

ACT 118

H.B. NO. 2408

A Bill for an Act Relating to Insurance.

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

SECTION 1. Chapter 431, article 10A, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

“§431:10A- Bona fide trade associations. (a) At the option of a bona fide trade association, or its designated agent, an insurer that sells health insurance to the bona fide trade association shall treat the bona fide trade association and its members as a group for the purpose of issuing group disability insurance; provided that:

- (1) The bona fide trade association shall have been formed for purposes other than obtaining insurance;
- (2) The insurer shall be prohibited from restricting, in any manner, the number or types of health plans issued by another insurance entity that the bona fide trade association may offer to its members, including but not limited to such restrictions as clauses that reduce competition between insurers or clauses that require a bona fide trade association to allow an insurer to match the price or terms offered by another insurer; and
- (3) Each member of the bona fide trade association shall not be required to be insured under the group policy;

and provided further that this section shall be inapplicable if less than two persons from the bona fide trade association seek to be insured under the group policy.

(b) As used in this section:

“Bona fide trade association” means an association of persons organized to promote common interests and comprised of persons engaged in a business, trade, or profession that:

- (1) Has been actively in existence for five years;
- (2) Has been formed and maintained in good faith for purposes other than obtaining insurance;
- (3) Does not condition membership in the association on any health status related factor pertaining to an individual (including an employee of an employer or a dependent of an employee);
- (4) Makes health insurance coverage offered through the association available to all members regardless of any health status related factor

pertaining to such members (or individuals eligible for coverage through a member);

- (5) Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and
- (6) Meets such additional requirements as may be imposed under state law.”

SECTION 2. Chapter 432, Hawaii Revised Statutes, is amended by adding to article 1 a new section to be appropriately designated and to read as follows:

“**§432:1- Bona fide trade associations.** (a) At the option of a bona fide trade association, or its designated agent, a mutual benefit society that operates a health plan and sells health insurance to the bona fide trade association shall treat the bona fide trade association and its members as a group for the purpose of issuing a group hospital or medical service plan, policy, contract, or agreement; provided that:

- (1) The bona fide trade association shall have been formed for purposes other than obtaining insurance;
- (2) The mutual benefit society shall be prohibited from restricting, in any manner, the number or types of health plans issued by another insurance entity that the bona fide trade association may offer to its members, including but not limited to such restrictions as clauses that reduce competition between insurers or clauses that require a bona fide trade association to allow an insurer to match the price or terms offered by another insurer; and
- (3) Each member of the bona fide trade association shall not be required to be insured under the group policy;

and provided further that this section shall be inapplicable if less than two persons from the bona fide trade association seek to be insured under the group policy.

(b) As used in this section:

“Bona fide trade association” means an association of persons organized to promote common interests and comprised of persons engaged in a business, trade, or profession that:

- (1) Has been actively in existence for five years;
- (2) Has been formed and maintained in good faith for purposes other than obtaining insurance;
- (3) Does not condition membership in the association on any health status related factor pertaining to an individual (including an employee of an employer or a dependent of an employee);
- (4) Makes health insurance coverage offered through the association available to all members regardless of any health status related factor pertaining to such members (or individuals eligible for coverage through a member);
- (5) Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and
- (6) Meets such additional requirements as may be imposed under state law.”

SECTION 3. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§432D- Bona fide trade associations.** (a) At the option of a bona fide trade association, or its designated agent, a health maintenance organization that

sells health insurance to the bona fide trade association shall treat the bona fide trade association and its members as a group for the purpose of issuing a group contract; provided that:

- (1) The bona fide trade association shall have been formed for purposes other than obtaining insurance;
- (2) The health maintenance organization shall be prohibited from restricting, in any manner, the number or types of health plans issued by another insurance entity that the bona fide trade association may offer to its members, including but not limited to such restrictions as clauses that reduce competition between insurers or clauses that require a bona fide trade association to allow an insurer to match the price or terms offered by another insurer; and
- (3) Each member of the bona fide trade association shall not be required to be insured under the group policy;

and provided further that this section shall be inapplicable if less than two persons from the bona fide trade association seek to be insured under the group policy.

(b) As used in this section:

“Bona fide trade association” means an association of persons organized to promote common interests and comprised of persons engaged in a business, trade, or profession that:

- (1) Has been actively in existence for five years;
- (2) Has been formed and maintained in good faith for purposes other than obtaining insurance;
- (3) Does not condition membership in the association on any health status related factor pertaining to an individual (including an employee of an employer or a dependent of an employee);
- (4) Makes health insurance coverage offered through the association available to all members regardless of any health status related factor pertaining to such members (or individuals eligible for coverage through a member);
- (5) Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and
- (6) Meets such additional requirements as may be imposed under state law.”

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval and shall be repealed on December 31, 2006.

(Approved June 15, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.