

**ACT 258**

S.B. NO. 2769

A Bill for an Act Relating to Insurance.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part I of article 14 to be appropriately designated and to read as follows:

**~~“§431:14-~~ Publication of homeowners insurance premium information.**

(a) Upon the commissioner’s request, all homeowners insurers shall provide

homeowners insurance premium information to the commissioner within thirty days of the request.

(b) The commissioner shall publish annually, by electronic or online publication on the official website of the insurance division, a list of all homeowners insurers with representative annual premiums for homeowners insurance.

(c) As used in this section:

“Homeowners insurance” means an insurance policy for any residential property in the State that combines:

- (1) Indemnity from destruction or damage of the insured’s property by various designated perils; and
- (2) Indemnity for legal liability of the insured for death, injury, or disability of any human being or for damage to property.

“Homeowners insurer” means an insurer holding a valid certificate of authority to engage in the business of making contracts of homeowners insurance in this State.”

SECTION 2. Section 431:10C-210, Hawaii Revised Statutes, is amended to read as follows:

**“§431:10C-210 Publication of premium [rates-] information.** (a) Upon the commissioner’s request, all motor vehicle insurers shall provide motor vehicle insurance premium information to the commissioner within thirty days of the request.

(b) The commissioner shall publish annually, ~~[in a newspaper of general circulation in the State, notice of availability of]~~ by electronic or online publication on the official website of the insurance division, a list of all motor vehicle insurers with representative annual premiums for motor vehicle insurance. The commissioner shall have information on premiums for motor vehicle insurance, which shall be available to the public on request.”

SECTION 3. Section 431:14-103.3, Hawaii Revised Statutes, is amended to read as follows:

**“~~§~~§431:14-103.3 Rate adjustment mandates.** (a) Except as otherwise provided by law, the commissioner may mandate insurers to submit new filings for any type of insurance under section 431:14-102 when the commissioner has actuarially sound information that current rates may be excessive, inadequate, or unfairly discriminatory.

(b) Insurers shall submit the new rate filings within one hundred twenty days of the commissioner’s mandate.

(c) The new rate filings shall be subject to the rate filing requirements under section 431:14-104.

(d) After the commissioner reviews the new rate filings submitted under this section, if the commissioner finds that the rates are excessive, inadequate, or unfairly discriminatory, the commissioner may adjust the rates for any class of insurance for any insurer pursuant to subsections (e) and (f).

(e) If, any time subsequent to the applicable review period provided for in sections 431:14-104 and 431:14-120, the commissioner does not approve a new rate filing by an insurer, the commissioner shall issue a written notice of disapproval of the filed rate to the insurer. The written notice shall set forth the commissioner’s proposed rate and the actuarial, statutory, factual, and legal bases for both the disapproval of the rate filed by the insurer and the commissioner’s proposed rate. Within thirty days of the commissioner’s written notice of disap-

proval, the insurer may file a written request to the commissioner for a hearing pursuant to subsection (f); provided that:

- (1) If the insurer fails to file a written request for hearing, the commissioner's proposed rate shall become effective sixty days after the expiration of the deadline to file a written request for a hearing; and
- (2) If the insurer files a written request for a hearing, the existing effective rate shall remain in effect until sixty days after the final order is rendered by the director of commerce and consumer affairs and the appeals process has been exhausted.

(f) The hearing allowed under subsection (e) shall be conducted under the following procedure:

- (1) The hearing shall commence within twenty days of receipt of the written demand for a hearing, and written notice of the hearing shall be provided to the parties not less than ten days prior to the hearing;
- (2) The commissioner shall present the commissioner's proposed rate and the insurer shall present its rate filing, in addition to other relevant evidence;
- (3) Within fifteen days after the conclusion of the hearing, the hearings officer shall issue a proposed decision; and
- (4) The rate found to be in compliance with this article shall be effective sixty days after the final order is rendered by the director of commerce and consumer affairs and the appeals process has been exhausted."

SECTION 4. Section 431:14-104, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (f) and (g) to read:

"(f) Specific inland marine rates on risks specially rated, made by a rating organization[-] or advisory organization, shall be filed with the commissioner.

(g) An insurer may satisfy its obligation to make the filings by becoming a member of, or a subscriber to, a licensed rating organization [which] or advisory organization that makes the filings, except for those lines of insurance for which the commissioner determines individual insurer rate filings shall be made. Nothing contained in this article shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization[-] or advisory organization."

2. By amending subsections (j), (k), and (l) to read:

"(j) Except as provided herein and in subsections (k) and (l) and section 431:14-120, each filing shall be on file for a waiting period of thirty days before the filing becomes effective. The period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives written notice within the waiting period to the insurer, rating organization, or advisory organization that made the filing that the commissioner needs the additional time for the consideration of the filing. Upon the written application by the insurer, rating organization, or advisory organization, the commissioner may authorize a filing [which] that the commissioner has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this article unless disapproved by the commissioner, as provided in section 431:14-106, within the waiting period or any extension thereof.

