunteer firefighter who in good faith renders firefighting services shall not be liable for any civil damages resulting from the person’s acts or omissions occurring during the course of firefighting, except for such damages as may result from the person’s gross negligence, or wanton acts or omissions.

For purposes of this section, volunteer firefighter means any person who trains as a volunteer firefighter and who, of the person’s own free will, provides firefighting services in a fire emergency without remuneration or expectation of remuneration.

For purposes of this section, good faith includes, but is not limited to, a reasonable opinion that the immediacy of a fire is such that the rendering of firefighting service should not be postponed.”

SECTION 2. Section 431:14-103, Hawaii Revised Statutes, is amended to read as follows:

“§431:14-103 Making of rates. (a) Rates shall be made in accordance with the following provisions:

- (1) Rates shall not be excessive, inadequate, or unfairly discriminatory.
- (2) Due consideration shall be given to:
 - (A) 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 the amount, [such claims] the claims shall not be calculated in the employer's experience rating or risk category;
 - (B) The conflagration and catastrophe hazards, if any;
 - (C) A reasonable margin for underwriting profit and contingencies;
 - (D) Dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers;
 - (E) Past and prospective expenses both country-wide and those specially applicable to this State;
 - (F) Investment income from unearned premium and loss reserve funds; and
 - (G) All other relevant factors within and outside this State.
- (3) 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] that experience is available.
- (4) 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.
- (5) Risks may be grouped by classifications for the establishment 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] These standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. No risk classification may be based upon race, creed, national origin, or the religion of the insured.
- (6) Manual, minimum, class rates, rating schedules, or rating plans shall be made and adopted, except in the case of:
 - (A) Special rates where manual, minimum, class rates, rating schedules, or rating plans are not applicable; and
 - (B) Specifically rated inland marine risks.
- (7) 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] the risks, or except where:
 - (A) A common stock ownership in and management control of [such] the risks are held by the same person, corporation, or firm;

- (B) Permitted or authorized by filings in existence as of January 1, 1988, under the casualty rating law and the fire rating law, as [such] these filings may be amended from time to time;
- (C) Health care providers, as defined in section 671-1 which could have joined the patients' compensation fund as it existed in chapter 671, part III, prior to May 31, 1984, joined together with one or more groups of related or unrelated health care providers;
- (D) Permitted under article 12; or
- (E) Otherwise expressly provided by law.

(b) In cases of workers' compensation insurance, all rates made in accordance with this section shall be given due consideration for good safety records of employers. By premium reductions, dividends, or both, insurance carriers shall recognize good safety performance records of employers in this State.

(c) Except to the extent necessary to meet the provisions of subsection (a)(1), uniformity among insurers in any matters within the scope of this section [is] shall neither be required nor prohibited.

(d) For the purpose of ratemaking, all insurers shall treat a volunteer firefighter the same as a firefighter employed by a county fire department; provided that the volunteer firefighters are attached to a station where a commercial drivers license holder is on duty at all times or at least four commercial drivers license holders are members of the volunteer unit."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval, provided that the requirements of subsection (d) of section 431:14-103 in SECTION 2 shall be applied in future ratings and shall not require the amendment of current ratings.

(Approved June 18, 1993.)

Note

- 1. Edited pursuant to HRS §23G-16.5.