

ACT 235

S.B. NO. 2883

A Bill for an Act Relating to Insurance.

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

SECTION 1. Article 9A of chapter 431, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and read as follows:

**“PART . LIMITED LINES MOTOR VEHICLE
RENTAL COMPANY PRODUCER**

§431:9A-A Definitions. Unless specified otherwise, the following definitions shall be used in this part in addition to other definitions in chapter 431:

“Limited lines motor vehicle rental company producer” or “rental company producer” means a motor vehicle rental company that is licensed by the commissioner to solicit and sell insurance coverages only in connection with and which are incidental to the rental company’s business of renting motor vehicles.

“Motor vehicle rental agreement” or “rental agreement” means any written agreement setting forth the terms and conditions governing the use of a motor vehicle that is rented or leased from a rental company.

“Motor vehicle rental company” or “rental company” means any person that is primarily in the business of providing motor vehicles to the public under a motor vehicle rental agreement for a rental period not to exceed ninety days.

“Motor vehicle renter” means any person obtaining the use of a vehicle from a rental company under the terms of a rental agreement for a rental period not to exceed ninety days.

“Rental vehicle” or “vehicle” means a motor vehicle:

- (1) Of the private passenger type including passenger vans, minivans, and sport utility vehicles; or
- (2) Of the cargo type, including cargo vans or pick up trucks with a gross vehicle weight of less than twenty-six thousand pounds,

that do not require a commercial driver’s license for the operation of the vehicle.

431:9A-B Requirements for license and renewal. (a) Applicants seeking licensure under this part shall comply with applicable licensing requirements under chapter 431.

(b) The commissioner may issue a limited lines motor vehicle rental company producer license to a motor vehicle rental company; provided:

- (1) A motor vehicle rental company having a limited lines motor vehicle rental company producer’s license shall also authorize employees of the motor vehicle rental company to act individually on behalf of, and under the supervision of, the motor vehicle rental company in solicitation and sale of insurance coverages;
- (2) A limited lines motor vehicle rental company producer and its employees shall not advertise or otherwise represent themselves as licensed insurers, insurance agents, or insurance brokers;
- (3) A limited lines motor vehicle rental company producer may solicit or sell insurance at the rental office or by preselecting coverages in master, corporate, group rental, or individual agreements on policy forms approved by the commissioner in any of the following general categories:
 - (A) Personal accident insurance covering the risks of travel to the motor vehicle renter and other occupants of the rental vehicle for accident and health insurance covering accidental death or dismemberment and reimbursement for medical expenses resulting from an occurrence during the rental period;
 - (B) Liability insurance, uninsured motorist insurance, or underinsured motorist insurance covering the motor vehicle renter and other authorized drivers of the rental vehicle for liability and damage arising from the operation of the rental vehicle;

- (C) Personal effects insurance covering the motor vehicle renter and other vehicle occupants for the loss of or damage to personal effects that occur during the rental period;
 - (D) Roadside assistance and emergency sickness protection programs; and
 - (E) Incidental travel or vehicle related coverages which the motor vehicle rental company solicits or sells in connection with the rental of its vehicles;
- (4) The limited lines motor vehicle rental company producer shall have brochures or other written materials readily available for review and dissemination to prospective motor vehicle renters that:
- (A) Summarize clearly and correctly the material terms of coverages solicited or sold by the motor vehicle rental company producer, including the identity of the insurer;
 - (B) Discloses that the coverages solicited by the motor vehicle rental company producer may provide a duplication of coverages already provided by a renter's personal motor vehicle insurance policy or other sources of coverage;
 - (C) States that purchases by the motor vehicle renter of the kinds of coverages offered by the motor vehicle rental company producer is not required in order to rent a vehicle; and
 - (D) Describes the process for filing a claim if the renter elects to purchase coverages;
- (5) The motor vehicle rental company producer shall disclose in the motor vehicle rental agreement evidence of insurance coverages elected or declined by the motor vehicle renter;
- (6) The motor vehicle rental company producer shall conduct training programs which shall be approved by the commissioner for its employees who solicit and sell the rental company producer's insurance coverages;
- (7) The motor vehicle rental company producer shall not be required to hold funds collected as payments for insurance in a separate trust account; and
- (8) The motor vehicle rental company producer shall comply with all provisions of chapter 437D.
- (c) The commissioner may prescribe, approve, or furnish forms calling for any information that the commissioner deems proper in connection with the application for or extension of these limited licenses.
- (d) The limited license shall not be issued until all applicable licensing fees have been paid. The commissioner shall collect in advance of issuance of the limited license the following fees:
- (1) Issuance of limited line motor vehicle rental company producer's license: \$1,000; and
 - (2) The fees for services of the department of commerce and consumer affairs subsequent to the issuance of license: \$600 a year for all services (including extension of the license) for a limited line motor vehicle company producer;

The services referred to in paragraphs (1) and (2) shall not include services in connection with examinations, investigations, hearings, appeals, and deposits with a depository other than the department of commerce and consumer affairs."

SECTION 2. Chapter 437D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§437D-A Offers or sales of collision insurance by lessors or limited line motor vehicle rental company producers. (a) The provisions in this chapter relating to or otherwise regulating the offer or sale or collision damage waivers shall apply to the offer or sale of collision insurance by lessors or limited line motor vehicle rental company producers.

(b) For purposes of this chapter, collision insurance means coverage to pay a specified amount to or on behalf of the lessee for claims by the lessor relating to loss of or damage to the rented vehicle. The definitions of collision insurance and collision damage waiver stated in this chapter shall apply only to this chapter. No definition of insurance in this chapter or in any other statute shall be deemed to include collision damage waiver as defined in this chapter.”

SECTION 3. Section 437D-16, Hawaii Revised Statutes, is amended to read as follows:

“[§437D-16] Application of insurance laws. None of the provisions of this chapter shall apply to the issuance of collision insurance underwritten by an insurer authorized to transact property and casualty business in this State[-]; provided that the insurer is not a lessor as defined in this chapter or a limited line motor vehicle rental company producer as defined in 431:9A-A.”

SECTION 4. In codifying the sections of the new part added by this Act to Article 9A of chapter 431 and the new section to Chapter 437D, Hawaii Revised Statutes, the revisor of statutes shall substitute appropriate section numbers for the letters used in the new sections designated and referred to in this Act. The revisor shall also designate into appropriate parts the existing sections of Article 9A of Chapter 431, Hawaii Revised Statutes.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on November 1, 2002.

(Approved June 28, 2002.)

Note

1. Edited pursuant to HRS §23G-16.5.