

ACT 71

S.B. NO. 2839

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 431:2-306, Hawaii Revised Statutes, is amended to read as follows:

“§431:2-306 Examination expense. (a) Examinations of:

- (1) Any insurer;
- (2) Any person subject to examination under section 431:2-303(2); or
- (3) Any insurance guaranty fund established pursuant to article 16;

shall be at the expense of the insurer, person, or guaranty fund examined. Examination expenses shall include fees, mileage, and expenses incurred as to witnesses or any other person, as defined in article 1, subject to an examination by the commissioner.

(b) The insurer, person, or guaranty fund examined and liable therefor shall pay to the commissioner’s examiners upon presentation of an itemized statement, their actual travel expenses, their reasonable living expense allowance, and their per diem compensation at a reasonable rate approved by the commissioner, incurred on account of the examination. All payments collected by the commissioner shall be remitted to:

- (1) The general fund of the State;
- (2) The insurance examiner’s revolving fund if independent contractor examiners were employed for the examination; or
- (3) The captive insurance administrative fund if independent contractor examiners or captive staff examiners were employed for a captive insurer’s examination.

The commissioner or the commissioner’s examiners shall not receive or accept any additional emolument on account of any examination.

(c) The commissioner may assess all examination costs of any person subject to examination under section 431:2-303(1) and article 16 when there is a premium trust fund shortage due to substantial noncompliance with section 431:9-230. The commissioner, subject to chapter 91, shall adopt rules to carry out the purposes of this subsection. The rules shall include criteria for the levying of examination assessment costs and specific criteria for appealing assessment costs levied by the commissioner.”

SECTION 2. Section 431:3-402, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every domestic insurer, on or before each March [15] 1 (the “filing date”), shall prepare and submit to the commissioner a report of its risk-based capital levels as of the end of the calendar year just ended, in a form and containing any information that is required by the risk-based capital instructions. In addition, every domestic insurer shall file its risk-based capital report:

- (1) With the National Association of Insurance Commissioners in accordance with the risk-based capital instructions; and
- (2) With the insurance commissioner in any state in which the insurer is authorized to do business, if the commissioner has notified the insurer of its request in writing, in which case the insurer shall file its risk-based capital report not later than the later of:
 - (A) Fifteen days from the receipt of notice to file its risk-based capital report with that state; or
 - (B) The filing date.”

SECTION 3. Section 431:14-120, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commissioner shall review filings as soon as reasonably possible after they have been made to determine whether they meet the requirements of this article. [The] When all the requirements of this article are met, the commissioner shall hold public hearings on workers’ compensation rate filings that result in increases or decreases. The public hearing notice shall be mailed to the insurer,

rating organization, or advisory organization that made the filing and filed with the office of the lieutenant governor at least six calendar days before the hearing. The public hearing notice requirement shall be exempt from section 92-41.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 29, 1998.)