- (k) The following rates shall become effective when filed:

- (1) Specific inland marine rates on risks specially rated by a rating organization[;] or advisory organization;

- (2) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order or rule of a public body, not covered by a previous filing; and
- (3) Any special filing with respect to any class of insurance, subdivision, or combination thereof [~~which~~] that is subject to individual risk premium modification and has been agreed to by an insured under a formal or informal bid process.

The rates shall be deemed to meet the requirements of this article until the time the commissioner reviews the filing and so long as the filing remains in effect.

(1) The commissioner, by written order, may suspend or modify the requirement of filing as to any class of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. The orders shall be made known to the affected insurers [~~and~~], rating organizations[~~;~~], and advisory organizations. The commissioner may make examinations as the commissioner may deem advisable to ascertain whether any rates affected by the order meet the standards set forth in section 431:14-103(a)(1).”

SECTION 5. Section 431:14-106, Hawaii Revised Statutes, is amended to read as follows:

**“§431:14-106 Disapproval of filings.** (a) If, within the waiting period or any extension of the waiting period as provided in section 431:14-104(j), the commissioner finds that a filing does not meet the requirements of this article, the commissioner shall send to the insurer, rating organization, or advisory organization [~~which~~] that made the filing, written notice of disapproval of the filing specifying in what respects the filing fails to meet the requirements of this article, specifying the actuarial, statutory, factual, and legal bases for the disapproval, including an explanation of the application thereof that resulted in disapproval, and stating that the filing shall not become effective.

(b) If, within thirty days:

- (1) After a specific inland marine rate on a risk specially rated by a rating organization or advisory organization subject to section 431:14-104(k) has become effective; or
- (2) After a special surety or guaranty filing subject to section 431:14-104(k) has become effective;

the commissioner finds that [~~such~~] the filing does not meet the requirements of this article, the commissioner shall send to the insurer, rating organization, or advisory organization that made the filing, written notice of disapproval of the filing specifying in what respects the filing fails to meet the requirements of this article and stating when, within a reasonable period thereafter, the filing shall be deemed no longer effective. The disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in the notice.

(c) If, any time subsequent to the applicable review period provided for in subsections (a) or (b), the commissioner finds that a filing does not comply with the requirements of this article, the commissioner shall order a hearing upon the filing. The hearing shall be held upon not less than ten days’ written notice to every insurer [~~and~~], rating organization [~~who~~], or advisory organization that made [~~such~~] the filing. The notice shall specify the matters to be considered at the hearing[~~;~~] and specify the actuarial, statutory, factual, and legal bases for the commissioner’s finding of noncompliance. If, after a hearing, the commissioner finds that a filing does not meet the requirements of this article, the commissioner, within thirty days of the hearing, shall issue an order specifying in what respects the filing fails to meet [~~such~~] the requirements, and stating when, within a reasonable period thereafter, the filing shall be deemed no longer effective.

tive. Copies of the order shall be sent to every such insurer ~~[and], rating organization[-], or advisory organization whose filing is affected by the order.~~ The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

(d) If a filing is disapproved, in whole or in part, a written request for a hearing may be filed pursuant to section 431:14-118. The insurer shall bear the burden of proving that the filing meets the requirements of this article.

~~[(d) (1)]~~ (e) Any person or organization aggrieved with respect to any filing [which] that is in effect may make written demand to the commissioner for a hearing thereon; provided[, however, that the] that:

- (1) The insurer [or], rating organization [which], or advisory organization that made the filing shall not be authorized to proceed under this subsection[-];
- (2) The demand shall specify the grounds to be relied upon by the aggrieved person or organization, and [such] the demand [must] shall show that [such] the person or organization has a specific economic interest affected by the filing[-];
- (3) If the commissioner finds that the demand is made in good faith, that the applicant would be so aggrieved if the person's or organization's grounds are established, and that the grounds otherwise justify [such] a hearing, the commissioner [shall], within thirty days after receipt of the demand, shall hold a hearing. The hearing shall be held upon not less than ten days' written notice to the aggrieved party and to every insurer [and], rating organization [which], or advisory organization that made [such] the filing. The aggrieved party shall bear the burden of proving that the filing fails to meet the standards set forth in section 431:14-103(a)(1); and
- (4) If, after the hearing, the commissioner finds that the filing does not meet the requirements of this article, the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this article, and stating when, within a reasonable period, the filing shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer [and], rating organization[-], or advisory organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

~~[(e)]~~ (f) No manual of classifications, rules, rating plan, or any modification of any of the foregoing [which] that establishes standards for measuring variations in hazards or expense provisions, or both, and [which] that has been filed pursuant to the requirements of section 431:14-104 shall be disapproved if the rates thereby produced meet the requirements of this article.

~~[(f)]~~ (g) The notices, hearings, orders, and appeals referred to in this section are in all applicable respects subject to chapter 91, unless expressly provided otherwise."

SECTION 6. Section 431:10C-209.5, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2012.

(Approved July 6, 2012.)

#### Note

1. Edited pursuant to HRS §23G-16.5.